



TRANSBAY JOINT POWERS AUTHORITY

REQUEST FOR PROPOSALS No. 16-02 MASTER LESSEE

QUESTIONS & ANSWERS: Set No. 2

The following questions were received related to the above-referenced RFP. Please refer to Set No. 1 for questions and answers 1–12.

13. *Q: Is Phase 1 of the Transit Center anticipated to be delivered on time?*

A: Construction of Phase 1 of the Transbay Transit Center Program is proceeding on the planned schedule. As the Transit Center nears its final phase of construction, the TJPA and other stakeholders including the Metropolitan Transportation Commission (MTC) and the City and County of San Francisco (the City) have worked closely together to ensure that the project is completed as planned. In particular, as part of the City and MTC's commitment to the project's completion, the City is securing on the TJPA's behalf up to \$260 million in short-term financing (about \$160 million placed by Wells Fargo and about \$100 million placed directly through MTC). Based on current projections, this financing exceeds the actual requirements for completion of construction by about \$100 million.

Additionally, the TJPA Board has approved a sale of Parcel F for a total consideration of \$160 million. The proceeds from the sale, which is expected to close by the end of June, will also be available for use in completing Phase 1. Finally, in 2010 the TJPA and the Department of Transportation closed on a \$171 million loan for the project under the Transportation Infrastructure Finance and Innovation Act (TIFIA). The TJPA has not yet drawn on the proceeds of that loan but expects to do so this year. Together, these efforts ensure that Phase 1 of the Transit Center is fully-funded and moving toward timely completion.

14. *Q: Will the City's lease of the Train Box under the City's short-term financing arrangement affect the Master Lessee's control or responsibility over this space?*

A: This arrangement will not hinder the Master Lessee's ability to occupy, use or operate the Transit Center, including the Train Box. In other words, respondents to the RFP should proceed with submitting proposals that include utilization of the Train Box space at their option.

The Train Box refers to the Lower Concourse and Train Platform levels of the Transit Center as described in the RFP. Consistent with the terms of the City financing arrangement, the TJPA will lease the Train Box to a Trustee, which will in turn sublease the space to the City, and the City will then sublease the Train Box back to the TJPA. The TJPA will remain the owner of the Train Box property. All of the foregoing lease arrangements for the Train Box will terminate when the short-term notes are repaid in full. In the event of a default under the lease arrangements (which is not expected), neither the Trustee, the City, nor MTC will have the right to evict the TJPA or the Master Lessee or to re-let the Train Box. The only remedy in event of default is to sue for unpaid rent.

The report and presentation delivered to TJPA's Board regarding the financing structure, which will be in the form of certificates of participation, as well as the expected form of financing lease for the Train Box, are attached. It was originally posted to the April 14, 2016, TJPA Board meeting agenda on the TJPA's website.

Further information on utilization of the Train Box space for commercial purposes can be found on pages 17 and 25 of the RFP.

15. *Q: What effect will the retirement of Executive Director Maria Ayerdi-Kaplan have on the Master Lessee RFP process?*

A: At its April 14 meeting, the Board accepted the retirement of Executive Director Maria Ayerdi-Kaplan from the Transbay Program effective April 30 and commended her 18 years of dedication and numerous achievements. On April 22, the Board announced the appointment of Mark Zabaneh as the Interim Executive Director, effective May 1. Mr. Zabaneh, who joined the TJPA in 2013, currently serves as Senior Program Manager managing the TJPA's full program management team. Mr. Zabaneh served as the primary staff liaison during a recent regional cost review and coordinated staff efforts to make necessary budget adjustments to keep construction progressing toward a timely delivery of Phase 1. Prior to joining the TJPA, Mr. Zabaneh spent 26 years with the California Department of Transportation (Caltrans).

The TJPA anticipates a seamless transition without any effect on the Master Lessee procurement process. As noted in the RFP, an Evaluation Committee has been formed to review responses. The Evaluation Committee will present its recommendation to the TJPA Board of Directors who will authorize the TJPA to enter into negotiations.

16. ***Q: Within alternative structures respondents may propose, would TJPA entertain: i) pre-payment of rent for a long-term lease, or ii) the sale of one or more specific portions of the facility (through a condominium structure)?***

A: The TJPA will consider alternative economic proposals, including proposals containing pre-payment of rent over a long-term lease or sale of a component of the facility, as long as the respondent's proposal encompasses the full scope of services described in the RFP. For example, a proposal may offer terms for the sale of the commercial portions of the Transit Center as long as the proposal also offers terms for the remainder of the facility that obligates the respondent to provide all other services associated with the operations and maintenance of the Transit Center, including non-retail revenue opportunities such as the promotional platform, routine maintenance, and capital improvement obligations. However, note that proposals for sale or creation of a condominium may be subject to additional requirements and review due to the nature of public funding utilized in development of the Transit Center and the Transit Center's use as a public facility.

As noted in the RFP, if the respondent provides an alternative economic offer or terms, please provide a rationale explaining how this offer differs from the terms outlined in the RFP, how it may be beneficial to the TJPA, and how the respondent plans to fulfill the full scope outlined in the RFP.

**STAFF REPORT FOR CALENDAR ITEM NO.: 9
FOR THE MEETING OF: April 14, 2016**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Approving the terms and conditions for short term financing of Phase 1 of the Transbay Program by the City and County of San Francisco and its partner the Metropolitan Transportation Commission, including a lease and leaseback of the Train Box and a Cost Oversight Agreement, and a resolution of inducement for reimbursement of costs paid and incurred prior to the City's issuance of debt.

EXPLANATION:

The Transbay Joint Powers Authority ("TJPA") has been in discussions with the City and County of San Francisco ("City") for some time regarding interim financing for Phase 1 of the Transbay Transit Center Program. The City has concurrently been discussing the interim financing with the Metropolitan Transportation Commission ("MTC"). TJPA plans to use the financing proceeds to increase the Phase 1 budget to the amount recommended by MTC in its recent Phase 1 cost review, \$2,259,400,000.

On January 5, 2016, the City released a Request for Information for Letters of Credit and/or Alternative Credit Facilities ("RFI"). The RFI sought responses from banks for a new program for up to \$400 million in Lease Revenue Commercial Paper Certificates of Participation for the Transbay Transit Center ("City Financing"). The \$400 million figure was used as a "not-to-exceed" amount that does not take into account the receipt of funds from the sale of Parcel F, or the availability of Mello-Roos Community Facilities District ("CFD") funds.

The City received seven proposals and ultimately selected Wells Fargo Bank, N.A. ("Wells Fargo") for negotiations. It is currently anticipated that up to \$160 million in debt will be placed with or sold through Wells Fargo, and that MTC will purchase up to \$100 million of the debt, which is anticipated to be short-term, variable rate, certificates of participation ("short-term notes") issued at times and in amounts necessary to meet project construction draws.

As shown below, the funding requirement to meet MTC's recommendation is approximately \$250 million; however, up to \$260 million in short-term notes may be issued to cover financing fees, expenses, and capitalized interest should any party wish to capitalize interest.

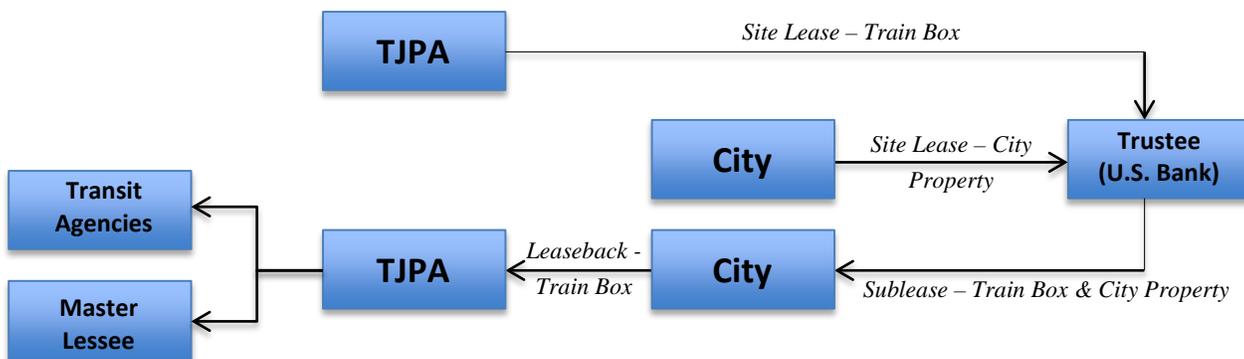
Short-Term Funding Required (\$millions)

TJPA Approved Budget (2013)	\$1,899.4
MTC Recommendation (2015)	2,259.4
Total Shortfall	(360.0)
Approved Parcel F Transaction Consideration	160.0
Net Shortfall	(200.0)
Plus CFD Special Tax Proceeds Shortfall during Construction ¹	(47.5)
Total Short-Term Notes Required	\$(247.5)

¹ As part of the 2013 Budget, \$194.1 million in CFD special tax proceeds were projected to become available during the construction period. Current City projections of CFD special tax proceeds through 2017 are estimated to be \$146.6 million, \$47.5 million less than prior projections.

Financing Structure

Under the City Financing, TJPA will lease the TJPA's Train Box to a bank (expected to be U.S. Bank) acting as a Trustee. The City will also lease certain City-owned property to the Trustee. The Trustee will sublease the properties back to the City. Payments by the City under the sublease will support the debt service on the short-term notes pursuant to trust agreements. Funds raised from the sale of the short-term notes will be transferred to TJPA for payment of remaining construction costs of Phase 1. TJPA will be obligated to reimburse the City for amounts paid by the City on the short-term notes pursuant to a leaseback of the leased asset. TJPA would be expected to secure a long-term take-out (refinancing) of the City Financing in approximately 6-10 years when TJPA's net tax increment revenue stream matures. The diagram below illustrates this lease structure.



The borrowing has been structured such that CFD special tax bond proceeds are anticipated to be used to pay down a portion of the short-term notes, and incoming net tax increment revenues would pay on-going debt service on the outstanding balance. However, if those revenue sources are insufficient, the City's general fund resources would be expected to pay the debt service on the short-term notes. Leveraging the City's strong credit in this manner affords TJPA with access to flexible low cost borrowing to replenish contingencies and reserves consistent with MTC's recommendation and complete construction.

As a source of repayment for the City Financing, the City has asked TJPA to pledge its net tax increment stream that will flow from development of certain formerly State-owned parcels in the area around the Transit Center. However, the net tax increment revenues are already pledged to repayment of the TIFIA Loan and the interim bridge loan from Goldman Sachs Bank USA/Wells Fargo Securities LLC. In addition, several aspects of the City Financing, including the financing lease of TJPA property, the pledge of net tax increment, and the incurrence of the obligation to repay the City, are not currently permitted under the TIFIA Loan Agreement. TJPA thus requires TIFIA consent for the City Financing, which may require an amendment to the TIFIA Loan Agreement. TIFIA has agreed to work with TJPA to allow for the City Financing. TIFIA may provide written consent to the City Financing, or may request a third amendment to the TIFIA Loan Agreement, which would be brought to the TJPA Board for approval once negotiated.

Interest Rate

TJPA is working with both its and the City's bond counsel to determine whether all or a portion of the City Financing that is placed with Wells Fargo (expected \$160 million) can be tax-exempt based on certain IRS parameters. Those parameters evaluate expected and actual payments to or amounts received by TJPA from a "private" source or in respect of "privately" used property. The portion of the City Financing that would be placed with MTC (expected \$100 million) would be taxable.

The City is negotiating a revolving credit facility with Wells Fargo and expects to enter a Certificate Purchase Agreement at annualized interest of 70% of 1-month LIBOR plus 0.375% for tax-exempt certificates, or 1-month LIBOR plus 0.56% for taxable certificates, on the drawn principal amount, payable annually in advance on each July 1st, over three years. The annualized rate on the undrawn credit facility will be 0.20%. The City expects to enter into a similar agreement for taxable debt with MTC, at an annualized interest cost of 1-month LIBOR plus 0.61% on the drawn principal amount, payable annually in advance on each July 1st, over five years. The City’s partnership with MTC allows for an additional five year renewal with spreads reflective of the market at the time of renewal. One-month LIBOR as of March 24, 2016 is .435%; the table below shows the relevant rates based on that level:

	<u>Tax Exempt</u>	<u>Taxable</u>
Wells Fargo interest rate	0.6795%	0.995%
MTC interest rate	n/a	1.045%

The base interest rates may be increased in increments of 0.075% - 0.30% should the City’s general fund secured obligations credit rating be downgraded by two rating agencies below its current level of Aa3/AA-/AA- (Moody’s/S&P/Fitch). Should the credit rating fall below investment grade, the Certificate Purchase Agreement with Wells Fargo would terminate and amounts owing would be immediately due and payable, subject to limits concerning maximum rent set forth in the subleases (described below) in accordance with California state law, which would allow for several years to repay the financing. The Certificate Purchase Agreement with Wells Fargo may also be terminated at the option of the City for any reason, subject to a termination fee of up to one year of the commitment fees (less any permanent principal reduction) due to the bank, or for any optional termination by the City within the first year of the agreement, the remaining unpaid balance of the first year’s commitment fee. After the first anniversary of closing, there would be no termination fee.

The attached resolution includes inducement language. An inducement resolution is often the first step in a tax-exempt financing transaction of this nature. An inducement resolution will be adopted by the City as the issuer of the debt; however, the TJPA Board is being asked to provide its own approval of an inducement resolution as well. The proceeds of tax-exempt financing may generally only be used to finance or reimburse capital costs of a project incurred after official action has been taken. Costs incurred more than 60 days prior to adoption of an inducement resolution generally are not eligible to be paid or reimbursed from a tax-exempt financing under federal tax law.

Lease Arrangements

As described and depicted above, the financing structure is based on leases of real property. TJPA has worked closely with the City to determine what property will be the subject of the leases. The property encumbered by the leases must have a fair rental value that is at least equal to the annual debt service on the City Financing and a cumulative fair rental value, discounted to present value, equal to the principal amount of the City Financing. TJPA staff has coordinated with counsel to ensure that the leases of TJPA property related to the City Financing do not interfere or conflict with existing and future expected leases of the Transit Center by transit agencies, and the master lease proposed to be entered into with a future operator of the Transit Center.

The City Board of Supervisors will approve the site lease of City property, the sublease of the Train Box and City Property, and the leaseback of the Train Box; the TJPA Board is required to approve the site lease of the Train Box and the leaseback of the Train Box. These leases are described below.

At the requirement of Wells Fargo, the City has offered its property to support the Wells Fargo portion of the City Financing. The City will lease City-owned property to a Trustee (“Site Lease – City Property”), and the City will lease back the City property from the Trustee (“Sublease – City

Property”) and make annual base rental payments to the Trustee in amounts required to pay debt service on the short-term notes purchased by Wells Fargo. TJPA will be responsible for providing the funds to the City for the annual base rental payments, from net tax increment revenues. When the short-term notes are repaid in full, the site lease and sublease of the City property will terminate.

MTC has agreed to have the Transbay Transit Center Train Box serve as the leased property for its portion of the financing. TJPA will thus lease the Train Box to the Trustee (“Site Lease – TJPA Property”), and the City will lease the Train Box from the Trustee (“Sublease – TJPA Property”), and make annual base rental payments to the Trustee in amounts required to pay debt service on the short-term notes purchased by MTC. The City will sublease the Train Box back to TJPA pursuant to the Leaseback Lease. All of the lease arrangements for the Train Box will terminate when the short-term notes are repaid in full. It is important to note that in the event of a default under the Sublease – TJPA Property, neither the Trustee nor the holder of the short-term notes will have the right to evict the City or re-let the TJPA property. The only remedy in event of default is to sue for unpaid rent.

The Sublease – City Property and the Sublease – TJPA Property (together, the “Subleases”) require the City to pay base rent annually in advance based on an assumption of what the LIBOR-based rates will be in the coming year. If the actual LIBOR rates increase above the amount assumed, additional base rent must be deposited by the City. The City covenants to maintain and insure the leased property, and to budget and appropriate the base rent each year. The City also covenants to keep the leased property free of liens.

Under the Leaseback Lease, the City sublets the Train Box back to TJPA so that TJPA may occupy, complete and use the Train Box. Under the Leaseback Lease, TJPA agrees to make base rental payments equal to the base rent payable by the City under both Subleases. In addition, TJPA agrees to maintain and insure the TJPA property.

Certificate Purchase Agreements

Under the Certificate Purchase Agreements with Wells Fargo and MTC (the “Purchasers”), the expected form of which is enclosed, the Purchasers agree from time to time to purchase certificates of participation (“Certificates”) in the respective Subleases. Each Certificate represents an undivided interest in the respective Sublease, including the right to receive base rental payments thereunder designated as interest and principal. TJPA may draw down money in \$5,000,000 increments (and integral amounts of \$250,000 in excess of \$5,000,000) as needed to pay construction draws. Any increase in costs to the Purchasers of making the loans are passed on to the City, which will pass those costs on to TJPA. Unless extended by the respective Purchaser, the full principal amount is due in three years under the Wells Fargo Purchase Agreement and five years under the MTC Purchase Agreement. It is anticipated that, if not extended by the Purchasers, alternative financing payable from net tax increment and CFD special taxes will be utilized to pay the Purchasers at the end of their respective commitment periods. In the event of a default by the City under a Purchase Agreement, the commitment to purchase additional Certificates is terminated and the amount outstanding must either be refinanced with another lender or repaid to the Purchaser in equal quarterly installments over five years.

Sources and Uses

The proceeds of the short-term notes will partially pay costs of Phase 1, as well as the costs of issuance, fees and expenses, and potentially capitalized interest for a portion of the debt.

Estimated Sources and Uses from Short-Term Certificates (\$millions)

Maximum Not to Exceed Amount	260.0
<i>Reserve for Market Uncertainty</i>	1.8
Sources:	
Certificate Par Amount (Wells Fargo)	158.2
Certificate Par Amount (MTC)	100.0
Total Sources:	258.2
Uses:	
Project Fund	247.5
Cost of Issuance	0.8
Fees and Expenses ⁽¹⁾	9.9
Total Uses	258.2
<i>Reserve for Market Uncertainty</i>	1.8
Maximum Not to Exceed Amount	260.0

⁽¹⁾Represents fees and expenses through the term of each Short-Term Certificate

The additional \$1.8 million allows for fluctuations in market conditions from the date of Board approval through the term of the short-term certificates. Based on the current commitment fees, the maximum annual base rental payment is estimated to be \$2.8 million.

As noted above, TJPA will pay interest on the outstanding short-term notes; it is anticipated this interest will be paid on an ongoing basis from net tax increment proceeds flowing to TJPA. It is also expected that CFD special tax bond proceeds will partially pay down principal on the outstanding short-term certificates beginning in 2018, lowering the amount that ultimately will be refinanced with long-term debt. Once sufficient net tax increment revenue has been generated, the City’s short-term notes will be taken out with long-term financing. Based on current projections, this is anticipated to occur in fiscal year 2024. The long-term financing may be issued by either TJPA or the City.

Cost Oversight Agreement

In connection with the City Financing, the City and MTC require that the parties enter a Transbay Project Cost Oversight Agreement (“Cost Oversight Agreement”) in substantially the form attached. The purpose of the agreement would be to help ensure that the TJPA is implementing the Transbay Program in a cost-effective manner and that the City Financing is timely repaid, and to oversee the expenditure of the proceeds of the City Financing. Under the agreement, a committee made up of one member each from the City, MTC, and the TJPA would, among other things, make advisory recommendations to the TJPA Board regarding proposed budgets or budget amendments, proposed new contracts or amendments to existing contracts in excess of \$250,000, and proposed construction contract change orders in excess of \$250,000. The Committee would have approval authority over all proposed expenditures of the proceeds of the City Financing. The agreement would terminate when the City Financing is repaid.

Schedule

This plan of finance is expected to be introduced at the City Board of Supervisors on April 12, 2016, and subsequently be referred to the Board’s Budget & Finance Committee. Board of Supervisors’ approval of the necessary resolution and the first and second readings and approval of an appropriation ordinance are also anticipated in April, with a 60-day passive validation period occurring over May and June, allowing financial close at the end of June 2016. The exact schedule for MTC approval is unknown at the time of preparing this staff report, but is anticipated in April as well.

RECOMMENDATION:

Staff recommends that the Board approve the terms and conditions for the City Financing, approve the Site Lease – Train Box, the Leaseback Lease, and the Cost Oversight Agreement, substantially in the forms attached hereto, and approve the Resolution of Inducement for reimbursement of costs paid and incurred prior to the issuance of debt, and authorize staff to take such actions as are necessary or advisable to implement the City Financing.

ENCLOSURES:

1. Resolution approving the City Financing, the Site Lease – TJPA Property and the Leaseback Lease and accomplishing the Resolution of Inducement
2. Form of Site Lease – TJPA Property
3. Form of Leaseback Lease
4. Form of Certificate Purchase Agreement
5. Form of Cost Oversight Agreement

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The City and County of San Francisco (the “City”), the Alameda-Contra Costa Transit District (“AC Transit”) and the Peninsula Corridor Joint Powers Board-Caltrain have heretofore executed a Joint Powers Agreement, dated as of April 4, 2001 (the “Joint Powers Agreement”), which Joint Powers Agreement creates and establishes the Transbay Joint Powers Authority (the “TJPA”); and

WHEREAS, The Joint Powers Agreement and state law charge TJPA with financing, design, development, construction, and operation of the Transbay Transit Center Program (the “Transbay Program”), which includes: (1) the design and construction of a temporary terminal and then the permanent Transbay Transit Center, including open space on the roof of the Transit Center, a bus ramp, a bus storage facility, and the Train Box component of the rail extension (“Phase 1”); (2) the extension of Caltrain rail tracks from their current San Francisco terminus at Fourth and Townsend Streets to a new underground terminus beneath the Transbay Transit Center to accommodate Caltrain and California High Speed Rail (“Phase 2”); and (3) activities related to implementation of the Redevelopment Plan for the Transbay Redevelopment Project Area; and

WHEREAS, In 2013, the TJPA Board approved a revised Phase 1 budget of \$1.899 billion; and

WHEREAS, In 2015, the Metropolitan Transportation Commission (“MTC”) conducted a cost and risk review of Phase 1 and recommended increasing the Phase 1 budget to \$2.259 billion to replenish TJPA’s project reserves and contingencies; and

WHEREAS, Implementing the MTC recommendation, and assuming a projected reduction in CFD special taxes from previous estimates and including a revised expected sales price for the TJPA development site referred to as “Parcel F”, results in an about \$250 million funding gap; and

WHEREAS, Securing interim financing would allow TJPA to implement the MTC recommendation and fund the remainder of construction of Phase 1 (the “Project”), allowing TJPA to move work ahead promptly to ensure timely completion of the Transit Center; and

WHEREAS, The City Controller’s Office is willing to recommend that the City enter into certain subleases described below, sell certificates of participation in such subleases, and loan the proceeds of the sale of such certificates of participation to TJPA (the “City Financing”) to finance costs of the Project; and

WHEREAS, TJPA expects to expend moneys on expenditures relating to the costs of the Project prior to the incurrence of the City Financing, which expenditures would be properly chargeable to a capital account under general federal income tax principles; and

WHEREAS, TJPA reasonably expects to reimburse certain of capital expenditures with the proceeds of the City Financing; and

WHEREAS, The City and TJPA expect that the maximum principal amount of proceeds of the City Financing which will be issued to pay for the costs of the Project (and related issuance costs) will not exceed \$260,000,000; and

WHEREAS, The City Financing is anticipated to be in the form of short-term, variable rate, certificates of participation (“short-term notes”), to be purchased by Wells Fargo Bank, N.A. (“Wells Fargo”) and MTC (or related entities), at times and in amounts necessary to meet project construction draws; and

WHEREAS, To provide for payment of the short-term notes to be purchased by Wells Fargo, the City will lease certain City-owned property (the “City Property”) to the Trustee (“Site Lease – City Property”), and the Trustee will sublease the City property back to the City (“Sublease-City Property”); rental payments by the City under the Sublease – City Property will support payments on the short-term notes purchased by Wells Fargo; and

WHEREAS, To provide for payment of the short-term notes to be purchased by MTC, TJPA will lease the Transit Center train box (the “TJPA Property”) to the Trustee (“Site Lease – TJPA Property”), and the Trustee will sublease the TJPA property to the City (“Sublease – TJPA Property”); rental payments by the City under the Sublease – TJPA Property will support payments on the short-term notes purchased by MTC; and

WHEREAS, The City shall sublease the train box back to TJPA through a Leaseback Lease (the “Leaseback Lease”); rental payments by TJPA to the City under the Leaseback Lease will be sufficient in time and amount to enable the City to make its rental payments due on both the Sublease – City Property and the Sublease – TJPA Property which, in turn, will be applied to payment of the short-term notes purchased by Wells Fargo and MTC; and

WHEREAS, There is no impairment to TJPA’s construction, use, and operation of the TJPA property through the Site Lease – TJPA Property, Sublease – TJPA Property, or Leaseback Lease; and

WHEREAS, The Leaseback Lease portion of the City Financing is to be executed pursuant to the Marks-Roos Local Bond Pooling Act of 1985, (the “Act”) constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, and pursuant to the City Financing agreements. In accordance with the Act, following published notice, a public hearing regarding the proposed financing must be conducted by the City, and, following such hearing, the City must make certain findings under the Act and approve the financing; and

WHEREAS, At the time of the reimbursement, TJPA will evidence the reimbursement in a writing which identifies the allocation of the proceeds of the City Financing for the purpose of reimbursing TJPA for the capital expenditures made prior to the issuance of the City Financing; and

WHEREAS, The City and TJPA expect to make the reimbursement allocation no later than eighteen (18) months after the later of (i) the date on which the earliest original expenditure is paid or (ii) the date on which the Project is placed in service (or abandoned), but in no event later than three (3) years after the date on which the earliest original expenditure for the Project is paid; and

WHEREAS, TJPA will not, within one (1) year of the reimbursement allocation, use the proceeds of the City Financing received in the reimbursement allocation in a manner that will result in the creation of replacement proceeds of the City Financing or another issue; and

WHEREAS, This resolution is intended to be a “declaration of official intent” in accordance with Section 1.150-2 of the Treasury Regulations; and

WHEREAS, In connection with the City Financing, the City and MTC require that the TJPA enter a Transbay Project Cost Oversight Agreement for the purpose of helping to ensure that the TJPA is implementing the Transbay Program in a cost-effective manner and that the City Financing is timely repaid, and overseeing the expenditure of the proceeds of the City Financing; and

WHEREAS, The Board has duly considered the proposed City Financing and hereby determines there are significant public benefits to financing and wishes at this time to approve such financing; now, therefore be it

RESOLVED, That the foregoing recitals are true and correct, and TJPA hereby so finds and determines; and be it further

RESOLVED, That the Board approves the City Financing to provide for project costs for the Transbay Program and funding of transaction costs and potentially capitalized interest, conditioned on completion of all necessary approvals and actions prior to closing the City Financing; and be it further

RESOLVED, That the Board approves the Site Lease – TJPA Property, the Leaseback Lease, and the Cost Oversight Agreement (collectively, the “TJPA Agreements”), each in substantially the form on file with the Board Secretary, together with any additions thereto or changes therein or other documents ancillary thereto deemed necessary or advisable by the Executive Director or the Chief Financial Officer, and the execution thereof by either the Executive Director or the Chief Financial Officer shall be conclusive evidence of approval of any such additions and changes; and be it further

RESOLVED, That in accordance with Section 1.150-2 of the Treasury Regulations, TJPA declares that it intends to use proceeds of the City Financing issued by the City in a principal amount not to exceed \$260,000,000 to reimburse for costs of the Project (and related issuance costs), including certain capital expenditures relating to the Project made prior to the issuance of the City Financing; and be it further

RESOLVED, That each of the Executive Director and the Chief Financial Officer, acting alone, is hereby authorized and directed to execute, and, as appropriate, record, and if necessary or advisable, the Board Secretary is hereby authorized and directed to attest, the final form of the TJPA Agreements for and in the name and on behalf of TJPA; and be it further

RESOLVED, That the Board authorizes the Executive Director, the Chief Financial Officer and/or the Board Secretary, and their respective designees, to do any and all things, to execute any and all documents and to take any and all actions, which they, or any of them, deem necessary or

advisable to consummate the lawful execution of or the performance of TJPA under the City Financing and related documents; and be it further

RESOLVED, That this Resolution shall take effect immediately upon its adoption.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of April 14, 2016.

Secretary, Transbay Joint Powers Authority

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

TRANSBAY JOINT POWERS AUTHORITY
201 Mission Street, Suite 2100
San Francisco, California 94105
ATTENTION: Executive Director

(Space Above This Line For Recorders Use Only)

SITE LEASE – TJPA PROPERTY

Dated as of [June 1, 2016]

by and between

**TRANSBAY JOINT POWERS AUTHORITY,
as Lessor**

and

_____,
**in its capacity as Trustee,
as Lessee**

NO DOCUMENTARY TRANSFER TAX DUE. This Site Lease – TJPA Property is recorded for the benefit of the Transbay Joint Powers Authority and the recording is exempt under Section 27383 of the California Government Code and Section 11928 of the California Revenue and Taxation Code.

SITE LEASE – TJPA PROPERTY

THIS SITE LEASE – TJPA PROPERTY, dated as of [June] 1, 2016 (as amended, supplemented or modified from time to time, this “TJPA Site Lease”), is made between the TRANSBAY JOINT POWERS AUTHORITY, a joint exercise of powers agency duly created and existing under the Joint Exercise of Powers Act of the State of California, California Government Code Sections 6500 et seq. (the “TJPA”), as lessor, and the _____, a national banking association, solely in its capacity as Trustee (the “Trustee”) under the Trust Agreement – TJPA Property dated as of [June] 1, 2016 (as amended, supplemented or modified from time to time, the “TJPA Trust Agreement”) between the City and County of San Francisco (the “City”) and the Trustee, as lessee.

WITNESSETH:

That in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

Section 1. Definitions. All capitalized terms used herein without definition shall have the meanings given to such terms in the Leaseback Lease – TJPA Property, dated as of the date hereof, by and between the City and the TJPA (the “TJPA Leaseback”).

“Additional Series” means the Series of Lease Revenue Certificates executed and delivered pursuant to a Supplemental Trust Agreement.

“Advance” means (i) with respect to a Credit Facility, each advance or loan (whether a revolving loan or term loan) of funds made under and subject to the provisions contained in such Credit Facility or the related Reimbursement Agreement, as applicable, (ii) with respect to a Direct Placement Revolving Credit Agreement, each advance or loan (whether a revolving loan or term loan) of funds made under and subject to the provisions contained in such Direct Placement Revolving Credit Agreement, and (iv) with respect to a Certificate Purchase Agreement, each purchase of Direct Placement Revolving Certificates thereunder.

“Certificate Purchase Agreement” means (i) the Certificate Purchase Agreement dated [June] 1, 2016 by and between the City and Wells Fargo Bank, National Association relating to City and County of San Francisco Lease Revenue Direct Placement Revolving Certificates of Participation, (ii) the Certificate Purchase Agreement dated [June] 1, 2016 by and between the City and the Metropolitan Transportation Commission relating to City and County of San Francisco Lease Revenue Direct Placement Revolving Certificates of Participation, and (iii) any other Certificate Purchase Agreement by and between the City and any other Direct Placement Purchaser.

“City Trust Agreement” means the Trust Agreement – City Property dated as of [June] 1, 2016 (as amended, supplemented or modified from time to time, the “City Trust Agreement”) between the City and County of San Francisco (the “City”) and the Trustee

“Commercial Paper Certificates” means, collectively, (a) any Tax Exempt Commercial Paper Certificates, (b) any Taxable Commercial Paper Certificates, and (c) the City and County of San Francisco Lease Revenue Commercial Paper Certificates.

“Component” means, as the context requires, any of the following or any property added thereto or substituted therefor pursuant to this TJPA Site Lease or the TJPA Leaseback, but does not include any property released pursuant to the TJPA Leaseback:

- (i) [to come – make reference to Exhibit A]

“Credit Facility” means (a)(i) with respect to any Series of Commercial Paper Certificates, any irrevocable letter of credit, a line or lines of credit, a non-cancellable insurance policy or other credit facility provided by an LC Bank to facilitate the payment of Commercial Paper Certificates of such Series and (b) any Alternate Credit Facility.

“Credit Provider” means any LC Bank or any Direct Placement Bank.

“Credit Provider Agreement” means any Reimbursement Agreement, any Direct Placement Revolving Credit Agreement or Certificate Purchase Agreement.

“Direct Placement Bank” means, as applicable, any provider obligated to make Advances to the City under a Direct Placement Revolving Credit Agreement evidenced by one or more Direct Placement Revolving Certificate(s) executed and delivered as a Series pursuant to the provisions of the Trust Agreements.

“Direct Placement Purchaser” means a purchaser of Direct Placement Revolving Certificates under a Certificate Purchase Agreement.

“Direct Placement Revolving Certificates” means, as applicable, (a) the [Series ___] Direct Placement Revolving Certificates of Participation, and (b) one or more other certificates of participation executed and delivered as an additional series pursuant to the provisions of the Trust Agreements evidencing Advances made (i) by a Direct Placement Bank to the City pursuant to a Direct Placement Revolving Credit Agreement, or (ii) by a Direct Placement Purchaser pursuant to a Certificate Purchase Agreement.

“Direct Placement Revolving Credit Agreement” means, as applicable, (a) the [Series ___] Direct Placement Revolving Credit Agreement, and (b) any other revolving credit agreement and related fee letter agreement entered into among the City and a Direct Placement Bank providing for Advances made by such Direct Placement Bank to the City evidenced by one or more Direct Placement Revolving Certificate(s) executed and delivered as an Additional Series pursuant to the provisions of the TJPA Trust Agreement.

“LC Bank” means any issuer of a Credit Facility for any Series of Commercial Paper Certificates.

“Lease Revenue Certificate” means any Commercial Paper Certificate, any Revolving Certificate, or any Direct Placement Revolving Certificate, and “Lease Revenue Certificates” means the Commercial Paper Certificates, the Revolving Certificates and the Direct Placement

Revolving Certificates. A Series of Lease Revenue Certificates consisting of Commercial Paper Certificates shall also include the related Revolving Certificates.

“Permitted Encumbrances” means, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to Section 4.4 of the TJPA Sublease, permit to remain unpaid; (ii) the TJPA Sublease, as it may be amended from time to time; (iii) this TJPA Site Lease, as it may be amended from time to time; (iv) the TJPA Leaseback, dated as of [June] 1, 2016, by and between the City and TJPA pursuant to which the City subleases the Property to the TJPA for the duration of the TJPA Sublease; (v) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law or which the City may, pursuant to Section 4.4 of the TJPA Sublease, permit to remain unpaid; (vi) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions, all of a non-monetary nature, which exist of record as of the Closing Date, or with respect to any property that is added to or substituted for any Component, as of the date any such property is added to or substituted for any such Component, and, in each case, included in the exceptions and exclusions set forth in the title policies delivered pursuant to Section 4.3 of the TJPA Sublease; and (vii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions, all of a non-monetary nature, established following the Closing Date, or with respect to any property that is added to or substituted for any Component, as of the date any such property is added to or substituted for any such Component, and to which the City and the Credit Providers consent in writing.

“Reimbursement Agreement” means, collectively, (a) the Reimbursement Agreement, (b) the [Series B] Reimbursement Agreement, (c) the [Series A] or [Series C] Reimbursement Agreement, and (d) any reimbursement agreement and related fee letter agreement entered into between the City and any LC Bank in connection with the delivery of any Credit Facility supporting the payment of an Additional Series of Commercial Paper Certificates.

“Revolving Certificate” means, collectively, (a) any [Series A] Revolving Certificate, (b) any [Series B] Revolving Certificate, (c) any [Series C] Revolving Certificate, and (d) any promissory note or promissory notes executed and delivered pursuant to the provisions of the Trust Agreements and/or a Reimbursement Agreement in evidence of Advances made by an LC Bank under a Reimbursement Agreement to support the payment of Commercial Paper Certificates of an Additional Series, having the terms and characteristics contained therein and executed and delivered in accordance therewith.

“Supplemental Trust Agreement” means any agreement amending or supplementing either of the Trust Agreements or another Supplemental Trust Agreement.

“Tax Exempt Commercial Paper Certificates” means any Series of Commercial Paper Certificates bearing interest that is excludable from the gross income of the Owners thereof for federal income tax purposes.

“Tax Exempt Direct Placement Revolving Certificates” means (a) [the Series D Tax Exempt Direct Placement Revolving Certificate], and (b) any Direct Placement Revolving Certificates executed and delivered as an Additional Series evidencing Advances for the purpose

of financing Project Costs of the Tax Exempt Projects and bearing interest which is excludable from the gross income of the Owners thereof for federal income tax purposes.

“Tax Exempt Lease Revenue Certificates” means the Tax Exempt Commercial Paper Certificates, and the Tax Exempt Direct Placement Revolving Certificates.

“Taxable Commercial Paper Certificates” means any Series of Commercial Paper Certificates bearing interest that is not intended to be excluded from the gross income of the Owners thereof for federal income tax purposes.

“Taxable Direct Placement Revolving Certificates” means (a) [the Series D Taxable Direct Placement Revolving Certificate and (b) any Direct Placement Revolving Certificates (other than Tax Exempt Direct Placement Revolving Certificates) executed and delivered as an Additional Series for the purpose of financing Project Costs of the Taxable Projects and bearing interest that is not intended to be excluded from the gross income of the Owners thereof for federal income tax purposes.

“Taxable Lease Revenue Certificates” means the Taxable Commercial Paper Certificates and the Taxable Direct Placement Revolving Certificates.

“TJPA Leaseback” means the Leaseback Lease – TJPA Property, dated as of the date hereof, between the City, as lessor, and the TJPA, as lessee, pursuant to which the City subleases the Property to the TJPA for the duration of the TJPA Sublease.

“TJPA Sublease” means the Sublease – TJPA Property, dated as of the date hereof, between the Trustee, as lessor, and the City, as lessee, pursuant to which the Trustee subleases the Property to the City.

“Trust Agreements” means the TJPA Trust Agreement and the City Trust Agreement.

Section 2. Property. The TJPA hereby leases to the Trustee the real property located in the City more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “Property”), subject to the terms hereof and subject to any and all covenants, conditions, reservations, exceptions and other matters which are of record.

Section 3. Ownership. The TJPA represents and covenants that it is the sole owner of and holds fee title to the Property free and clear of any encumbrances other than Permitted Encumbrances, and has full power and authority to enter into this TJPA Site Lease and the TJPA Leaseback.

Section 4. Term. With respect to each Component, the term of this TJPA Site Lease shall begin on the date of recordation hereof and end on the earlier to occur of: (a) the date set forth with respect to such Component in Exhibit B to the TJPA Sublease; or (b) the date of termination of the TJPA Sublease with respect to such Component as provided in Section 2.2 thereof. Notwithstanding anything to the contrary contained herein, the term of this TJPA Site Lease with respect to each Component subject to this TJPA Site Lease at such time shall be extended such that the term of this TJPA Site Lease is coterminous with the term of the TJPA Sublease as extended pursuant to Section 2.2 of the TJPA Sublease.

Section 5. Rent. The Trustee shall pay to the TJPA an advance rent of \$1.00 as full consideration for this TJPA Site Lease over its term, the receipt of which is hereby acknowledged by the Trustee.

Section 6. Purpose. The Trustee shall use the Property solely for the purpose of subletting it to the City pursuant to the TJPA Sublease and for no other purpose whatsoever.

Section 7. Assignment and Lease. The Trustee shall not assign, mortgage, hypothecate or otherwise encumber this TJPA Site Lease or any rights hereunder or the leasehold created hereby by trust agreement, indenture or deed of trust or otherwise or sublet the Property or any Component without the written consent of the City (unless a default or event of default under the TJPA Sublease or the TJPA Trust Agreement shall have occurred and be continuing, in which case the consent of the City shall not be required), except that the Trustee expressly approves and consents to the TJPA Sublease, the TJPA Leaseback and the TJPA Trust Agreement, and the pledge of the Trustee's right, title and interest in and to this TJPA Site Lease and the TJPA Sublease, including the Base Rentals and other payments under the TJPA Sublease.

Section 8. Right of Entry. The TJPA reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time.

Section 9. Expiration. The Trustee agrees, upon the expiration of this TJPA Site Lease, to quit and surrender the Property.

Section 10. Quiet Enjoyment. The Trustee at all times during the term of this TJPA Site Lease shall peaceably and quietly have, hold and enjoy all of the Property, subject to the TJPA Sublease and the TJPA Leaseback.

Section 11. Taxes. The TJPA covenants and agrees to pay any and all taxes and assessments levied or assessed upon the Property and improvements thereon.

Section 12. Eminent Domain. If the Property or any Component shall be taken under the power of eminent domain, the interest of the Trustee shall be recognized and is hereby determined to be the aggregate amount of unpaid Base Rental and Additional Rental with respect to the Property or Component under the TJPA Sublease through the remainder of its term (excluding any contingent or potential liabilities), and such proceeds shall be paid to the Trustee, in accordance with the terms of the TJPA Sublease and the TJPA Trust Agreement.

Section 13. Default. In the event that the Trustee or its assignee shall be in default in the performance of any obligation on its part to be performed under the terms of this TJPA Site Lease, the TJPA may exercise any and all remedies granted by law, except that no merger of this TJPA Site Lease and of the TJPA Leaseback shall be deemed to occur as a result thereof; provided, however, that the TJPA shall have no power to terminate this TJPA Site Lease by reason of any default on the part of the Trustee or its assignee if such termination would prejudice the exercise of the remedies provided the Trustee in Section 12 of the TJPA Sublease. So long as any such assignee of the Trustee or any successor in interest to the Trustee shall duly perform the terms and conditions of this TJPA Site Lease, such assignee shall be deemed to be and shall become the tenant of the TJPA hereunder and shall be entitled to all of the rights and privileges granted under any such assignment.

In furtherance of the foregoing, the TJPA and the Trustee agree that: (i) the TJPA will simultaneously mail to each Credit Provider a copy of any notice given by the TJPA to the Trustee; (ii) prior to taking any action upon a default by the Trustee or its assignee in the performance of any obligation under the terms of this TJPA Site Lease, the TJPA shall provide written notice thereof to each Credit Provider, and thereupon such Credit Provider shall have the right, but not the obligation, to cure any such default. In that connection, the TJPA will not take action to effect a termination of this TJPA Site Lease or to re-enter or take possession of the Property or any Component as a consequence of such default except upon the prior written direction of 100% of the Credit Providers. Furthermore, if this TJPA Site Lease shall be rejected or disaffirmed pursuant to any bankruptcy law or other law affecting creditors' rights or if this TJPA Site Lease is terminated for any other reason whatsoever, the TJPA will use its best efforts to enter into a new lease of the Property at the request of the Required Credit Providers, for the remainder of the term of this TJPA Site Lease, effective as of the date of such rejection or disaffirmance or termination. So long as (x) any Credit Facility facilitating a Series of Commercial Paper Certificates is in effect or there shall remain outstanding any obligations to an LC Bank in respect of payments made under any Credit Facility, (y) any Direct Placement Revolving Credit Agreement is in effect or there shall remain outstanding any obligations to a Direct Placement Bank in respect of payments made under any Direct Placement Revolving Credit Agreement, or (z) any Certificate Purchase Agreement is in effect or there shall remain outstanding any Lease Revenue Certificate purchased thereunder, (i) the TJPA will not accept a voluntary surrender of this TJPA Site Lease and (ii) this TJPA Site Lease shall not be modified in any material respect without, in each case, the prior written consent of 100% of the Credit Providers.

Section 14. Notices. All notices, requests, demands or other communications under this TJPA Site Lease by any person shall be in writing and shall be sufficiently given on the date of service if served personally upon the person to whom notice is to be given or on receipt if sent by facsimile transmission or electronic facility or courier or if mailed by registered or certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

City: Transbay Joint Powers Authority
 201 Mission Street, Suite 2100
 San Francisco, California 94105
 Attention: Executive Director

Trustee: [to come]

or to such other address or addresses as any such person shall have designated to the other by notice given in accordance with the provisions of this Section 14.

Copies of any such notices, requests, demands or other communications under this TJPA Site Lease given by either the TJPA or the Trustee shall be provided to each Credit Provider as set forth in the applicable Credit Provider Agreement, or to such other address or addresses as each Credit Provider shall have designated to the TJPA and the Trustee by notice given in accordance with the provisions of this Section 14.

Section 15. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants or conditions of this TJPA Site Lease shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this TJPA Site Lease shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 16. Governing Law; Venue. This TJPA Site Lease is made in the State under the Constitution and laws of the State and is to be so construed. If any party to this TJPA Site Lease initiates any legal or equitable action to enforce the terms of this TJPA Site Lease, to declare the rights of the parties under this TJPA Site Lease or which relates to this TJPA Site Lease in any manner, each such party agrees that the place of making and for performance of this TJPA Site Lease is the City and County of San Francisco, State of California, and the proper venue for any such action is any court of competent jurisdiction.

Section 17. Amendments. This TJPA Site Lease may be amended only in accordance with and as permitted by the terms of Section 8.02 of the TJPA Trust Agreement.

Section 18. Execution in Counterparts. This TJPA Site Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 19. No Merger. If both the TJPA's and the Trustee's estates under this TJPA Site Lease, the TJPA Sublease or the TJPA Leaseback or any other lease relating to any Property or any portion thereof shall at any time by any reason become vested in one owner, this TJPA Site Lease and the estate created hereby shall not be destroyed or terminated by the doctrine of merger unless the TJPA so elects as evidenced by recording a written declaration so stating, and, unless and until the TJPA so elects, the TJPA and the Trustee shall continue to have and enjoy all of their respective rights and privileges as to the separate estates.

Section 20. Third Party Beneficiaries. Each Credit Provider shall be a third party beneficiary of this TJPA Site Lease with the power to enforce the same until the later of (i) the date the respective Credit Facility or Direct Placement Revolving Credit Agreement has terminated and been surrendered to such Credit Provider for cancellation and (ii) the date all amounts payable under the respective Credit Provider Agreement and Revolving Certificates or Direct Placement Revolving Certificate, as applicable, have been satisfied in full.

Section 21. [TJPA Requirements. Additional requirements of the TJPA with respect to this TJPA Site Lease are attached as Exhibit B and are incorporated by reference herein, and, by executing this TJPA Site Lease, the Trustee is agreeing to comply with those provisions.]

IN WITNESS WHEREOF, the parties have executed this TJPA Site Lease as of the date first above written.

TRANSBAY JOINT POWERS AUTHORITY,
as Lessor

By: _____
Executive Director

APPROVED AS TO FORM:

By: _____
Legal Counsel

_____, as
Trustee and Lessee

By: _____
Authorized Officer

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that real property situated in the City and County of San Francisco, State of California, described as follows, and any improvements thereto:

[See attached pages]

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

TRANSBAY JOINT POWERS AUTHORITY
201 Mission Street Suite 2100
San Francisco, CA 94105
Attn: Executive Director

(Space Above This Line For Recorders Use Only)

LEASEBACK LEASE

Dated as of [June 1, 2016]

by and between

CITY AND COUNTY OF SAN FRANCISCO,

as Sublessor

and

TRANSBAY JOINT POWERS AUTHORITY,

as Sublessee

NO DOCUMENTARY TRANSFER TAX DUE. This Leaseback Lease is recorded for the benefit of the City and County of San Francisco and the recording is exempt under Section 27383 of the California Government Code and Section 11928 of the California Revenue and Taxation Code.

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LEASEBACK LEASE

THIS LEASEBACK LEASE, dated as of [June 1, 2016] (as amended, supplemented or modified from time to time, and as hereinafter further defined the “**Leaseback Lease**”), is entered into between the **CITY AND COUNTY OF SAN FRANCISCO** (the “**City**”), a charter city and county duly organized and existing under the laws and Constitution of the State of California, as sublessor, and the **TRANSBAY JOINT POWERS AUTHORITY** (the “**TJPA**”), a joint powers authority created under California Government Code Sections 6500 et seq., as sublessee.

RECITALS

WHEREAS, _____, a national banking association, solely in its capacity as Trustee (the “Trustee”) under the Trust Agreement – TJPA Property, dated as of [June 1, 2016] (the “TJPA Trust Agreement”) between the City and the Trustee, is the lessee of the Property (as hereinafter defined), pursuant to the terms and conditions set forth in the Site Lease – TJPA Property, dated of even date herewith, between the TJPA and the Trustee (the “TJPA Site Lease”);

WHEREAS, the City is the sublessee of the Property pursuant to the terms and conditions set forth in the Sublease – TJPA Property, dated of even date herewith, between the Trustee and the City (the “TJPA Sublease”);

WHEREAS, the City is also the sublessee of other property pursuant to the terms and conditions set forth in the Sublease – City Property, dated of even date herewith, between the Trustee and the City (the “City Sublease”);

WHEREAS, the City desires to sublease to the TJPA the Property, and the TJPA desires to sublease from the City the Property on the terms stated herein; and

WHEREAS, the City and TJPA are each authorized to enter into this Leaseback Lease pursuant to applicable law of the State.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Leaseback Lease, have the meanings as set forth below.

“**AC Transit**” means the Alameda-Contra Costa Transit District, a special district created under Part 1, Division 10 of the California Public Utilities Code.

“**Additional Rental**” means, with respect to Additional Rental payments due from the TJPA, the amounts specified as such in Section 3.1(d) hereof and, with respect to Additional Rental payments due from the City, the amounts specified as such under Section 3.1(g) of the TJPA Sublease and the City Sublease.

“Annual Capital Contributions” means the annual capital contributions required to be made by AC Transit pursuant to Section 5.1 of the Lease and Use Agreement using “Passenger Facility Charges” which shall include all passenger facility charges imposed by AC Transit on all passengers riding AC Transit originating and terminating from the Transbay Transit Center upon AC Transit’s commencement of service at the Transbay Transit Center or other sources of funding; provided, however, that the use of federal grant funds for this purpose shall be prohibited.

“Assumed Interest Cost” means, as of any date of calculation or for any period of time (a) with respect to all Lease Revenue Certificates, the amount that would accrue as interest during such period with respect to Lease Revenue Certificates Outstanding as of the date of such calculation assuming such Lease Revenue Certificates bore interest during the entirety of such period at the applicable Assumed Interest Rate for the Base Rental Period during which such date of calculation occurs, and (b)(i) with respect to Commercial Paper Certificates, the amount that would accrue as interest during such period with respect to Commercial Paper Certificates Outstanding as of the date of such calculation assuming such Commercial Paper Certificates bore interest during the entirety of such period at the applicable Assumed Interest Rate for the Base Rental Period during which such date of calculation occurs, (ii) with respect to Revolving Certificates, the amount that would accrue as interest during such period with respect to such Revolving Certificates Outstanding as of the date of such calculation assuming such Revolving Certificates bore interest during the entirety of such period at the applicable Assumed Interest Rate for the Base Rental Period during which such date of calculation occurs, and (iii) with respect to Direct Placement Revolving Certificates, the amount that would accrue as interest during such period with respect to such Direct Placement Revolving Certificates Outstanding as of the date of such calculation assuming such Direct Placement Revolving Certificates bore interest during the entirety of such period at the applicable Assumed Interest Rate for the Base Rental Period during which such date of calculation occurs.

“Authorized Representative” means the Executive Director of the TJPA, the Chief Financial Officer of the TJPA, or another official designated by any such officer and authorized to act on behalf of the TJPA under or with respect to this Leaseback Lease and all other agreements related hereto.

“Base Rental” means, with respect to Base Rental payments due from the TJPA, the amount payable as Base Rental under Section 3.1 hereof and, with respect to Base Rental payments due from the City, the amount payable as Base Rental under Section 3.1 of the TJPA Sublease and Section 3.1 of the City Sublease.

“Base Rental Payment Date” means each July 1 commencing July 1, 2017, during the Leaseback Lease Term (as hereinafter defined).

“Base Rental Period” means the period between one Base Rental Payment Date and the next Base Rental Payment Date, provided that the first Base Rental Period shall commence on the Closing Date (as hereinafter defined) and end on July 1, 2017.

“City Event of Default” means an event described as such in Section 12.3 hereof.

“**Closing Date**” means the date on which this Leaseback Lease is filed for recording in the official records of the City and County of San Francisco.

“**Community Redevelopment Law**” means the Community Redevelopment Law of the State of California (Health and Safety Code Sections 33000 *et seq.*).

“**Component**” means, as the context requires, any of the following or any property added thereto or substituted therefor pursuant to Section 7 hereof, but does not include any property released pursuant to Section 7:

- (i) [to come – make reference to Exhibit A]

“**Cooperative Agreement**” means the Cooperative Agreement, dated as of July 11, 2003, by and among the State, the City and TJPA, as the same may be amended, supplemented or otherwise modified from time to time.

“**Fiscal Year**” means the fiscal year of the City, which at the date of this Leaseback Lease is the period from July 1 to and including the following June 30.

“**Lease and Use Agreement**” means the Transbay Transit Center Program Lease and Use Agreement for the Temporary Terminal and Terminal, dated as of September 10, 2008, between TJPA and AC Transit, as the same may be amended, supplemented or otherwise modified from time to time.

“**Leaseback Lease**” means this Leaseback Lease, including any amendments or supplements hereto made or entered into in accordance with the terms hereof.

“**Leaseback Lease Term**” means the term of this Leaseback Lease, as provided in Section 2.2 hereof.

“**Maximum Base Rental**” means the amounts specified as such in Section 3.1 (a) hereof, as such amounts may be adjusted from time to time in accordance with the terms hereof, but does not include Additional Rental.

“**Net Tax Increment Revenues**” means all property tax increment revenues attributable to the State-owned Parcels, allocated to and received by the Successor Agency and pledged under the TIF Pledge Agreement as indebtedness to TJPA, but specifically excluding therefrom the following: (i) charges for San Francisco County administrative charges, fees, or costs; (ii) the portion of the tax increment revenues committed to the Successor Agency for fulfilling the Transbay Affordable Housing Obligation; (iii) a portion of the tax increment revenues equal to the percentage of such revenue that the Successor Agency is required to pay to all governmental entities as required by the Community Redevelopment Law; and (iv) the portion of the tax increment revenues equal to the percentage of such revenues that the State may mandate the Successor Agency to pay from time to time in the future, including, for example, any payments which the Successor Agency may be required to pay to the Education Revenue Augmentation Fund pursuant to Section 33681 *et seq.* of the Community Redevelopment Law.

“**Pledged Revenues**” means (i) Net Tax Increment Revenues, (ii) Annual Capital Contributions and (iii) all income from (i) and (ii) derived from the investments thereof.

“**Property**” means, collectively, all of the Components. “Property” also includes any property, or portion thereof, that by amendment hereto becomes subject to this Leaseback Lease and any property, or portion thereof, substituted for any of the Components pursuant to Section 7, but “Property” excludes any Component for which new property has been substituted, and any Component or property released, pursuant to Section 7 hereof.

“**Rental Payments**” means, with respect to Rental Payments due from the TJPA, all Base Rental and Additional Rental payable hereunder and, with respect to Rental Payments due from the City, all amounts specified as such in the TJPA Sublease and the City Sublease.

“**Risk Manager**” means the TJPA’s Chief Financial Officer or such other person or firm of favorable reputation, qualified and experienced in the field of insurance and risk management consultation as may from time to time be designated by the TJPA, and who may be employed by the TJPA.

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

“**State-owned Parcels**” means those parcels identified as “State-owned Parcels” under the Cooperative Agreement.

“**Subleases**” means, collectively, the TJPA Sublease and the City Sublease.

“**Successor Agency**” means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, also known as the Office of Community Investment and Infrastructure, a public body, organized and existing under the laws of the State.

“**TIFIA Borrowing Conditions**” means the conditions precedent to borrowing the TIFIA Loan under the TIFIA Loan Agreement.

“**TIFIA Collateral Agency Agreement**” means the Collateral Agency and Account Agreement, dated as of January 1, 2010, by and among TIFIA Collateral Agent, TJPA, and the TIFIA Lender, as amended by the First Amendment thereto, dated as of May 8, 2014, as further amended by the Second Amendment thereto, dated as of December 1, 2014, and as further amended, supplemented or otherwise modified from time to time.

“**TIFIA Collateral Agent**” means U.S. Bank National Association in its capacity as collateral agent under the TIFIA Collateral Agency Agreement (and any successor collateral agent appointed thereunder).

“**TIFIA Lender**” means the United States Department of Transportation, an agency of the United States of America, acting by and through the Federal Highway Administrator and acting as lender under the TIFIA Loan Agreement.

“**TIFIA Loan**” means the secured loan to be made by the TIFIA Lender to TJPA pursuant to the TIFIA Loan Agreement, subject to the satisfaction of the TIFIA Borrowing Conditions.

“TIFIA Loan Agreement” means the TIFIA Loan Agreement, dated as of January 1, 2010, as amended by the First Amendment thereto, dated as of May 8, 2014, by and between TJPA and the TIFIA Lender, as further amended by the Second Amendment thereto, dated as of December 1, 2014, [and the Third Amendment thereto, dated as of June 1, 2016,] and as further amended, supplemented or otherwise modified from time to time.

“TIF Pledge Agreement” means the Transbay Redevelopment Project Tax Increment Allocation and Sales Proceeds Pledge Agreement, dated as of January 31, 2008, by and among the City, the Successor Agency and TJPA, as the same may be amended, supplemented or otherwise modified from time to time.

“TJPA Event of Default” means an event described as such in Section 12.1 hereof.

“Transbay Affordable Housing Obligation” means certain affordable housing requirements, as described in Section 5027.1 of the California Public Resources Code, the Redevelopment Plan and the Implementation Agreement, and finally and conclusively determined by the California Department of Finance to be an enforceable obligation under Redevelopment Dissolution Law; this obligation requires that 25 percent of all dwelling units developed within the Project Area (as defined in the Redevelopment Plan) shall be available at affordable housing cost to, and occupied by, persons and families whose incomes do not exceed 60 percent of the area median income, and that at least an additional 10 percent of all dwelling units developed within the Project Area shall be available at affordable housing cost to, and occupied by, persons and families whose incomes do not exceed 120 percent of the area median income.

Section 2. Leaseback Lease; Term.

Section 2.1 Leaseback Lease. The City hereby subleases the Property to the TJPA and the TJPA hereby subleases the Property from the City on the terms and conditions hereinafter set forth. The TJPA shall take possession of the Property on the Closing Date. The TJPA hereby agrees and covenants that during the term hereof, except as hereinafter provided, it will use the Property for public purposes so as to afford the public the benefits contemplated hereby and so as to permit the City to carry out its agreements and covenants contained in the TJPA Sublease, and the TJPA hereby further agrees and covenants that during the term hereof that it will not abandon or vacate the Property.

Section 2.2 Term. Subject to the next succeeding paragraph of this Section 2.2, with respect to each Component, the term of this Leaseback Lease with respect to such Component shall begin on the Closing Date and end on the earliest of: (a) the date set forth with respect to such Component in Exhibit B hereto (and in the case of any Property which is added to or substituted for a Component pursuant to Section 7.2 hereof, the date set forth in Exhibit B with respect to such additional or substituted Component), (b) the date all Base Rental related to such Component is paid in full, (c) the date of termination of this Leaseback Lease with respect to such Component due to casualty or condemnation in accordance with the terms of Section 5 or 6 hereof, (d) the date of release of such Component in accordance with the terms of Section 7.2 hereof, or (e) the date both the TJPA Site Lease and the TJPA Sublease terminate.

Notwithstanding anything to the contrary contained herein, including without limitation the provisions of Section 3.1 hereof, so long as the TJPA Site Lease and the TJPA Sublease remain in effect, the term of this Leaseback Lease with respect to each Component subject to the TJPA Site Lease and the TJPA Sublease at such time shall be extended until such date as neither the TJPA Site Lease nor the TJPA Sublease remains in effect and all obligations thereunder have been satisfied.

Upon the termination or expiration of this Leaseback Lease, all right, title and interest in and to the Property shall vest in the TJPA. Upon any such termination or expiration, the City shall execute such conveyances, deeds and other documents as may be necessary to affect such vesting of record.

Section 3. Rent.

Section 3.1 Rental Payments. The TJPA hereby agrees to pay to the City Base Rental (in an amount up to the Maximum Base Rental) and the Additional Rental with respect to each Component, as provided herein, for the use, occupancy and possession of the Property for which such Maximum Base Rental is payable, all on the terms and conditions set forth herein. The TJPA shall be obligated to pay the Minimum Required Rental Payment in advance, and any Minimum Supplemental Rental Payment and Additional Rental, on the terms, in the amounts, at the times and in the manner hereinafter set forth.

a. Maximum Base Rental. Subject to Section 2.2 above, the Maximum Base Rental for each Component for each Base Rental Period shall be the amount set forth in Exhibit B with respect to such Component and shall become due and payable annually in advance on each Base Rental Payment Date during the Leaseback Lease Term. The TJPA hereby agrees to pay, from legally available funds, to the City the aggregate Maximum Base Rental for all Components for each Base Rental Period on the respective Base Rental Payment Date subject to reduction pursuant to Section 3.1(b) hereof.

b. Other Base Rental Payments. If at any time the City determines, based on its Base Rental payments due under the TJPA Sublease and the City Sublease, that Base Rental due from the TJPA is different in time or amount from the Maximum Base Rental payable by the TJPA under Section 3.1(a) above, the City shall deliver to the TJPA five business days before payment is due an invoice for the amount of Base Rental due. Such invoice shall attach a calculation or certificate demonstrating the amount of the corresponding Base Rental due from the City under the TJPA Sublease and the City Sublease. The TJPA shall make such Base Rental payment to or upon the order of the City in immediately available funds not later than 12:00 noon California time on the due date shown in the invoice.

c. No Payments in Excess of Aggregate Maximum Base Rental. Under no circumstances shall the TJPA be required to pay to or upon the order of the City during any Base Rental Period amounts exclusive of Additional Rental in excess of aggregate Maximum Base Rental for such Base Rental Period.

d. Additional Rental. In addition to the Base Rental payments set forth herein, the TJPA agrees to pay to the City as Additional Rental any and all amounts payable by the City as Additional Rental under the TJPA Sublease and the City Sublease.

Section 3.2 Consideration. The Base Rental and Additional Rental for each Base Rental Period or portion thereof during the Leaseback Lease Term shall constitute the total rental for such Base Rental Period or portion thereof and shall be payable by the TJPA to or upon the order of the City for and in consideration for the use and possession, and the continued quiet use and enjoyment, of the Property by the TJPA for and during such Base Rental Period or portion thereof. The parties hereto have agreed and determined that the Rental Payments payable in respect of any Component during each such Base Rental Period are not in excess of the total fair rental value of such Component for such Base Rental Period. In making such determination, consideration has been given to the costs of acquisition and construction of each such Component, the uses and purposes served by each such Component, and the benefits therefrom that will accrue to the parties by reason of this Leaseback Lease and to the general public by reason of the TJPA's use of each such Component.

Section 3.3 Budget. The TJPA hereby covenants to include all Rental Payment due hereunder in each Fiscal Year in its annual budget and to make the necessary annual appropriations for all such Rental Payments, subject to Section 3.5 hereof. The covenants on the part of the TJPA herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial duty of each and every public official of the TJPA who bears direct or indirect responsibility for administering this Leaseback Lease to take such action and do such things as are required by law in the performance of such official duty of such officials to enable the TJPA to carry out and perform the covenants and agreements on the part of the TJPA contained in this Leaseback Lease. The obligation of the TJPA to make Rental Payments does not constitute an obligation of the TJPA for which the TJPA is obligated to levy or pledge any form of taxation or for which the TJPA has levied or pledged any form of taxation. Notwithstanding anything to the contrary contained herein, the obligation of the TJPA to make Rental Payments does not constitute an indebtedness of the TJPA within the meaning of any constitutional or statutory debt limitation or restriction.

Section 3.4 Payment. Amounts necessary to pay Rental Payments shall be paid by the TJPA on the dates set forth in Section 3.1 hereof in lawful money of the United States of America, at such place or places as may be instructed by the City. Except as provided in Section 3.5 hereof, any amount necessary to pay any Rental Payments that is not so deposited shall remain due and payable until received by the City. Notwithstanding any dispute between the TJPA and the City hereunder, the TJPA shall make all Rental Payments when due and shall not withhold any Rental Payments pending the final resolution of such dispute or for any other reason whatsoever. The TJPA's obligation to make Rental Payments in the amount and on the terms and conditions specified hereunder shall be absolute and unconditional without any right of set-off or counterclaim, and without abatement, subject only to the provisions of Section 3.5 hereof.

Section 3.5 Rental Abatement. Rental Payments due hereunder shall be subject to abatement to the extent, in the amount, and for the period that the City's obligation to make Rental Payments under the TJPA Sublease are subject to abatement. In the event of any

such abatement, this Leaseback Lease shall continue in full force and effect, except as set forth in Sections 5 and 6 hereof.

Section 3.6 Triple Net Lease. This Leaseback Lease is intended to be a triple net lease. The TJPA agrees that the rentals provided for herein shall be an absolute net return to the City free and clear of any expenses, charges or set-offs whatsoever.

Section 3.7 Power and Authority. The TJPA represents and warrants to the City that the TJPA has the full power and authority to enter into, to execute and deliver this Leaseback Lease, and to perform all of its duties and obligations hereunder and thereunder, and has duly authorized the execution and delivery of this Leaseback Lease, and the Property is zoned for use for governmental related facilities. The City represents and warrants to the TJPA that the City has the full power and authority to enter into, to execute and deliver this Leaseback Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution and delivery of this Leaseback Lease.

Section 3.8 Grant of Security Interest. The TJPA hereby grants to the City, as collateral security for the prompt and complete payment or performance in full when due of all Rental Payments, a security interest and continuing lien on all of TJPA's right, title and interest in, to and under all of the following property described in clauses (a) through (d) of this Section 3.8, in each case whether now or hereafter existing or in TJPA now has or hereafter acquires an interest and wherever the same may be located:

- a. all Pledged Revenues;
- b. all accounts, general intangibles and contract or other rights to receive Pledged Revenues;
- c. the TIFIA Collateral Agency Agreement, including all of TJPA's rights and interests to and in the funds, money and securities held thereunder (excluding amounts used to pay fees of the TIFIA Lender and TIFIA Collateral Agent); and
- d. to the extent not otherwise included above, all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing.

Section 4. Affirmative Covenants of the City and the TJPA. The City and the TJPA are entering into this Leaseback Lease in consideration of, among other things, the following covenants:

Section 4.1 Replacement, Maintenance and Repairs. The TJPA shall, at its own expense, during the Leaseback Lease Term, maintain each Component, or cause the same to be maintained, in good order, condition and repair and shall repair or replace any Component which is destroyed, damaged or taken to such an extent that there is substantial interference with the use and possession of such Component by the TJPA which would result in an abatement of Rental Payments or any portion thereof pursuant to Section 3.5 hereof, unless the TJPA elects not to repair or replace such Component in accordance with clause (ii) of the following sentence. In the event of damage, destruction or taking which results in an abatement of Rental Payments or any portion thereof pursuant to Section 3.5 hereof, the TJPA shall be required either to (i) apply

sufficient funds from the insurance proceeds (including self-insurance), condemnation award and other legally available funds, if any, to the replacement or repair of such Component which has been damaged, destroyed or taken, or (ii) apply sufficient funds from the insurance proceeds (including self-insurance), condemnation award and other legally available funds, if any, in the manner that will enable to City to comply with its obligations under Section 4.1 of the TJPA Sublease.

The TJPA shall provide or cause to be provided all security service, custodial service, janitorial service and other services necessary for the proper upkeep and maintenance of each Component. It is understood and agreed that in consideration of the payment by the TJPA of the Rental Payments herein provided for, the TJPA is entitled to possession of each Component and the City shall have no obligation to incur any expense of any kind or character in connection with the management, operation or maintenance of such Component during the Leaseback Lease Term with respect to such Component. The City shall not be required at any time to make any improvements, alterations, changes, additions, repairs or replacements of any nature whatsoever in or to any Component. The TJPA hereby expressly waives the right to make repairs or to perform maintenance of any Component at the expense of the City and (to the extent permitted by law) waives the benefit of Sections 1932, 1941 and 1942 of the California Civil Code relating thereto. The TJPA shall keep each Component free and clear of all liens, charges and encumbrances other than encumbrances of this Leaseback Lease, the TJPA Sublease, the TJPA Site Lease and such other encumbrances as are permitted under the TJPA Sublease, subject only to the provisions of Section 4.2 hereof.

Section 4.2 Taxes, Other Governmental Charges and Utility Charges. The City and the TJPA contemplate that each Component will be used for a governmental or proprietary purpose of the TJPA and, therefore, that each Component will be exempt from all taxes presently assessed and levied with respect to such Component. Nevertheless, the TJPA hereby agrees to pay during the Leaseback Lease Term with respect to each Component as the same respectively become due, all taxes, utility charges and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to each such Component; provided, however, that, with respect to any governmental charges that may lawfully be paid in installments over a period of years, the TJPA shall be obligated to pay only such installments as are accrued during such time as this Leaseback Lease is in effect with respect to such Component; provided, further, that the TJPA may contest in good faith the validity or application of any tax, utility charge or governmental charge in any reasonable manner which does not adversely affect the right, title and interest of the TJPA or the City in and to any Component or its rights or interests under this Leaseback Lease or subject any portion of any Component to loss or forfeiture. Any such taxes or charges shall constitute Additional Rental under Section 3.1(d) hereof and shall be payable directly to the entity assessing such taxes or charges.

Section 4.3 Insurance. The TJPA shall secure and maintain or cause to be secured and maintained at all times with insurers of recognized responsibility or through a program of self-insurance to the extent specifically permitted in this Section 4.3, all coverage on the Property required by this Section 4.3. Such insurance shall consist of:

- a. A policy or policies of insurance against loss or damage to any Component known as “all risk” including earthquake. Such insurance shall be maintained

with respect to the Property at any time in an amount equal to the lesser of (i) the full replacement value of the Property, and (ii) the Maximum Principal Amount. The term “full replacement value” as used herein shall mean the cost of repair or replacement of the affected Component, without deduction for depreciation. Such insurance may at any time include a deductible clause providing for a deductible not to exceed \$1,000,000 for all losses in any year; provided, however, that the TJPA ‘s obligations under this clause (a) may be satisfied by self-insurance satisfactory to the City; provided further, however, that if the TJPA and the City determine that earthquake coverage is not available on commercially reasonable terms, then earthquake insurance on the Property or any component thereof shall not be required by this clause (a);

b. Comprehensive general liability insurance against damages occasioned by reason of the construction of improvements to, or operation of, the Property. The policy or policies will provide coverage in the following minimum amount: \$5,000,000 combined single limit for bodily and personal injury, death and property damage per occurrence. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the TJPA. Such policies will name the TJPA as an insured party, and will name the City and such other persons as shall be instructed by the City as additional insured parties;

c. Rental interruption insurance to cover loss, total or partial, of the use of any Component as a result of any of the hazards covered by the “all risk” insurance required to be secured and maintained pursuant to clause (a) of this Section 4.3, in an amount sufficient at all times to pay the total rent payable under this Leaseback Lease with respect to such Component for a period adequate to cover the period of repair or replacement. Such policy shall provide that the amount payable thereunder shall not be less than an amount equal to two year’s Maximum Base Rental for all of the particular Components to which such insurance applies; and

d. A CLTA policy or policies of title insurance for all Components in an amount not less than the such amount as is required of the CLTA policy or policies required under Section 4.3 of the TJPA Sublease. Such policy or policies of title insurance shall show title to the particular Component covered by such policy in the name of the TJPA, subject to the TJPA Site Lease, the TJPA Sublease, the Leaseback Lease and such other encumbrances as will not, in the reasonable opinion of the TJPA, materially affect the use, occupancy and possession of the Component and will not result in the abatement of Rental Payments payable by the TJPA hereunder with respect to such Component.

All policies or certificates issued by the respective insurers for insurance shall provide that such policies or certificates shall not be cancelled or materially changed without at least 30 days’ prior written notice to the City and such other persons as shall be instructed by the City. A certificate of an Authorized Representative stating whether all policies or self-insurance required by this Section 4.3 have been obtained and are in full force and effect shall be deposited with the City and such other persons as shall be instructed by the City by the TJPA on the Closing Date and on or before each anniversary of the Closing Date.

All policies or certificates of insurance provided for herein (other than title insurance policies) shall name the TJPA as a named insured, and the City or such other persons as shall be instructed by the City as loss payee. All proceeds of insurance maintained under clauses (a), (c) and (d) of this Section 4.3 shall be deposited with the City or such other persons as shall be instructed by the City for application pursuant to the provisions of the Trust Agreement. All proceeds of insurance maintained under clause (b) of this Section 4.3 shall be deposited with the TJPA.

Notwithstanding the generality of the foregoing, except as to the coverage required under clause (c) of this Section 4.3, the TJPA shall not be required to maintain or cause to be maintained more insurance than is specifically referred to above or any policies of insurance other than standard policies of insurance with standard deductibles offered by reputable insurers at a reasonable cost on the open market.

Notwithstanding anything herein to the contrary, the TJPA has the right to adopt alternative risk management programs to insure against any of the risks required to be insured against under this Leaseback Lease, including a program of self-insurance (other than for rental interruption insurance pursuant to clause (c) and title insurance pursuant to subsection (d)), in whole or in part; provided that (i) any such alternative risk management program has been approved as reasonable and appropriate risk management by the Risk Manager and the City, and (ii) any reserves set aside for such program will be certified at least annually on each June 15, commencing June 15, 2017, as to their adequacy by the Risk Manager in a certificate delivered to the City and such other persons as shall be instructed by the City. The City will not be responsible for the adequacy, sufficiency or coverage of the insurance or self-insurance required or allowed by this Section 4.3.

Section 4.4 Liens. The TJPA will promptly pay or cause to be paid all sums of money that may become due for any labor, services, materials, supplies or equipment alleged to have been furnished or to be furnished to or for, in, upon or about any Component and which may be secured by any mechanic's, materialman's or other lien against such Component, or the interest of the Trustee or the City therein, and will cause each such lien to be fully discharged and released; except, that the TJPA, or the City (a) may contest any such claim or lien without payment thereof so long as such non-payment and contest stays execution or enforcement of the lien, but if such lien is reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not stayed, or if stayed and the stay thereafter expires, then and in any such event the TJPA will forthwith pay and discharge such judgment or lien, or (b) delay payment without contest so long as and to the extent that such delay will not result in the imposition of any penalty or forfeiture. Additionally, the City and the TJPA will not create or suffer to be created any lien, charge or encumbrance upon the Property or upon any real or personal property essential to the operation of the Property, except encumbrances of this Leaseback Lease, the TJPA Sublease, the TJPA Site Lease and such other encumbrances as are permitted under the TJPA Sublease. The City and the TJPA will not sell or otherwise dispose of the Property or any other property essential to the proper operation of the Property.

Section 4.5 Laws and Ordinances. The TJPA agrees to observe and comply with all rules, regulations and laws applicable to the TJPA with respect to the Property and the operation thereof. The cost, if any, of such observance and compliance shall be borne by the TJPA,

and the City shall not be liable therefor. The TJPA agrees further to place, keep, use, maintain and operate all Property in such a manner and condition as will provide for the safety of its agents, employees, invitees, subtenants, licensees and the public.

Section 4.6 Performance of City's Duties and Responsibilities. The TJPA and the City agree that any and all administrative or ministerial actions or determinations that the City is required to do or make pursuant to this Leaseback Lease may be performed by the TJPA on behalf of the City.

Section 5. Application of Insurance Proceeds.

Section 5.1 General. Proceeds of insurance received in respect of destruction of or damage to any portion of any Component by fire, earthquake or other casualty or event shall be paid to or upon the order of the City for application in accordance with the provisions of the TJPA Sublease, unless the TJPA elects to apply such proceeds to the repair or replacement of the portion of any Component which has been damaged or destroyed, whereupon if there has been an abatement of Rental Payments pursuant to Section 3.5 hereof, then Rental Payments without any abatement shall again begin to accrue with respect thereto upon repair or replacement of such portion of such Component.

Section 5.2 Title Insurance. Proceeds of title insurance received with respect to any Component shall be paid to or upon the order of the City for application in accordance with the provisions of the TJPA Sublease.

Section 6. Eminent Domain.

Section 6.1 Total Condemnation. If any Component, or so much thereof as to render the remainder of such Component unusable for the TJPA's purposes under this Leaseback Lease, shall be taken under the power of eminent domain, then if, and only if, the TJPA Site Lease and the TJPA Sublease are terminated with respect to such Component, this Leaseback Lease shall terminate with respect to such Component as of the day possession shall be so taken or as of the date of entry of the interlocutory judgment, and Base Rental with respect to such Component will be abated. Notwithstanding the foregoing, the City may substitute other real property or improvements for such Component and Base Rental will again begin to accrue with respect thereto upon substitution of the Component.

Section 6.2 Partial Condemnation. If less than a substantial portion of any Component shall be taken under the power of eminent domain, and the remainder is useable for the TJPA's purposes, then this Leaseback Lease shall continue in full force and effect as to the remaining portions of such Component, subject only to such rental abatement as is required by Section 3.5 hereof. The TJPA and the City hereby waive the benefit of any law to the contrary.

Section 6.3 Condemnation Awards. Any award made in eminent domain proceedings for the taking shall be paid to or upon the order of the City for application in accordance with the provisions of the TJPA Sublease unless the TJPA elects to apply such proceeds to the replacement of the condemned portion of any Component, whereupon if there has been an abatement of Rental Payments pursuant to Section 3.5 hereof, then Rental Payments

without any abatement shall again begin to accrue with respect thereto upon replacement of Component.

Section 7. Assignment and Sublease: Addition, Substitution or Release of Property.

Section 7.1 Assignment and Sublease. Except as permitted by Section 7.2, the TJPA shall not mortgage, pledge, assign or transfer any interest of the TJPA in this Leaseback Lease by voluntary act or by operation of law, or otherwise; provided, however, that the TJPA may sublease all Property or any Component thereof, may grant concessions to others involving the use of the Property or any Component, whether such concessions purport to convey a leasehold interest or a license to use such Property or Component; [provided, further, however, that such sublease or grant shall be subject to the terms hereof]. Subject to the limitations set forth herein and in the Trust Agreement, the TJPA shall at all times remain liable for the performance of the covenants and conditions on its part to be performed under this Leaseback Lease, notwithstanding any subletting or granting of concessions which may be made. Nothing herein contained shall be construed to relieve the TJPA of its obligation to pay Base Rental and Additional Rental with respect to each Component as provided in this Leaseback Lease or to relieve the TJPA of any other obligations contained herein.

Section 7.2 Addition, Substitution or Release of Property. Notwithstanding Section 7.1 above, the City and the TJPA may release or substitute Property subject to this Leaseback Lease to the same extent such Property is released or substituted in the TJPA Site Lease and TJPA Sublease.

Section 8. Additions and Improvements; Removal. The TJPA and any sublessee or licensee shall have the right during the Leaseback Lease Term to make any additions or improvements to any Component, to attach fixtures, structures or signs, and to affix any personal property to any Component, so long as the fair rental value of the Component is not thereby reduced. Title to all fixtures, equipment or personal property placed by the TJPA on any Component shall remain in the TJPA. Title to any personal property, improvements or fixtures placed on any Component by any sublessee or licensee of the TJPA shall be controlled by the sublease or license agreement between such sublessee or licensee and the TJPA, which sublease or license agreement shall not be inconsistent with this Leaseback Lease.

Section 9. Right of Entry. Representatives of the City shall, subject to reasonable security precautions, have the right to enter upon any Component during reasonable business hours (and in emergencies at all times) (a) to inspect the same, (b) for any purpose connected with the rights or obligations of the City under this Leaseback Lease, or (c) for all other lawful purposes.

Section 10. Quiet Enjoyment. The City covenants and agrees that the TJPA, upon keeping and performing the covenants and agreements herein contained, shall, at all times during the Leaseback Lease Term, peaceably and quietly have, hold, and enjoy the Property.

Section 11. Indemnification and Hold Harmless Agreement. To the extent permitted by law, the TJPA hereby agrees to indemnify and hold the City and its officers and employees harmless against any and all liabilities which might arise out of or are related to the Property, and

the TJPA further agrees to defend the City and its directors in any action arising out of or related to the Property; provided that any such indemnification and obligation to defend shall not apply in the case of the negligence or willful misconduct of the City. The City and its officers, agents and employees, shall not be liable to the TJPA or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about any Component.

Section 12. Events of Default and Remedies.

Section 12.1 Default by TJPA. If the TJPA shall fail to pay to the City any Base Rental with respect to any Component as and when the same shall become due and payable, or shall breach any other terms, covenants or conditions contained herein and shall fail to remedy any such breach with all reasonable dispatch within a period of 60 days after written notice thereof from the City, or its assignee, to the TJPA, or, if such breach cannot be remedied within such 60-day period, shall fail to institute corrective action within such 60-day period and diligently pursue the same to completion, then and in any such event the TJPA shall be deemed to be in default hereunder.

Section 12.2 Remedies on Default by TJPA. Upon a failure or breach as described in Section 12.1, the City will have the right, without any further demand or notice, to enforce all of its rights and remedies under this Leaseback Lease, including the right to recover Base Rental payments as they become due under this Leaseback Lease pursuant to Section 1951.4 of the California Civil Code by pursuing any remedy available in law or in equity, other than by terminating the Leaseback Lease or reentering and reletting the Property or any Component thereof, or except as expressly provided herein. Notwithstanding any other provision of this Leaseback Lease, in no event will the City have the right to accelerate the payment of any Base Rental hereunder.

Each and every remedy of the City hereunder is cumulative and the exercise of one remedy shall not impair the right of the City to any or all other remedies. If any statute or rule of law validly shall limit the remedies given to the City, the City nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

Section 12.3 Default by City. The failure of the City to observe and perform any covenants, agreements or conditions on its part in this Leaseback Lease contained, including under Section 10 hereof, if such failure shall have continued for a period of 60 days after written notice thereof, specifying such failure and requiring the same to be remedied, shall have been given to the City, by the TJPA, shall constitute a City Event of Default under this Leaseback Lease; provided, however, that if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 60 day period, such failure shall not constitute a City Event of Default if corrective action is instituted by the City within such 60 day period and the City shall diligently and in good faith cure such failure in a reasonable period of time. In each and every case upon the occurrence and during the continuance of a City Event of Default by the City hereunder, the TJPA shall have all the rights and remedies permitted by law.

Section 13. Waiver. The waiver by the City or its assignee of any breach by the TJPA, and the waiver by the TJPA of any breach by the City of any term, covenant or condition hereof

shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

Section 14. DISCLAIMER OF WARRANTIES. NEITHER THE CITY NOR ANY PERSON ACTING ON ITS BEHALF HAS MADE OR MAKES ANY WARRANTY OR REPRESENTATION AS TO THE PAST, PRESENT OR FUTURE CONDITION OF THE PROPERTY NOT HEREIN EXPRESSED, AND THE TJPA HAS ENTERED INTO THIS LEASEBACK LEASE WITHOUT REPRESENTATIONS OR WARRANTIES WITH RESPECT THERETO ON THE PART OF THE CITY, ITS AGENTS, REPRESENTATIVES OR EMPLOYEES.

Section 15. Notices. All notices, requests, demands and other communications under this Leaseback Lease shall be in writing (unless otherwise specified herein) and shall be sufficiently given on the date of service if served personally upon the person to whom notice is to be given or on receipt if sent by telex or other telecommunication facility or courier or if mailed by registered or certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

if to the City: City and County of San Francisco
City Hall, 1 Dr. Carlton B. Goodlett Place,
Room 316
San Francisco, California 94102
Attention: City Controller;

if to the TJPA: Transbay Joint Powers Authority
201 Mission Street, Suite 2100
San Francisco, CA 94105
Attention: Executive Director

or to such other address or addresses as any such person shall have designated to the others by notice given in accordance with the provisions of this Section 15.

Section 16. Validity. If anyone or more of the terms, provisions, promises, covenants or conditions of this Leaseback Lease shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction; then each and all of the remaining terms, provisions, promises, covenants and conditions of this Leaseback Lease shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

If for any reason this Leaseback Lease will be held by a court of competent jurisdiction to be void, voidable or unenforceable by the City or by the TJPA, or if for any reason it is held by such a court that any of the covenants and agreements of the TJPA hereunder, including the covenant to pay Base Rental and Additional Rental hereunder, is unenforceable for the full term hereof, then and in such event for and in consideration of the right of the TJPA to possess, occupy and use the Property, which right in such event is hereby granted, this Leaseback Lease will thereupon become and will be deemed to be a sublease from year to year under which the annual Base Rental payments and Additional Rental payments herein specified will be paid by the TJPA.

Section 17. Execution in Counterparts. This Leaseback Lease may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same agreement.

Section 18. Law Governing. This Leaseback Lease is made in the State under the Constitution and laws of the State and is to be so construed.

Section 19. Amendment. This Leaseback Lease may be amended only by written agreement of the City and the TJPA.

Section 20. Excess Payments. Notwithstanding anything contained herein to the contrary, if for any reason, including but not limited to damage, destruction, condemnation, transfer, sale or disposition, the TJPA or the City receive payments, proceeds or awards with respect to any Component in excess of the amount necessary for the City to pay or provide in accordance with the TJPA Sublease, such excess shall represent the TJPA's equity interest in such Component and shall be paid to the TJPA.

Section 21. No Merger. If the TJPA's estates under this Leaseback Lease or the TJPA Site Lease or any other lease relating to any Component shall at any time by any reason become vested in one owner, this Leaseback Lease and the estate created hereby shall not be destroyed or terminated by the doctrine of merger unless the TJPA so elects as evidenced by recording a written declaration so stating, and, unless and until the TJPA, so elects, the City and the TJPA shall continue to have and enjoy all of their respective rights and privileges as to the separate estates.

Section 22. Further Assurances and Corrective Instruments. The TJPA and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property or any Component leased hereby or intended to be so leased or for carrying out the express intention of the Leaseback Lease.

Section 23. No Sovereign Immunity. The TJPA is subject to civil and commercial law in respect of its obligations under this Leaseback Lease, and the execution, delivery and performance of this Leaseback Lease constitutes a commercial act rather than a public or governmental act; however, (i) the substantive provisions and procedural requirements of California civil law and commercial law which apply to the TJPA are, in many respects, different from the substantive provisions and procedural requirements which would apply to other persons under similar circumstances; (ii) California law limits the exercise of prejudgment and postjudgment remedies against public entities, including the TJPA; and (iii) a court may not strictly enforce certain covenants if it concludes that enforcement would be unreasonable under the circumstances. To the extent that the TJPA is entitled to any immunity from suit, it hereby waives such immunity to the fullest extent permitted by law.

Section 24. Omitted.

Section 25. Limited Liability. Nothing contained herein will be construed as creating any liability on any officer, director, or employee of the TJPA or the City, individually or personally, to perform any covenant, duty or obligation of any kind contained in this Leaseback

Lease, and under no circumstances will any officer, director, or employee of the TJPA or the City be liable, individually or personally, for the payment of any fees, costs, indebtedness or expenses related to or arising from the Leaseback Lease or any documents related hereto.

Section 26. City Requirements. Additional requirements of the City with respect to this Leaseback Lease are attached as Exhibit C and are incorporated by reference herein, and, by executing this Leaseback Lease, the TJPA is agreeing to comply with those provisions.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Leaseback Lease as of the date first above written.

CITY AND COUNTY OF SAN
FRANCISCO, as Sublessor

By: _____
Director of Public Finance

APPROVED AS TO FORM:

By: _____
City Attorney

TRANSBAY JOINT POWERS
AUTHORITY, as Sublessee

By: _____
Executive Director

APPROVED AS TO FORM:

By: _____
Legal Counsel

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that real property situated in the City and County of San Francisco, State of California, described as follows, and any improvements thereto:

[See attached pages]

EXHIBIT B

BASE RENTAL PAYMENT SCHEDULE

[See attached base rental schedules]

EXHIBIT C
CITY REQUIREMENTS

CERTIFICATE PURCHASE AGREEMENT

dated [June __, 2016]

by and between

CITY AND COUNTY OF SAN FRANCISCO

AND

METROPOLITAN TRANSPORTATION COMMISSION

relating to

**CITY AND COUNTY OF SAN FRANCISCO
LEASE REVENUE DIRECT PLACEMENT
REVOLVING CERTIFICATES OF PARTICIPATION, SERIES _ (TAXABLE)**

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CERTIFICATE PURCHASE AGREEMENT

[June __, 2016]

City and County of San Francisco
City Hall, 1 Dr. Carlton B. Goodlett Place
Room 316
San Francisco, California 94102
Attention: City Controller

Ladies and Gentlemen:

The undersigned Metropolitan Transportation Commission (the "MTC") offers to enter into this Certificate Purchase Agreement (as amended, supplemented or otherwise modified from time to time, the "Agreement") with the City and County of San Francisco (the "City"), for the purchase by the MTC and sale by the City of the Certificates specified below. This offer is made subject to the City's written acceptance on or before 5:00 p.m., San Francisco, California time, on the date first written above, and upon such acceptance this Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the City and the MTC.

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms. Capitalized terms not otherwise defined herein shall have the same meanings as are set forth in the Trust Agreement (as defined herein). In addition to the terms defined elsewhere in this Agreement, the following terms shall have the indicated meanings:

"**1933 Act**" means the Securities Act of 1933, as the same shall from time to time be supplemented or amended.

"**Additional Rental**" shall have the meaning set forth in the Sublease.

"**Alternate Rate**" means a fluctuating rate of interest per annum (rounded upward to the fifth decimal place) determined daily, equal to the Prime Rate plus the Applicable Spread; and *provided*, that subject to Section 3.5 hereof, at no time shall the Alternate Rate exceed the Maximum Rate.

"**Amortization End Date**" means the earliest to occur of (a) the fifth (5th) anniversary of the Term-Out Commencement Date and (b) the date on which all Certificates are redeemed, repaid, prepaid or cancelled in accordance with the terms hereof and in the Trust Agreement.

"**Amortization Period**" has the meaning set forth in Section 2.5(a) hereof.

"**Applicable Spread**" means, initially 61 basis points (0.61%), which is subject to maintenance of the current City Rating. In the event of a change in the City Rating, the Applicable Spread shall equal the number of basis points set forth in the Level associated with the City Rating as set forth below:

	City Rating			Applicable Spread basis points (%)
	Moody's	S&P	Fitch	
Level I	Aa3 or above	AA- or above	AA- or above	61.0 bps (0.610%)
Level II	A1	A+	A+	68.5 bps (0.685%)
Level III	A2	A	A	78.5 bps (0.885%)
Level IV	A3	A-	A-	88.5 bps (0.885%)
Level V	Baa1 or below	BBB+ or below	BBB+ or below	118.5 bps (1.185%)

For the purpose of the foregoing, in the event (i) all three Rating Agencies provide a City Rating, the Taxable Applicable Spread shall be based on the lower of the two highest City Ratings, (ii) only two Rating Agencies provide a City Rating and there is a split City Rating (i.e., one of the Rating Agency's City Ratings is at a different level than the City Rating of the other Rating Agency), the Taxable Applicable Spread shall be based upon the lower City Rating and (iii) only one Rating Agency provides a City Rating, the Taxable Applicable Spread shall be based on such City Rating. Any change in the Applicable Spread resulting from a change in the City Rating shall be and become effective as of and on the date of the announcement of the change in the City Rating. References to the City Rating 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, including, without limitation, any recalibration of the City Rating in connection with the adoption of a "global" rating scale, each City Rating from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The City acknowledges that as of the Closing Date the Applicable Spread is that specified above for Level I.

"**Approving Opinion**" means, with respect to any action relating to Certificates, an opinion delivered by Bond Counsel to the effect that such action is permitted by this Agreement and the other Related Documents.

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

"**Available Commitment**" means, on any date, an initial amount equal to \$100,000,000 and thereafter such initial amount adjusted from time to time as follows: (a) downward in an amount equal to the principal amount of any Certificate purchased by the MTC pursuant to the terms hereof; (b) upward in an amount equal to the principal amount of any Certificate paid by the City pursuant to the terms of Section 2.5 hereof prior to the Termination Date; and (c) downward to zero upon the expiration or termination of the Available Commitment in accordance with the terms hereof; *provided, that*, after giving effect to any of the foregoing adjustments the Available Commitment shall never exceed \$100,000,000 at any one time.

"**Base Rate**" means, for any day, a fluctuating rate of interest per annum equal to the greatest of (i) the Prime Rate in effect at such time plus one percent (1.0%), (ii) the Federal Funds Rate in effect at such time plus two percent (2.0%), and (iii) [six] percent ([6.0]%).

"Base Rental" shall mean the amounts payable of "Base Rental" as set forth in the Sublease.

"Base Rental Period" shall have the meaning set forth in the Trust Agreement.

"Bond Counsel" means the law firm of Jones Hall, A Professional Law Corporation, or any nationally recognized bond counsel selected by the City and acceptable to the MTC.

"Business Day" means any day (i) when banks are not required or authorized by law or executive order to be closed in San Francisco, California, New York, New York or the city in which the office of the MTC at which Requests for Purchase are to be honored is located, (ii) when the New York Stock Exchange is not required or authorized by law or executive order to be closed and (iii) with respect to all notices and determinations in connection with, and payments of principal and interest with respect to, any Certificate, any day that is a Business Day described in clauses (i) and (ii) and that is also a day for trading by and between banks in Dollar deposits in the London interbank market.

"CAFR" has the meaning set forth in Section 6.1(a)(i) hereof.

"Certificate" or "Certificates" has the meaning specified in Section 2.1(a) hereof.

"Certificate LIBOR Rate" means a floating rate per annum (rounded upward to the fifth decimal place) equal to the sum of the LIBOR Rate, plus the Applicable Spread; *provided, however,* that immediately and upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuation of such Event of Default, "Certificate LIBOR Rate" shall mean the Default Rate.

"Certificateholder" or "Holder" means the MTC and each transferee pursuant to Section 8.2 hereof..

"Charter" means The Charter of the City and County of San Francisco adopted November 7, 1995, and effective as of July 1, 1996, as amended and supplemented to date.

"City" means the City and County of San Francisco, California.

"City Rating" means the long-term unenhanced debt ratings assigned by each of Fitch, S&P and Moody's to any unenhanced Lease Obligation Debt of the City (without giving effect to any bond insurance or other credit enhancement).

"Closing" has the meaning specified in Section 2.2 hereof.

"Closing Date" means the date on which the Closing occurs.

"Code" means the Internal Revenue Code of 1986, as amended, and when reference is made to a particular section thereof, the applicable Treasury Regulations from time to time promulgated or proposed thereunder.

"Commitment" means the agreement of the MTC pursuant to Section 2.1 hereof to make purchases of Certificates under the terms hereof for the account of the City.

"Commitment Expiration Date" means [June __, 2021], unless extended as provided herein, but in no event later than [June __, 2026].

"Components" shall have the meaning set forth in the Sublease.

"Computation Date" means the second London Business Day preceding the first Business Day of each month.

"Contingent Obligation" means, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any indebtedness, leases, dividends, or other obligations ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (x) for the purchase or payment of any such primary obligation, or (y) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities, or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; *provided, however,* that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"Controlled Group" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the City, are treated as a single employer under Section 414 of the Code.

"Credit Provider" shall have the meaning set forth in the Trust Agreement.

"Debt" shall mean, with respect to any Person, (a) all indebtedness of such Person for borrowed money; (b) all obligations of such Person as lessee under capital leases; (c) all obligations of such Person to pay the deferred purchase price of property or services; (d) certificates of participation evidencing an undivided ownership interest in payments made by such Person as lessee under capital leases, as purchaser under an installment sale agreement or otherwise as an obligor in connection therewith; (e) all Guarantees by such Person of Debt of another Person; (f) the face amount of any letter of credit issued for the account of such Person and, without duplication, all drawings made and reimbursement obligations arising thereunder, (g) all Debt of a second Person secured by any lien on any property owned by such first Person, whether or not such Debt has been assumed; (h) all obligations of such Person to pay a specified purchase price for goods or services whether or not delivered or accepted, including but not limited to, take or pay or similar obligations; (i) all Contingent Obligations of such Person and (j) all obligations of such Person due and payable under Swap Contracts; *provided, however,* that Debt shall not include trade payables arising in the ordinary course of business; and *provided, further, however* that with respect to the City, Debt shall exclude conduit, enterprise and other Debt that have no claim on the General Fund of the City.

"Default" means any condition or event that constitutes an Event of Default or that, with the giving of notice or lapse of time or both, would constitute an Event of Default.

"Default Rate" means, for any day, a fluctuating rate per annum equal to the sum of the Base Rate in effect on such day plus three percent (3.00%).

"Dollar" and **"\$"** mean lawful money of the United States.

"Environmental Regulation" means any federal, state, or local statute, law, rule, regulation, ordinance, code, policy, or rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree, or judgment, relating to health, safety, or the environment or to Hazardous Materials, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801 et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 et seq.; the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. § 3608 et. seq.; the California Superfund Statute, Cal. Health & Safety C. § 25300 et seq.; legislation promulgated pursuant to the California Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety C. § 25249.5 et seq.; Environmental Protection Agency regulations pertaining to asbestos, including 40 C.F.R. Part 61, Subpart M; and Occupational Safety and Health Administration regulations pertaining to asbestos, including 29 C.F.R. § 1910.1001 and 1926.58.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

"Event of Default" with respect to this Agreement has the meaning set forth in Section 7.1 of this Agreement and, with respect to any Related Document, has the meaning assigned therein.

"Excess Interest Amount" has the meaning set forth in Section 3.5 hereof.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided that*: (a) if such day is not a Business Day, then the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day; and (b) if no such rate is so published on such next succeeding Business Day, then the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of one hundredth of one percent) charged to the MTC on such day on such transactions as determined by the MTC. Notwithstanding anything herein to the contrary, if the Federal Funds Rate as determined as provided above would be less than zero percent (0.0%), then the Federal Funds Rate shall be deemed to be zero percent (0.0%) for purposes of this Agreement.

"Fiscal Year" means the twelve-month period commencing on July 1 of each year; *provided, however*, that the City may, from time to time, agree on a different twelve-month period as the Fiscal Year.

"Fitch" means Fitch, Inc., and its successors and assigns.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or any successor authority) that are applicable as of the date of determination, consistently applied.

"General Fund" has the meaning of the term "General Fund" as used in the Charter.

"Governmental Authority" means the government of the United States of America or any other nation or any political subdivision thereof or any governmental or quasi governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or European Central Bank), or any arbitrator, mediator or other Person with authority to bind a party at law.

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

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

"Indemnified Party" has the meaning set forth in Section 3.2 hereof.

"Initial Commitment Amount" means \$100,000,000.

"Interest Payment Date" means as to any Certificate, the first Business Day of each month and the date of any payment or prepayment of principal of such Certificate.

"Interest Period" means the period commencing on and including the first Business Day of each month to but not including the first Business Day of the immediately succeeding month;

provided that with respect to any Certificate executed and delivered or deemed executed and delivered on a date other than the first Business Day of a month, "Interest Period" shall mean the period commencing on and including the date of issuance (or deemed issuance) to be not including the first Business Day of the immediately succeeding month.

"**Law**" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"**Lease Obligation Debt**" means any Debt of the City, the payment of which is payable from and/or secured by lease revenue rental payments payable from the General Fund of the City.

"**LIBOR Rate**" means the rate of interest per annum determined by [Wells Fargo Bank, National Association] based on the rate for United States dollar deposits for delivery on the LIBOR Reset Date for a period equal to one month as reported on Reuters Screen LIBOR01 page (or any successor page) at approximately 11:00 a.m., London time, on each Computation Date (or if not so reported, then as determined by [Wells Fargo Bank, National Association] from another recognized source of interbank quotation). Notwithstanding anything in this Agreement to the contrary, if the LIBOR Rate determined as provided above would be less than zero percent (0.0%), then the LIBOR Rate shall be deemed to be zero percent (0.00%) for purposes of this Agreement.

"**LIBOR Reset Date**" means the first Business Day of each month; *provided* that with respect to any Certificate executed and delivered or deemed executed and delivered on a date other than the first Business Day of a month, "LIBOR Reset Date" shall mean such date of execution and delivery or deemed execution and delivery.

"**Lien**" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"**Material City Debt**" shall mean any Debt of the City that is outstanding in a principal amount of \$25,000,000 or more.

"**Maximum Base Rental**" shall mean the amounts specified in the Sublease as Maximum Base Rental.

"**Maximum Rate**" means the lesser of (i) twelve percent (12%) per annum and (ii) the maximum rate of interest allowed by applicable law.

"**Minimum Required Rental Payment**" shall have the meaning set forth in the Sublease.

"Minimum Supplemental Rental Payment" shall have the meaning set forth in the Sublease.

"Moody's" means Moody's Investors Service, Inc. and any successor rating agency.

"MTC" has the meaning specified in the introductory paragraph hereof.

"Obligations" means the obligations of the City under this Agreement to repay all the Certificates, together with interest thereon, pursuant to and in accordance with this Agreement and the Certificates, all fees, expenses and charges payable or reimbursable hereunder to the MTC (including, without limitation, any amounts to reimburse the MTC for any advances or expenditures by it under any of such documents) and all other payment obligations of the City to the MTC arising under or in relation to this Agreement or the other Related Documents, in each, case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

"Patriot Act" has the meaning set forth in Section 8.11 hereof.

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

"Person" means an individual, a corporation, a partnership, an association, a limited liability company, a partnership, a trust, or any other entity or organization, including a Governmental Authority.

"Plan" means, with respect to the City at any time, an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either (i) is maintained, or has within the preceding five plan years been maintained, by a member of the Controlled Group for employees of a member of the Controlled Group of which the City is a part, (ii) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group of which the City is a part is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

"Pledged Property" has the meaning set forth in the Trust Agreement.

"Prime Rate" means on any day, the rate of interest per annum then most recently established by [Wells Fargo Bank, National Association] as its "prime rate." Any such rate is a general reference rate of interest, may not be related to any other rate, and may not be the lowest or best rate actually charged by [Wells Fargo Bank, National Association] to any customer or a favored rate and may not correspond with future increases or decreases in interest rates charged by other lenders or market rates in general, and that the [Wells Fargo Bank, National Association] may make various business or other loans at rates of interest having no relationship to such rate. If [Wells Fargo Bank, National Association] ceases to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported. Notwithstanding anything herein to the contrary, if the Prime Rate determined as provided above would be less than zero percent (0.0%), then the Prime Rate shall be deemed to be zero percent (0.0%) for purposes of this Agreement.

"Project Costs" has the meaning set forth in the Trust Agreement.

"Property" shall have the meaning set forth in the Sublease.

"Purchase" means each purchase of a Certificate described in Section 2.3 hereof.

"Purchase Date" means each date on which a Purchase occurs.

"Quarterly Payment Date" means the first Business Day of each February, May, August and November.

"Rating Agency" means either of S&P, Fitch and/or Moody's, as context may require.

"Related Documents" means this Agreement, the Trust Agreement, the Site Lease, the Sublease, the Certificates and any exhibits, schedules, instruments or agreements relating thereto, as the same may be amended, modified or supplemented in accordance with their terms and the terms hereof.

"Request for Purchase" means the request for a purchase of a Certificate by the MTC, in the form of Exhibit A hereto.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, and any successor rating agency.

"Site Lease" means the Site Lease dated as of June 1, 2016, by and between the City and the Trustee, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and thereof.

"State" means the State of California.

"Sublease" means the Sublease dated as of June 1, 2016, by and between the City and the Trustee, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and thereof.

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

"Taxable Projects" has the meaning set forth in the Trust Agreement.

"Term-Out Commencement Date" means the earlier of (i) the Commitment Expiration Date, as such date may be extended pursuant to Section 2.10 hereof, and (ii) the date on which the MTC declares the Commitment and the Available Commitment to be terminated in accordance with Section 7.2 hereof.

"Term-Out Rate" means a fluctuating interest rate per annum which, for each day, shall equal (i) for the period from and including the Term-Out Commencement Date to and including the one hundred eightieth (180th) day immediately succeeding the Term-Out Commencement Date, the Base Rate from time to time in effect and (ii) from the period from and after the one hundred eighty first (181st) day immediately succeeding the Term-Out Commencement Date, the Base Rate from time to time in effect plus one percent (1.0%); *provided* that if an Event of Default has occurred and is continuing, the Term-Out Rate shall equal the Default Rate.

"Trust Agreement" means the Trust Agreement dated as of June 1, 2016, by and between the City and the Trustee, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof and thereof.

"Trustee" means [U.S. Bank National Association], in its capacity as trustee under the Trust Agreement, and its successor or successors or any other Person which may at any time be substituted in its place pursuant to the Trust Agreement and the terms hereof.

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. If, after the Closing Date, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Sections 6.1(i) hereof and such change shall result in a change in the method of calculation of any financial covenant, standard or term found in this Agreement including, without limitation, a recharacterization of operating leases to the effect that certain operating leases are to be treated as capital leases, either the City or the MTC may by notice to the other party hereto, require that the MTC and the City negotiate in good faith to amend such covenants, standards, and terms so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the City shall be the same as if such change had not been made. No delay by the City or the MTC in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section 1.2, financial covenants shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles.

Section 1.3. Interpretation. The following rules shall apply to the construction of this Agreement unless the context requires otherwise: (i) the singular includes the plural, and the plural the singular; (ii) words importing any gender include the other gender; (iii) references to statutes are to be construed as including all statutory provisions consolidating and amending, and all regulations promulgated pursuant to, such statutes; (iv) references to "writing" include printing, photocopy, typing, lithography and other means of reproducing words in a tangible visible font; (v) the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation"; (vi) references to the introductory paragraph, recitals, articles, sections (or clauses or subdivisions of sections), exhibits, appendices, annexes or schedules are to those of this Agreement unless otherwise indicated; (vii) references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent that such amendments and other modifications are

permitted or not prohibited by the terms of this Agreement; (viii) section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose; (ix) references to Persons include their respective permitted successors and assigns; and (x) in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding." All references to "funds" herein shall include all accounts and subaccounts therein unless the context clearly requires otherwise.

Section 1.4. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Pacific time (daylight or standard, as applicable).

Section 1.5. Relation to Other Documents; Acknowledgment of Different Provisions of Related Documents; Incorporation by Reference. (a) Nothing in this Agreement shall be deemed to amend, or relieve the City of its obligations under, any Related Document to which it is a party. Conversely, to the extent that the provisions of any Related Document allow the City to take certain actions, or not to take certain actions, with regard for example to permitted liens, transfers of assets, maintenance of financial ratios and similar matters, the City nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) of this Section 1.5, all references to other documents shall be deemed to include all amendments, modifications and supplements thereto to the extent such amendment, modification or supplement is made in accordance with the provisions of such document and this Agreement.

ARTICLE II

SALE AND PURCHASE; CLOSING

Section 2.1. Purchase and Sale of Certificates. (a) From the Closing Date through the Termination Date, and upon and subject to the terms and conditions and on the basis of the representations, warranties and agreements contained herein, the MTC hereby agrees, when requested by the City pursuant to this Agreement, to purchase from the City from time to time (but in no event more than ___ () per calendar month), in an aggregate principal amount not to exceed the Available Commitment, and the City hereby agrees to sell and deliver to the MTC from time to time the "City and County of San Francisco Lease Revenue Direct Placement Revolving Certificates of Participation, Series __ (Taxable)" executed and delivered from time to time, in accordance with the Trust Agreement and evidenced by a master certificate in the form attached as [Exhibit __] to the Trust Agreement (the "Certificates") The Certificates are being issued pursuant to the Trust Agreement for the purpose of financing the Project Costs of the Taxable Projects. The Certificates represent undivided ownership interest in Base Rental required to be made by the City under the Sublease and are secured by a pledge of and first lien on the Pledged Property under the Trust Agreement.

(b) Pursuant to and subject to the terms of this Agreement, each Certificate shall be sold to the MTC at a purchase price equal to the principal amount of each Certificate with no accrued interest, and the MTC shall pay such purchase price to the City upon delivery of such Certificate to the MTC on the related Purchase Date and such Certificate shall be deemed to be executed and delivered to the MTC on such date.

(c) Each Certificate shall (i) be dated the date such Certificate is deemed to be executed and delivered to the MTC, (ii) be secured by the Pledged Property in the manner described in Section 2.1(a) hereof and the pledge clause immediately following the introductory "Whereas" clause of the Trust Agreement, (iii) mature on [June__, 2021], with principal and interest to be paid as specified in this Agreement (iv) be in a minimum principal amount of \$[5,000,000] or an integral multiple of \$[250,000]

. in excess thereof. Interest with respect to the Certificates shall be calculated on the basis of a year of 360 days and actual days elapsed from the related Purchase Date.

Section 2.2. Closing. At such date and time as shall have been mutually agreed upon by the City and the MTC, the certificates, opinions and other documents required by Section 5.1 below shall be executed and delivered (all of the foregoing actions are herein referred to collectively as the "Closing"). Assuming the Closing is completed in accordance with the terms and conditions of this Agreement and the Trust Agreement then, subject to the provisions of this Agreement and the conditions set forth in Section 5.2 hereof, the MTC shall purchase each Certificate and pay the purchase price therefor specified in Section 2.1(b) hereof (and the City shall cause the execution and delivery of such Certificate) at each Purchase.

Section 2.3. Method of Purchase. (a) Each purchase of a Certificate shall be made upon the City's irrevocable written notice to the MTC in the form of a Request for Purchase with blanks appropriately completed. Each Request for Purchase shall be signed by an Authorized Representative and shall specify: (1) the Purchase Date which shall be a Business Day and shall be at least _____ (__) Business Days after the date of the Request for Purchase; and (2) the principal amount of the Certificate to be purchased, which together with all other Certificates then outstanding shall not exceed the Available Commitment as of the proposed Purchase Date. Each Request for Purchase must be received by the MTC not later than 10:00 a.m. _____ (__) Business Days immediately prior to the requested Purchase Date.

(b) Upon receipt of a Request for Purchase by the MTC, the MTC, subject to the terms and conditions of this Agreement, shall be required to make a purchase of a Certificate by 3:00 p.m. on the proposed Purchase Date for the account of the City in an amount equal to the amount of the requested purchase. Notwithstanding the foregoing, in the event such Request for Purchase is received by the MTC after 10:00 a.m. on the Business Day which is _____ (__) Business Days immediately prior to the day of the proposed Purchase, the MTC shall be required to make the related Purchase for a Certificate by 3:00 p.m. on the fourth Business Day after receipt of the related Request for Purchase.

(c) If, after examination, the MTC shall have determined that a Request for Purchase does not conform to the terms and conditions hereof, then the MTC shall use its best efforts to give notice to the City to the effect that documentation was not in accordance with the terms and conditions hereof and stating the reasons therefor. The City may attempt to correct any such nonconforming Request for Purchase, if, and to the extent that, the City is entitled (without regard to the provisions of this sentence) and able to do so. If the City fails to specify a type of Certificate in a Request for Purchase, then the applicable Certificates shall be made as a Certificate bearing interest at a Certificate LIBOR Rate.

Section 2.4. Interest Rates. (a) Prior to the Term-Out Commencement Date and except as otherwise provided in this Section 2.4, each Certificate shall bear interest at the Certificate LIBOR Rate.

(b) From and after the Term-Out Commencement Date and except as otherwise provided in this Section 2.4, each Certificate shall bear interest at the Term-Out Rate.

(c) From and after the occurrence of an Event of Default, each Certificate and any other amounts payable hereunder shall bear interest at the Default Rate.

(d) All computations of interest shall be made on the basis of a 360 day year and actual days elapsed. Interest shall accrue with respect to the Certificates from and including the day on which Certificate was executed and delivered (or deemed executed and delivered), and shall not accrue on such Certificate, or any portion thereof, for the day on which such Certificate or any principal portion is paid. Interest with respect to Certificates bearing interest at the Certificate LIBOR Rate Rate, shall be determined by the MTC on each Computation Date and become effective on the immediately succeeding LIBOR Reset Date for the related Interest Period. Interest with respect to Certificates bearing interest at the Term-Out Rate or the Default Rate shall be determined and reset each day. Each determination by the Bank of an interest rate shall be conclusive and binding for all purposes, absent manifest error.

Section 2.5. Payment of Interest and Principal. (a) (i) Accrued but unpaid interest with respect to each Certificate shall be due and payable n each Interest Payment Date.

(ii) The principal amount of each outstanding Certificate is due and payable on the Term-Out Commencement Date; *provided* that if the Bank has not received the principal amount of any such Certificate on such date, the City shall cause the principal amount of such Certificates to be redeemed in installments as to principal, commencing on the first Quarterly Payment Date following the Term-Out Commencement Date, and on each Quarterly Payment Date thereafter, with the final installment in an amount equal to the entire then outstanding principal amount of such Certificates to be redeemed on the Amortization End Date (the period commencing on the Term-Out Commencement Date and ending on the Amortization End Date is herein referred to as the "Amortization Period"). Each quarterly installment shall be that amount of principal which will result in equal (as nearly as possible) aggregate quarterly installments over the Amortization Period; *provided, however*, that the unpaid amount of the Certificates during the Amortization Period shall be paid by the City in each year only to the extent of the then fair rental value with respect to the Components subject to the Sublease for such Base Rental Period, and to the extent not so repaid, the Certificates shall be paid during each subsequent Base Rental Period, to the extent owed, to the extent of the then fair rental value with respect to the Components subject to the Sublease for each such subsequent Base Rental Period, and the Certificates shall continue to be an obligation of the City pursuant to the Sublease.

(b) Subject to Section 2.9 hereof, the City may cause any Certificate to be prepaid, in whole or in part, on any Business Day provided at least three (3) Business Days' prior written notice is given by the City to the MTC. Each such notice shall specify the date and amount of such prepayment and the Certificates to be prepaid. Each such notice of optional prepayment shall be irrevocable and shall bind the City to cause such prepayment to be made in accordance with such notice. Any prepayment of Certificates shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof or, if less, the entire principal amount thereof then outstanding. All prepayments of principal shall include accrued interest to the date of prepayment and all other amounts due and payable at such time pursuant to this Agreement.

(c) If the payment date for the principal of or interest on a Certificate is a day other than a Business Day, the date for payment thereof shall be extended, without penalty, to the next succeeding Business Day, and such extended period of time shall be included in the computation

of interest; *provided, however*, the payment of interest with respect to a Certificate on such extended date shall have the same force and effect as if made on the original payment date.

Section 2.6. Fees.

(a) Amendment, Consent or Waiver Fee. Upon each amendment hereof, consent or waiver hereunder or under any Related Document, the City shall pay or cause to be paid attorneys' fees and expenses, if any, incurred by the MTC in processing such amendment, consent or waiver and a fee in a minimum amount of \$_____.

(b) Costs, Expenses and Taxes. The City will promptly pay on demand: (i) the reasonable fees, costs and expenses of the MTC incurred in connection with the preparation, negotiation, execution and delivery of this Agreement, the Certificates and the other Related Documents, (ii) the reasonable fees and disbursements of counsel to the MTC, incurred in connection with the review, execution, filing and administration and delivery of this Agreement and the other Related Documents, (iii) the reasonable fees and disbursements of counsel or other reasonably required consultants to the MTC with respect to advising the MTC as to the rights and responsibilities under this Agreement and the other Related Documents after the occurrence of any Default or alleged Default hereunder, or an Event of Default, (iv) all costs and expenses, if any, in connection with any waiver or amendment of, or the giving of any approval or consent under, or any response thereto or the enforcement of this Agreement, the Related Documents and any other documents which may be delivered in connection herewith or therewith, including in each case the reasonable fees and disbursements of counsel to the MTC or other reasonably required consultants and (v) any amounts advanced by or on behalf of the MTC to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Related Document, together with interest at the Default Rate. In addition, the City shall pay any and all stamp taxes, transfer taxes, documentary taxes, and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of this Agreement and the security contemplated by the Related Documents (other than taxes based on the net income of the MTC) and, to the extent permitted by Law, agrees to indemnify and hold the MTC harmless from and against any and all liabilities with respect to or resulting from any delay in paying, or omission to pay, such taxes and fees, including interest and penalties thereon; *provided, however*, that the City may reasonably contest any such taxes or fees with the prior written consent of the MTC, which consent, if an Event of Default does not then exist, shall not be unreasonably withheld. In addition, the City agrees to pay, after the occurrence of a Default or an Event of Default, all costs and expenses (including reasonable attorneys' fees and costs of settlement) incurred by the MTC in enforcing any obligations or in collecting any payments due from the City hereunder by reason of such Default or Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "workout" or of any collection, insolvency, bankruptcy proceedings or other enforcement proceedings resulting therefrom.

(c) If the City shall fail to pay any amount payable under this Section 2.6 for 30 days after it is due, each such unpaid amount shall bear interest for each day from and including the date it was due until paid in full at the applicable Default Rate. The obligations of the City under this Section 2.6 shall survive the termination of this Agreement.

Section 2.7. Reduction and Termination. (a) Subject to the provisions of Section 2.6(b) hereof, the Available Commitment shall be reduced from time to time as requested by the City within three (3) days of the City's written notice to the MTC requesting such reduction in the form of Exhibit C hereto; *provided*, that each such reduction amount shall be in an amount equal

to \$1,000,000 or an integral multiple thereof, and (ii) any reduction in the Available Commitment shall not be effective until the MTC delivers to the City a notice in the form attached hereto as Exhibit D reflecting such reduction.

(b) Subject to the provisions of Section 2.6(b) hereof, the City may at any time and at its sole option terminate the Commitment upon three (3) Business Days' prior written notice to the MTC in the form of Exhibit C hereto. As a condition to any such termination, the City shall pay or cause to be paid all Obligations owed to the MTC.

Section 2.8. [Reserved].

Section 2.9. [Reserved].

Section 2.10. Extension of Commitment Expiration Date. The City may request an extension of the Commitment Expiration Date in writing in the form of Exhibit B hereto not more than one (1) year prior to the then current Commitment Expiration Date and not less than 120 days prior to the then current Commitment Expiration Date. Upon such request, the MTC agrees that the term of this Agreement shall be extended for the period requested by the City, but in no event for more than five years unless otherwise agreed to in writing by the MTC. The Certificate LIBOR Rate for such extended period shall be determined by the City and MTC approaching three mutually agreed-upon banks or other financial institutions that normally purchase obligations such as the Certificates and requesting each such bank or other financial institution to offer a bid for the Certificates based on a spread above LIBOR. The Certificate LIBOR Rate for such extended period will be the [mean/median] of the three bids received. This Agreement shall be amended or supplemented as may be required in connection with such extension.

ARTICLE III

LIABILITY, INDEMNITY AND PAYMENT

Section 3.1. Liability of the City. The City and the MTC agree that the obligation of the City to pay the Obligations are contractual obligations of the City payable solely from the Pledged Property and shall not be affected by, and the MTC shall not be responsible for, among other things, (i) the validity, genuineness or enforceability of this Agreement, the Certificates or documents, notices or endorsements relating thereto (even if this Agreement or any documents, notices endorsements relating thereto should in fact prove to be in any and all respects invalid, fraudulent or forged), (ii) the use to which the amounts disbursed by the MTC may be put, or (iii) any other circumstances or happenings whatsoever, whether or not similar to any of the foregoing.

Section 3.2. Indemnification by the City. (a) The City, to the extent permitted by law, shall hereby indemnify and hold the MTC, and its directors, officers, employees and agents (the "Indemnified Parties") harmless from and against any and all claims, damages, losses, liabilities, costs or expenses which such Indemnified Parties may incur or which may be claimed against such Indemnified Parties by any person, as well as to the extent set forth in Section 6.1(w) hereof or by reason of or in connection with (i) the validity, sufficiency, enforceability or genuineness of any Related Document; (ii) the issuance or deemed issuance of any Certificate or the use of any proceeds of any Certificate; (iii) the execution, delivery and performance of this Agreement or any Related Document; or (iv) any Property; *provided, however*, that the City shall not be required to indemnify an Indemnified Party pursuant to this Section 3.2 for any claims, damages, losses,

liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of the MTC.

(b) To the extent not prohibited by applicable law, the City agrees to indemnify and hold the MTC harmless (from any present or future claim or liability for stamp, transfer, documentary, excise or other similar tax and any penalties or interest with respect thereto, which may be assessed, levied or collected by any jurisdiction in connection with the execution, delivery and performance of, or any payment made under, this Agreement, the Certificates and the other Related Documents, or any amendment thereto.

Section 3.3. [Reserved].

Section 3.4. [Reserved].

Section 3.5. Maximum Interest Rate; Payment of Fee. If the rate of interest payable on the Certificates or Obligations hereunder shall exceed the Maximum Rate for any period for which interest is payable, then (i) interest at the Maximum Rate shall be due and payable with respect to such interest period and (ii) interest at the rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof and (B) the Maximum Rate (the "Excess Interest"), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed such Maximum Rate, at which time the City shall pay or cause to be paid to the MTC, with respect to amounts then payable to the MTC that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the MTC to equal such Maximum Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until all deferred Excess Interest is fully paid to the MTC. Upon the termination of this Agreement, in consideration for any limitation of the rate of interest which may otherwise be payable on the Certificates or other Obligations hereunder, the City shall pay or cause to be paid to the MTC a fee equal to the amount of all unpaid deferred Excess Interest (the "Excess Interest Fee"); provided that the Excess Interest Fee shall be payable as and to the extent that the then fair rental value with respect to the Components subject to the Sublease for such Base Rental Period exceeds the sum of all other Reimbursement Obligations remaining unpaid hereunder and the amount of interest accruing on the Certificates during such Base Rental Period. In accordance with Section 5922 of the California Government Code, the City hereby represents and warrants that the obligations of the City under the Certificates and all other Obligations hereunder are not subject to any limitation as to maximum interest rate.

Section 3.6. Liability of the MTC. Neither the MTC nor any of its officers, directors, employees, representatives or agents shall be liable or responsible for (i) the use which may be made of any Certificates or this Agreement or for any acts, omissions, errors, interruptions, delays in transmission, dispatch or delivery of any message or advice, however transmitted, of the MTC in connection with this Agreement or the Certificates, (ii) any action, inaction or omission which may be taken by the MTC in connection with this Agreement or the Certificates, (iii) the validity, sufficiency or genuineness of documents, or of any endorsements thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged, (iv) payment by the MTC against presentation of documents which do not comply with the terms of this Agreement or a Request for Purchase, including failure of any documents to bear any reference or adequate reference to this Agreement, or (v) any other circumstances whatsoever in making or failing to make payment under this Agreement or pursuant to a Request for Purchase, except for acts or events described in the immediately preceding clauses (i) through (v), to the extent, but only to the extent, of any direct, as opposed to special, indirect,

consequential or punitive, damages (the right to receive special, indirect, consequential or punitive damages being hereby waived) suffered by it which the City proves were caused by (y) the MTC's willful misconduct or gross negligence in determining whether documents presented under this Agreement comply with the terms of this Agreement or (z) the MTC's failure to pay hereunder after the presentation to it of a Request for Purchase strictly complying with the terms and conditions of this Agreement. In furtherance and not in limitation of the foregoing, the MTC may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

Section 3.7. Obligations Unconditional. The City's obligation to repay the Certificates and all of its other Obligations under this Agreement shall be absolute and unconditional under any and all circumstances, including without limitation: (a) any lack of validity or enforceability of this Agreement, the Certificates or any of the other Related Documents; (b) any amendment or waiver of or any consent to departure from all or any of the Related Documents; (c) the existence of any claim, set off, defense or other right which the City may have at any time against the MTC or any other person or entity, whether in connection with this Agreement, the other Related Documents, the transactions contemplated herein or therein or any unrelated transaction; or (d) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; and irrespective of any setoff, counterclaim or defense to payment which the City may have against the MTC or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of Certificates hereunder, and irrespective of the legality, validity, regularity or enforceability of this Agreement, the Certificates or any or all other Related Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the MTC explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, this Agreement, the Certificates or any or all other Related Documents or any exchange, release, or nonperfection of any collateral securing the obligations of the City hereunder; *provided, however*, that nothing contained in this Section 3.7 shall abrogate or otherwise affect the rights of the City pursuant to Section 3.6 hereof or the rights of the City pursuant to Section 3.5 of the Sublease.

Section 3.8. Illegality. If the MTC determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the MTC to make, maintain or fund Certificates by reference to the LIBOR Rate, or to determine or charge interest rates based upon the LIBOR Rate, or any Governmental Authority has imposed material restrictions on the authority of the MTC to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by the MTC to the City, any obligation of the MTC to make Certificates shall be suspended until the MTC notifies the City that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the City shall, upon demand from the MTC convert the interest with respect to all Certificates to Certificates that bear interest at the Alternate Rate on the next Business Day. Upon any such conversion, the City shall also pay accrued interest with respect to the amount so converted.

Section 3.9. Inability to Determine Rates. If the MTC and the City determine that for any reason in connection with request for a Certificate that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount, (b) adequate and reasonable means do not exist for determining the LIBOR Rate or (c) LIBOR Rate, as the case may be, does not adequately and fairly reflect the cost to the MTC of funding such Certificate, the MTC will promptly so notify the City. Thereafter, the obligation of the MTC to make or maintain Certificates shall be suspended until the MTC revokes such notice. Upon receipt of such notice, (i) the City shall immediately revoke any pending request for a purchase of or borrowing of Certificates, and deliver notice to the MTC that such Certificates will be converted to

Certificates bearing interest at the Alternate Rate in the amount specified therein and (ii) the interest rate with respect all outstanding Certificates shall be automatically converted to the interest rate set forth in such notice on the next Business Day. Upon any such conversion, the City shall also pay accrued interest with respect to the amount so converted.

Section 3.10. Pledge by the City. To provide security to the MTC for the payment by the City of the Obligations and any and all amounts now or hereafter owing to the MTC under this Agreement and the Certificates, the City hereby pledges to the MTC the Pledged Property, subject, however, to the pledge of the Pledged Property to the Trustee for the benefit of the owners of the Certificates set forth in the Trust Agreement. The pledge of the Pledged Property made by the City hereunder is valid, binding and perfected from the time when it is made and the Pledged Property so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof. No instrument by which such pledges are created nor any financing statement need be recorded or filed. Such lien shall be on a parity with the lien in favor of the MTC and the Trustee on the Pledged Property under the Trust Agreement. The obligations of the City under this Agreement are a special obligation of the City payable solely from the Pledged Property. Furthermore, the City agrees that the MTC constitutes a Credit Provider under the Trust Agreement and the other Related Documents.

Section 3.11. Adjustment of Base Rental. (a) To the extent any Obligation or accrued interest thereon has not been paid as and when due or any deferred Excess Interest remains unpaid, following the Termination Date and for so long thereafter as any Obligations remain unpaid, the City shall increase the amount of the Base Rental payable under the Sublease for the Property to the greater of (i) the Maximum Base Rental for the Property or (ii) the maximum fair rental value of the Property determined in accordance with subsection (b) below.

(b) To the extent any Obligation or accrued interest thereon has not been paid as and when due or any deferred Excess Interest remains unpaid, following the Termination Date and for so long thereafter as any Obligations remain unpaid, unless the Sublease has terminated in accordance with its terms, the City agrees, at the MTC's sole written request, from time to time (but not more than once in any twelve month period), to determine or cause to be determined, the fair rental value for one or more Components. Upon consultation with special counsel and the MTC, such determination shall be by a [Class C] appraisal conducted by an employee of the City and shall be at the sole expense of the City. In addition, the City agrees to extend the term of (i) the Site Lease in accordance with Section 4 thereof and (ii) the Sublease in accordance with Section 2.2 thereof, if, on the stated expiration thereof, any amounts remain owing to the MTC hereunder or under any of the other Related Documents.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties. The City represents and warrants to the MTC as follows:

(a) Existence. The City is validly existing as a charter city and county duly organized and created and validly existing under the laws and Constitution of the State, with full right and power to own its properties and to carry on its affairs as now being conducted and to cause the

execution and delivery of the Certificates, to pledge the security and to execute, deliver and perform its obligations under this Agreement and each Related Document to which it is a party.

(b) Authorization; Contravention. The execution, delivery and performance by the City of this Agreement, the Certificates and the other Related Documents to which it is a party are within the City's powers, have been duly authorized by all necessary action, require no further consent or action by or in respect of, or filing with, any governmental body, agency, official or other Person and do not violate or contravene, or constitute a default under, any provision of applicable law, charter, ordinance or regulation or of any material agreement, judgment, injunction, order, writ, determination, award, decree or instrument binding upon the City or by which the City or its properties may be bound or affected, or result in the creation or imposition of any lien or encumbrance on any asset of the City (other than pursuant to such enumerated documents). The City is not a party to, or otherwise subject to, any provision contained in any instrument evidencing indebtedness of the City, any agreement relating thereto, or any other contract or agreement (including its charter) that limits the amount of, or otherwise imposes restrictions on, the incurring of obligations of the City that would materially and adversely affect the ability of the City to perform its obligations hereunder or under any other Related Documents to which it is a party.

(c) Binding Effect. Assuming due execution by the other parties thereto, this Agreement and the other Related Documents to which the City is a party each constitutes a valid, binding and enforceable agreement of the City, subject to applicable laws affecting creditors' rights generally and general principles of equity regardless of whether such enforceability is considered in a proceeding at law or in equity.

(d) No Default. The City is not, in any material respect, in breach of or default under its organizational documents, or any applicable law or administrative regulation of the State or of the United States, relating, in each case, to the transactions contemplated hereby or by the other Related Documents, or any applicable judgment, decree, loan agreement, note, resolution, ordinance or other material agreement to which it is a party or is otherwise subject. Late delivery of financial statements or other reporting documentation shall not be deemed material for purposes of this Section.

(e) Litigation. Except as disclosed in writing to the MTC prior to the Closing Date, there is no action, suit or proceeding pending with service of process having been accomplished against, or to the knowledge of the City, threatened against or affecting, the City before any court or arbitrator or any governmental body, agency or official seeking to restrain or enjoin the sale, execution or delivery of the Certificates or in any way contesting or affecting the validity of the Certificates or in which there is a reasonable possibility of an adverse decision which could have a material adverse effect on (i) the ability of the City to perform its obligations hereunder or under the Related Documents to which it is a party or (ii) the enforceability or validity of the Trust Agreement or any of the other Related Documents.

(f) No Sovereign Immunity. The City does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations hereunder or under any Related Document to which it is a party or by which it is bound.

(g) Incorporation of Representations and Warranties by Reference. The City hereby makes to the MTC the same representations and warranties made by the City as are set forth in the Related Documents (other than this Agreement) to which it is a party, which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated

by reference with the same effect as if each and every such representation and warranty and defined term were set forth herein in its entirety. No amendment to such representations and warranties or defined terms made pursuant to the Related Documents (other than this Agreement) to which it is a party shall be effective to amend such representations and warranties and defined terms as incorporated by reference herein without the consent of the MTC.

(h) No Proposed Legal Changes. There is no amendment, or, to the knowledge of the City, no proposed amendment certified for placement on a statewide ballot, to the Constitution of the State of California or any published administrative interpretation of the Constitution of the State of California or any State of California 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 to materially adversely affect (i) the execution and delivery of this Agreement or the other Related Documents to which the City is a party, or (ii) the performance by the City of its obligations under this Agreement or the other Related Documents to which the City is a party.

(i) Title to Property; Sublease. The City has good and marketable fee simple title to all of the Components, subject only to Permitted Encumbrances. The Sublease is in full force and effect. The City, as lessee under the Sublease, is in peaceable possession of the Property. No waiver, indulgence or postponement of any of the City's obligations under the Sublease has been granted by the Trustee. There exists no event of default or event, occurrence, condition or act that, with the giving of notice, the lapse of time or the happening of any further event or condition, would become a default under the Sublease.

(j) Disclosure. Except as disclosed in writing to the MTC prior to the Closing Date, there is no fact known to the City, as of the date this representation is made, that would have a material adverse effect on (i) the ability of the City to perform its obligations hereunder or under the other Related Documents to which it is a party or (ii) the enforceability or validity of any of the Related Documents.

(k) Financial Information. The consolidated statement of financial position of the City as of June 30, 2015, as well as each CAFR of the City as of any more recent date, delivered to the MTC pursuant to this Agreement (the "Submitted Financial Statements"), were prepared in accordance with GAAP consistently applied throughout the periods involved and fairly present the financial condition of the City as at such date and the results of the operations of the City for the period ended on such date, all in accordance with GAAP consistently applied, and since the date of such financial information, there has been no change in the business, financial condition, results of operations, or prospects of the City which would materially and adversely affect the ability of the City to perform its obligations hereunder or under any other Related Documents to which it is a party which has not been disclosed by the City to the MTC.

(l) Legal Matters. The City is in material compliance with all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction over the City, non-compliance with which would materially and adversely affect the ability of the City to perform its obligations hereunder or under any other Related Documents to which it is a party.

(m) Environmental Matters. In the ordinary course of its business, the City conducts an ongoing review of Environmental Regulations 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 clean-up 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 Regulations are unlikely to have a material adverse effect on the Property or the ability of the City to pay any Base Rental or Additional Rental or any of its obligations hereunder or under any other Related Document.

(n) Regulations T, U and X. The City is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation T, U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of any Certificates will be or have been used to extend credit to others for the purpose of purchasing or carrying any margin stock.

(o) ERISA. Other than as disclosed in writing to the MTC prior to the Closing Date, the City does not maintain or contribute to, and has not maintained or contributed to, any Plan that is subject to Title IV of ERISA and does not have any under funded pension liabilities the effect of which could reasonably be expected to result in a material adverse effect on the City's ability to satisfy its obligations under this Agreement or the other Related Documents.

(p) No Tax or Fee. Neither the execution or delivery of this Agreement or the advance of any amounts pursuant to this Agreement will give rise to any tax or fee imposed by any local or state agency or governmental body.

(q) Usury. The terms of this Agreement and the Related Documents regarding calculation and payment of interest and fees do not violate any applicable usury laws.

(r) Essentiality. The Property is an essential asset of the City necessary to serve the needs of the residents of the City. The City believes that at all times while any rental payments or any obligation of the County under the Related Documents remains unpaid, the Property will remain an essential asset of the County.

(s) Fair Rental Value. The total Maximum Base Rental for the Property does not exceed the fair rental value of the Property. In making such determination of fair rental value, consideration has been given to the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and the general public.

(t) Additional Rentals. All Obligations of the City hereunder, other than the principal of and interest with respect the Certificates, shall be paid as Additional Rentals pursuant to Section 3.1(g) of the Sublease.

ARTICLE V

CONDITIONS

Section 5.1. Conditions to Closing. The effectiveness of this Agreement and the obligation of the MTC to purchase the Certificates hereunder is subject to the conditions precedent that the MTC shall have received the items listed below in this Section, each dated and in form and substance as is satisfactory to the MTC:

(a) The MTC shall have received:

(i) Certified copies of the resolutions of the City approving this Agreement, the other Related Documents and the other matters contemplated hereby and thereby, and all other documents, including records of proceedings of the City, instruments, governmental approvals, third party approvals and opinions as the MTC and its counsel may reasonably request evidencing any other necessary action.

(ii) A certificate of the City stating the names and true signatures of the officers of the City authorized to sign this Agreement and the other documents to be delivered by the City hereunder.

(iii) Executed or certified copies, as applicable, of each of the Related Documents in form and substance satisfactory to the MTC.

(iv) A letter addressed to the MTC from Jones Hall, Special Counsel, entitling the MTC to rely on such firm's approving opinion addressed to the City with respect to the Certificates.

(v) An opinion or opinions of Jones Hall, Special Counsel, in form and substance satisfactory to the MTC and its counsel, addressed to the MTC, to the effect that (A) this Agreement has been duly authorized, executed and delivered by the City and constitutes a legal, valid and binding agreement of the City enforceable against the City in accordance with its respective terms (except that (i) the enforcement of the Agreement may be limited by bankruptcy and other similar laws relating to creditors' rights, (ii) certain equitable remedies may be unavailable and (iii) the indemnification provision may be limited by securities laws and public policy), (B) the Certificates have been duly executed and delivered pursuant to the Trust Agreement and constitute legal, valid and binding obligations enforceable in accordance with their terms (except that (i) the enforcement thereof may be limited by bankruptcy and other similar laws relating to creditors' rights, (ii) certain equitable remedies may be unavailable and (iii) the indemnification provision may be limited by securities laws and public policy), (C) the MTC, for so long as it owner of any Certificates, is entitled to the benefits of the Trust Agreement on a parity with all Holders of Certificates, (D) the City has the authority and power to execute this Agreement, and (E) that the terms of the Trust Agreement, the Sublease and this Agreement create a valid pledge of and lien of the Pledged Property to secure the Certificates and the amounts owed to the MTC hereunder and under the Fee Agreement.

(vi) Evidence that the long-term unenhanced rating assigned to the Lease Obligation Debt is not less than "AA-" by S&P and "Aa3" by Moody's.

(vii) Each Certificate shall be executed and delivered in physical certificated form and registered in the name of the MTC.

(viii) A certificate of the City setting forth the annual fair rental value of each Component.

(ix) Certificate(s) of the City stating that (A) on the Closing Date, no Default or Event of Default has occurred and is continuing, and that (B) on the Closing Date, all representations and warranties of the City contained herein or otherwise made in writing in connection herewith shall be true and correct with the same force and effect as though such representations and warranties had been made on and as of such time.

(x) An opinion of the City Attorney of the City as counsel to the City, in form and substance satisfactory to the MTC and its counsel, and addressed to the MTC.

(xi) Audited financial statements for the City for the two most recently available fiscal years and the most recent operating budget summaries for the City's General Fund for the current fiscal year.

(xii) Evidence that the City has appropriated amounts sufficient to pay the Base Rental due, or anticipated to be due, in the Fiscal Year ending June 30, 2016, with respect to the Components.

(xiii) Evidence of the City's current hazard and rental interruption insurance for the Components such that the amount payable under the related policy shall be not less than from an amount equal to two (2) years' maximum Base Rental for all the Components, assuming an interest rate of 12% per annum and such insurance shall be satisfactory to the MTC. The MTC shall have received a certificate from the City's Risk Manager stating that the City's current policies of insurance and any self-insurance maintained by the City comply with the provisions of Section 4.3 of the Sublease. Any such commercial insurance policies shall name the MTC as loss payee and additional insured and shall be issued by insurers rated "A" or better by Best's or approved by the MTC.

(xiv) A copy of the investment policy of the City.

(xv) Certificates of the Trustee evidencing the signatures and offices of officers of each executing the Related Documents, and with respect to such other matters as the MTC may reasonably request, and an opinion of counsel to the Trustee, in form and substance satisfactory to the MTC and its counsel, and addressed to the MTC.

(xvi) Written evidence satisfactory to the MTC that a CUSIP number has been obtained and reserved from Standard and Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. for the Certificates (such CUSIP number shall also be made available on the Bloomberg Municipal Bond Description Screen or otherwise provided electronically to the MTC pursuant to a third party provider of such information).

(xvii) Such other documents, certificates, opinions, approvals and filings with respect to the Related Documents and this Agreement as the MTC may reasonably request.

(b) All other legal matters pertaining to the execution and delivery of this Agreement, the Related Documents and the execution and delivery of the first installment of the Certificates shall be reasonably satisfactory to the MTC and its counsel.

(c) The City shall have made payment to (i) the MTC of all amounts due on the Closing Date hereunder and (ii) Chapman and Cutler LLP, as special counsel to the MTC, its legal fees and expenses incurred in connection with the preparation, review, negotiation, execution and delivery of the Related Documents.

Section 5.2. Conditions Precedent Purchases. The obligation of the MTC to Purchase each Certificate is subject to the satisfaction of the following conditions precedent on the Purchase Date:

- (a) no Default or Event of Default shall have occurred and be continuing;
- (b) the representations and warranties of the City set forth in Article IV hereof (other than Section 4.1(g)) shall be true and correct on and as of such date, as if made on such date; and
- (c) the Purchaser shall have received a Request for Purchase as required under, and in strict conformity with, Section 2.3 hereof.

Section 5.3. Conditions Precedent to Issuance of Certificates. The City hereby agrees that it shall not permit the execution and delivery of any Certificates prior to the date on which the MTC receives evidence of title insurance on the Components insuring the Trustee and naming the MTC an additional insured, in an amount not less than the Initial Commitment Amount, subject only to such exceptions as shall be acceptable to the MTC, with such endorsements and affirmative coverages as may be reasonably required by the MTC, including such endorsements as may be reasonably required by the MTC, and otherwise in form and substance satisfactory to the MTC and its counsel and issued by an insurance company acceptable to the MTC and its counsel and authorized to issue such insurance in the State of California.

ARTICLE VI

COVENANTS OF THE CITY

Section 6.1. Covenants. The City covenants and agrees, from the date hereof and until the payment in full of all Obligations, unless the MTC shall otherwise consent in writing:

(a) Information. The City will prepare or cause to be prepared and deliver to the MTC the following:

(i) as promptly as available, and in any event no later than 270 days after the end of each fiscal year of the City, the complete Comprehensive Annual Financial Report ("CAFR") of the City, certified as to the fairness of presentation and conformity with GAAP consistently applied, by a recognized firm of independent certified public accountants;

(ii) concurrently with the delivery of the financial statements delivered to the MTC pursuant to (a)(i) above, a certificate from an Authorized Representative certifying that such Authorized Representative has no knowledge of any event which constitutes an Event of Default or would constitute an Event of Default but for the requirement that notice be given or time elapse or both, that has occurred and is continuing and a certificate from an Authorized Representative of the City certifying that such Authorized Representative has no knowledge of any event which constitutes an Event of Default or would constitute an Event of Default but for the requirement that notice be given or time elapse or both, that has occurred and is continuing;

(iii) within ninety (90) days of adoption of the most recently adopted annual operating budget of the City with respect to the City's General Fund, evidence that such annual operating budget with respect to the City's General Fund includes therein as a separate line item all Minimum Required Rental Payments and Additional Payments due during such period, if not otherwise paid from capitalized interest funded by proceeds of the Certificates; and

(iv) such other information respecting the affairs, conditions and/or operations, financial or otherwise, of the City or the Property, as the MTC may from time to time reasonably request.

All factual information hereinafter delivered by City in writing to the MTC will be, to the knowledge of the authorized person delivering such information after reasonable inquiry, accurate and complete in all material respects on the date as of which such information is certified.

(b) No Amendment Without Consent of the MTC. Without the prior written consent of the MTC, the City will not agree or consent to any amendment, supplement, waiver or modification of any provision of any Related Document to which the City is a party that affects the rights, interests, security or remedies of the MTC hereunder.

(c) Incorporation of Covenants by Reference. The City agrees that it will perform and comply with each and every covenant and agreement required to be performed or observed by it in the Related Documents to which it is a party, which provisions, as well as related defined terms contained herein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety. To the extent that any such incorporated provision permits any Person to waive compliance with or consent to such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to any Person, for purposes of this Agreement, such provision shall be complied with only if it is waived or consented to by the MTC and such document, opinion or other instrument shall be acceptable or satisfactory only if it is acceptable or satisfactory to the MTC.

(d) Outstanding Certificates. The City will not cause the execution and delivery or deem to be cause the execution and delivery any Taxable Certificates if the aggregate amount of such Taxable Certificates to be executed and delivered exceeds the Certificate Commitment.

(e) Defaults. The City will promptly (and in any event within ten Business Days) notify the MTC of the occurrence of any Default or Event of Default specifying the details of such Default or Event of Default or event of default and the action that the City proposes to take with respect thereto.

(f) Books, Records. The City will permit, during normal business hours and from time to time, upon reasonable prior notice, the MTC or any of its agents or representatives to examine and make copies of and abstracts from the records and books of account of the City (except records and books of accounts the examination of which by the MTC is prohibited by law), and to discuss the affairs, finances and accounts of the City with any representative or any other appropriate officer of the City or the City's independent public accountants. Without limiting the foregoing, upon reasonable prior notice the City shall permit the MTC to visit and inspect any of the Property during regular business hours as often as the MTC may reasonably request.

(g) Other Obligations. The City will comply with and observe all other obligations and requirements set forth in the Trust Agreement and each other Related Document to which it is a party (including without limitation all provisions therein for the benefit of the MTC) in all material respects and in all laws, statutes and regulations binding upon it, noncompliance with which would materially adversely affect the City's ability to perform its obligations under the Certificates, this Agreement or any of the Related Documents.

(h) Litigation; Material Change. The City shall promptly notify the MTC of (i) the existence and status of any litigation which individually or in the aggregate could, in the event of an unfavorable outcome, or (ii) the occurrence of any other event or change which could have a material adverse effect on (A) the ability of the City to perform its obligations hereunder or under the other Related Documents or (B) the enforceability or validity of the Trust Agreement or any of the other Related Documents.

(i) Obligations under Related Documents. The City shall take all actions as may be reasonably requested by the MTC to enforce the obligations under the Related Documents of each of the other parties thereto.

(j) Trustee. The City will not, without the prior written consent of the MTC (which consent shall not be unreasonably withheld or delayed), appoint or permit the appointment of a successor Trustee. The City shall at all times maintain a Trustee under the Trust Agreement.

(k) Limitation on Voluntary Liens. (i) The City shall not create a pledge, lien or charge on any part of the Property or the Pledged Property, other than the lien in favor of Holders of the Certificates and the MTC. (ii) The City covenants to keep the Components and all parts thereof free from judgments, and materialmen's and mechanics' liens, claims, demands, encumbrances, liabilities and other liens of whatever nature or character, which, in each case, might hamper the City in utilizing the Components; and promptly, upon request of the MTC, to take such action from time to time as may be reasonably necessary or proper to remedy or cure any cloud upon or defect in the title to the Components or any part thereof, whether now existing or hereafter developing, to prosecute all actions, suits, or other proceedings as may be reasonably appropriate for such purpose.

(l) City to Maintain Existence. The City agrees that it will maintain its existence as a charter city and county under the laws and Constitution of the State of California.

(m) Further Assurances. The City will execute, acknowledge where appropriate, and deliver from time to time promptly at the request of the MTC all such instruments and documents as in the opinion of the MTC are reasonably necessary or desirable to carry out the intent and purposes of this Agreement.

(n) No Impairment. The City will not take any action, or cause or permit the Trustee to take any action, under the Trust Agreement, the Sublease or any other Related Document inconsistent with the rights and remedies of the MTC under this Agreement.

(o) Additional Obligations. The City will not issue or cause the execution and delivery or authorize the issuance or the execution and delivery of any obligations payable from Base Rental or Additional Rental due under the Sublease other than the Certificates.

(p) References to the MTC. The City will not refer to the MTC in any official statement, offering memorandum, or private placement memorandum without the MTC's prior written consent thereto.

(q) Title Insurance. Title insurance shall be provided and maintained in the manner and in form and substance as set forth in the Sublease; *provided* that notwithstanding anything contained in the Sublease or any other Related Document to the contrary, any policy of title insurance shall be subject only to such exceptions as shall be acceptable to the MTC, with such endorsements and affirmative coverages as may be reasonably required by the MTC, including

endorsements regarding zoning and access to public roads, and otherwise in form and substance satisfactory to the MTC and its counsel and issued by an insurance company acceptable to the MTC and its counsel and authorized to issue such insurance in the State.

(r) Maintenance of Insurance. Insurance shall be provided and maintained in the manner and in form and substance as set forth in the Sublease.

(s) Covenants and Legal Duties. Subject to Section 3.1(g) of the Sublease, the City agrees to include all Minimum Required Rental Payments and Additional Rental due under the Sublease in each Fiscal Year in its annual budget and to make the necessary annual appropriations for all such Minimum Required Rental Payments and Additional Rental, and for all Minimum Supplemental Rental Payments, if any, subject to Section 3.5 of the Sublease. The covenants on the part of the City herein contained and in the Sublease shall be deemed to be and shall be construed to be duties imposed by law, and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform such covenants and agreements.

(t) Use Proceeds. The City shall cause the Trustee to use the proceeds of Taxable Certificates for the purpose of financing the Project Costs of the Taxable Projects.

(u) Ratings. The City shall give written notice to the MTC as soon as practicable of the increase, decrease, withdrawal or suspension of any rating maintained by Moody's, Fitch or S&P, to the extent such Rating Agency is then maintaining a rating on Lease Obligation Debt, in respect of the City's unenhanced Lease Obligation Debt, unless such rating is terminated due to the payment in full of such certificates of participation; *provided* that the requirement to provide such notice shall be satisfied if such information is publicly available on the Electronic Municipal Market Access system maintained by the Municipal Securities Rulemaking Board. The City shall cause to be maintained at all times long-term unenhanced ratings on its Lease Obligation Debt from at least two (2) of Moody's, Fitch and S&P.

(v) Voluntary Rent Abatement. Except as required by law and the terms of the Sublease, the City shall not seek or assert a claim for abatement of rental payments under the Sublease.

(w) Immunity. To the fullest extent permitted by law, the City agrees not to assert the defense of immunity (on the grounds of sovereignty or otherwise) in any proceeding by the MTC to enforce any of the obligations of the City under this Agreement or any other Related Document.

(x) Alternate Financing. The City agrees to use its best efforts to obtain an alternate financing in the event that (i) the MTC decides not to extend the Commitment Expiration Date and any Certificates are then outstanding or (ii) the Commitment and Available Commitment is terminated on the Termination Date and any Certificates are then outstanding.

(y) ERISA. The City will comply in all material respects with Title IV of ERISA, if, when and to the extent applicable.

(z) Swap Agreements. (i) The City will use its best efforts to enter into all future Swap Contracts with a claim on the General Fund of the City with counterparties rated "AA-" (or its equivalent) or better by at least one Fitch, S&P or Moody's. (ii) In no event shall any swap counterparty with respect to any such Swap Contract with a claim on the General Fund of the City

be rated lower than "A" (or its equivalent) by any one of Fitch, S&P or Moody's, without the prior written consent of the MTC, at the time of entering into such Swap Contract.

(aa) Fair Rental Value. In the event the aggregate fair rental value of all of the Components is less than the aggregate principal of and interest with respect to all Certificates outstanding after the Term-Out Commencement Date in any calendar year, the City will use its best efforts to either (i) take all steps necessary to seek an appropriation from the City's General Fund in an amount equal to such difference between the aggregate principal of and interest with respect to all Certificates outstanding after the Term-Out Commencement Date and such fair rental value and use such appropriation to prepay such Certificates or (ii) obtain alternative financing to otherwise refinance the Certificates.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.1. Events of Default. The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of law) shall be an "Event of Default" hereunder:

(a) the City shall fail to pay (i) any principal of or interest with respect to any Certificate when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise);

(b) (i) The City shall default in the performance of any of the covenants set forth in Section 5.1(b), (d), (g), (j), (k)(i), (l), (n), (o), (q), (r), (s), (t), (v), (w) or (z)(ii) hereof or (ii) Certificates shall be executed and delivered prior to satisfaction of the condition precedent set forth in Section 5.3 hereof;

(c) The City shall default in the performance of any other term, covenant or agreement set forth herein and such failure shall continue for a period of thirty (30) days after the earlier to occur of (i) written notice thereof shall have been given to the City by the MTC or (ii) the tenth (10th) day after the Controller of the City shall have actual knowledge of such default;

(d) Any representation, warranty, certification or statement made by the City (or incorporated by reference) in this Agreement or by the City in any other Related Document or in any certificate, financial statement or other document delivered pursuant to this Agreement or any other Related Document shall prove to have been incorrect in any material respect when made or deemed made;

(e) The City shall (A) fail to make any payment on any Material City Debt (other than the Certificates) or any interest or premium thereon when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Material City Debt; or (B) fail to perform or observe any term, covenant or condition on its part to be performed or observed under any agreement or instrument relating to any Material City Debt when required to be performed or observed, and such failure shall not be waived and shall continue after the later of (1) five Business Days after notice of such failure or (2) the applicable grace period, if any, specified in such agreement or instrument, if the effect of such failure to perform or observe is to accelerate the maturity of such Material City Debt; or (C) any Material City Debt shall

be declared to be due and payable or be required to be prepaid (other than by a regularly scheduled required prepayment or an optional prepayment), prior to the stated maturity thereof; *provided, however*, that in the case of clause (A) or (B) any such failure shall not be considered an Event of Default hereunder if the same is being contested in good faith and by appropriate proceedings and such contest shall operate to stay the acceleration of the maturity of such Material City Debt;

(f) The City or the Trustee shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of its or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall declare a moratorium, or shall take any action to authorize any of the foregoing; or any Governmental Authority of appropriate jurisdiction shall declare a moratorium with respect to any of the debt of the City;

(g) A case or other proceeding shall be commenced against the City or the Trustee seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case shall remain undismissed and unstayed for a period of sixty (60) days; or an order for relief shall be entered against the City or the Trustee under the federal bankruptcy laws as now or hereafter in effect, or any writ, judgment, warrant of attachment, execution or similar process shall be issued or levied against a substantial part of the property, assets or business of the City or the Trustee, and such proceedings or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be stayed, released, appealed, vacated or fully bonded, within the time permitted by law after commencement, filing or levy, as the case may be;

(h) Any provision of this Agreement or any Related Document shall cease for any reason whatsoever to be a valid and binding agreement of the City or the Trustee, or the City or the Trustee shall contest the validity or enforceability thereof;

(i) Any pledge or security interest created hereunder or under the Trust Agreement to secure any amounts due under this Agreement shall fail to be valid or fully enforceable;

(j) An event of default shall occur under any of the Related Documents (other than this Agreement) or the City shall fail to make any payment under the Sublease when and as due;

(k) The highest long-term unenhanced rating assigned by Moody's, Fitch or S&P, to the extent such Rating Agency is then maintaining a rating on Lease Obligation Debt, on any Lease Obligation Debt of the City shall be withdrawn, suspended or otherwise unavailable for credit related reasons or reduced below "Baa3" (or its equivalent), "BBB-" (or its equivalent) or "BBB-" (or its equivalent), respectively;

(l) One or more final, nonappealable judgments or orders for the payment of money in the aggregate amount of \$25,000,000 or more shall be rendered against the City and such judgment or order shall continue unsatisfied and unstayed for a period of sixty (60) days; or

(m) Any Event of Default (or term of like meaning or effect) shall have occurred under any Bank Agreement related Lease Obligation Debt of the City.

Section 7.2. Rights and Remedies upon Default. Upon the occurrence of an Event of Default hereunder, the MTC may take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) by written notice to the City, declare the Commitment and/or the Available Commitment to be terminated and thereafter the MTC will have no further obligation to purchase Certificates hereunder;

(b) by written notice to the City, declare the commencement of the Amortization Period pursuant to which the principal and interest with respect to the Certificates shall be repaid as set forth in Section 2.5(a)(ii) hereof and demand the other Obligations under this Agreement (other than the principal and interest with respect to the Certificates) to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived;

(c) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement or covenant of the City under the Related Documents, whether for specific performance of any agreement or covenant of the City or in aid of the execution of any power granted to the MTC in the Related Documents;

(d) cure any Default, Event of Default or event of nonperformance hereunder or under any Related Document; *provided, however,* that the MTC shall have no obligation to effect such a cure; and

(e) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity.

Notwithstanding anything to the contrary contained in the preceding sentence, upon the occurrence or existence of an Event of Default of the type described in Section 7.1(f) of 7.1(g), the remedies described in the foregoing clauses (a) and (b) shall occur immediately and automatically without prior notice or further action on the part of the MTC or any other person. Anything in this Agreement to the contrary notwithstanding, from and after the occurrence an Event of Default, all Certificates and other Obligations hereunder shall bear interest at the Default Rate.

Section 7.3. Suits at Law or in Equity and Mandamus. If any Event of Default shall occur, then and in every such case the MTC shall be entitled to proceed to protect and enforce its rights by such appropriate judicial proceeding as it may deem most effectual to protect and enforce any such right, either by suit, in equity, or by action at law, whether for the specific performance of any covenant or agreement contained in this Agreement, in aid of the exercise of any power granted in this Agreement, or to enforce any other legal or equitable right vested in the MTC by this Agreement, the Certificates or by law. The provisions of this Agreement shall be a contract with each and every Certificateholder and the duties of the City shall be enforceable by any Certificateholder by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction.

Section 7.4. No Waiver. No failure on the part of MTC to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. No delay or omission by the MTC in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right remedy or power or be construed to be a waiver of any default on the part of the MTC or to be acquiescence therein. No express or implied waiver by the MTC of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default.

Section 7.5. Discontinuance of Proceedings. In case the MTC shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the MTC shall have the unqualified right so to do and, in such event, the City and the MTC shall be restored to their former positions with respect to the Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the MTC hereunder shall continue as if the same had never been invoked.

ARTICLE VIII

GENERAL

Section 8.1. Notices. All notices, requests, demands, directions and other communications (collectively "notices") under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be sent by first class mail or overnight delivery and shall be deemed received as follows: (i) if by first class mail, five (5) days after mailing; (ii) if by overnight delivery, on the next Business Day; (iii) if by telephone, when given to a person who confirms such receipt; and (iv) if by facsimile, when confirmation of receipt is obtained. All notices shall be sent to the applicable party at the following address or in accordance with the last unrevoked written direction from such party to the other parties hereto:

The City:

City and County of San Francisco
1 Dr. Carlton B. Goodlett Place,
room 316
San Francisco, California 94102
Attention: City Controller
Facsimile: () [_____]
Telephone: () [_____]

The MTC:

Metropolitan Transportation Commission

Attention: _____
Facsimile: (____) ____ ____
Telephone: (____) ____ ____

The MTC, with
respect to Requests for
Purchase

Metropolitan Transportation Commission

Attention: _____
Facsimile: () _____
Telephone: () _____

The Trustee:

[U.S. Bank National Association]
[_____]_____
[_____]_____
Attention: [_____]_____
Facsimile: () [_____]_____
Telephone: () [_____]_____

The MTC may rely on any notice (including telephone communication) purportedly made by or on behalf of the other, and shall have no duty to verify the identity or authority of the Person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

Section 8.2. Successors and Assigns. This Agreement is a continuing obligation and shall be binding upon the City, its successors, transferees and assigns and shall inure to the benefit of the owners of the Certificates and their respective permitted successors, transferees and assigns. The City may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the MTC. Notwithstanding anything to the contrary set forth herein, so long as no Event of Default shall have occurred and be continuing hereunder, MTC may not assign its obligations to purchase Certificates pursuant to the terms of this Agreement without the prior written consent of the City (such consent not to be unreasonably withheld), and may not assign, sell or transfer in whole or in part, this Agreement, its interest in the Certificates and the Related Documents without the prior written consent of the City (such consent not to be unreasonably withheld). In the event that the MTC decides to assign, sell or transfer in whole or in part, this Agreement, its interest in the Certificates and the Related Documents and the city consents to such assignment, sale or transfer, the assignee, purchaser or transferee shall deliver to the City, the Trustee and the MTC an investment letter in substantially the form attached as Exhibit F to this Agreement (the "Investor Letter"). Any assignment, sale or transfer that does not comply with the terms of the prior sentence shall be void.

Section 8.3. Amendments. Any provision of this Agreement may be amended or modified if, but only if, such amendment or modification is in writing and is signed by the City and the MTC.

Section 8.4. Governing Law; Consent to Jurisdiction and Venue; Service of Process. (a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS.

(b) EACH PARTY HERETO CONSENTS TO AND SUBMITS TO IN PERSONAM JURISDICTION AND VENUE IN THE STATE OF CALIFORNIA AND IN THE FEDERAL DISTRICT COURTS WHICH ARE LOCATED IN THE NORTHERN DISTRICT OF CALIFORNIA OR THE SUPERIOR COURT LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO.

EACH PARTY ASSERTS THAT IT HAS PURPOSEFULLY AVAILED ITSELF OF THE BENEFITS OF THE LAWS OF THE STATE OF CALIFORNIA AND WAIVES ANY OBJECTION TO IN PERSONAM JURISDICTION ON THE GROUNDS OF MINIMUM CONTACTS, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY PLEA OF FORUM NON CONVENIENS. THIS CONSENT TO AND SUBMISSION TO JURISDICTION IS WITH REGARD TO ANY ACTION RELATED TO THIS AGREEMENT. REGARDLESS OF WHETHER THE PARTY'S ACTIONS TOOK PLACE IN THE STATE OF CALIFORNIA OR ELSEWHERE IN THE UNITED STATES, THIS SUBMISSION TO JURISDICTION IS NONEXCLUSIVE, AND DOES NOT PRECLUDE EITHER PARTY FROM OBTAINING JURISDICTION OVER THE OTHER IN ANY COURT OTHERWISE HAVING JURISDICTION.

(c) TO THE EXTENT PERMITTED BY APPLICABLE LAWS, EACH OF THE PARTIES HERETO HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE RELATED DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. IF AND TO THE EXTENT THAT THE FOREGOING WAIVER OF THE RIGHT TO A JURY TRIAL IS UNENFORCEABLE FOR ANY REASON IN SUCH FORUM, EACH OF THE PARTIES HERETO HEREBY CONSENTS TO THE ADJUDICATION OF ALL CLAIMS PURSUANT TO JUDICIAL REFERENCE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638, AND THE JUDICIAL REFEREE SHALL BE EMPOWERED TO HEAR AND DETERMINE ALL ISSUES IN SUCH REFERENCE, WHETHER FACT OR LAW. EACH OF THE PARTIES HERETO REPRESENTS THAT EACH HAS REVIEWED THIS WAIVER AND CONSENT AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AND CONSENTS TO JUDICIAL REFERENCE FOLLOWING CONSULTATION WITH LEGAL COUNSEL ON SUCH MATTERS. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT OR TO JUDICIAL REFERENCE UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 AS PROVIDED HEREIN.

(d) The covenants and waivers made pursuant to this Section 8.4 shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

Section 8.5. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e

mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 8.6. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

Section 8.7. Survival of this Agreement. All covenants, agreements, representations and warranties made in this Agreement shall survive the extension by the MTC of the Commitment and shall continue in full force and effect so long as the Commitment shall be unexpired or any sums drawn or due thereunder or any other obligations shall be outstanding and unpaid, regardless of any investigation made by any Person and so long as any amount payable hereunder remains unpaid. The agreement of the City to indemnify the MTC and each Indemnified Party under Section 3.2 hereof shall continue in full force and effect notwithstanding a termination of the Commitment or the fulfillment of all Obligations. The obligations of the City under Sections 3.3 and 2.6(d) hereof shall also continue in full force and effect notwithstanding a termination of the Commitment or the fulfillment of all Obligations. Whenever in this Agreement the MTC is referred to, such reference shall be deemed to include the successors and assigns of the MTC and all covenants, promises and agreements by or on behalf of the City which are contained in this Agreement shall inure to the benefit of the successors and assigns of the MTC.

Section 8.8. Effectiveness. This Agreement shall become effective upon the execution by the MTC and the acceptance hereof by the City.

Section 8.9. Headings. The headings of the Sections of this Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

Section 8.10. No Personal Liability. None of the City's officers, employees, or agents (including, without limitation, any person executing this Agreement) shall be liable personally for any Obligation or be subject to any personal liability or accountability by reason of the City's issuance of any Certificate or for entering into this Agreement.

Section 8.11. [Reserved].

Section 8.12. City Requirements. The MTC hereby agrees to the City's requirements, as provided in Exhibit H attached hereto and incorporated hereby by this reference.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Certificate Purchase Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY AND COUNTY OF SAN FRANCISCO

By _____
Name: _____
Title: _____

APPROVED AS TO FORM:

CITY ATTORNEY

By _____
Name: _____
Title: _____

THE METROPOLITAN TRANSPORTATION
COMMISSION CITY AND COUNTY OF SAN
FRANCISCO

By _____
Name: _____
Title: _____

EXHIBIT A

[FORM OF REQUEST FOR PURCHASE]

REQUEST FOR PURCHASE

Metropolitan Transportation Commission

[Address]

Telephone:

Facsimile:

Attention:

Email:

Ladies and Gentlemen:

The undersigned, an Authorized Representative, refers to the Certificate Purchase Agreement, dated [June __, 2016] (together with any amendments or supplements thereto, the "Agreement"), by and between the City and County of San Francisco (the "City") and the Metropolitan Transportation Commission (the "MTC") (the terms defined therein being used herein as therein defined) and hereby requests, pursuant to Section 2.3 of the Agreement, that the MTC make a Purchase of Certificates under the Agreement, and in that connection sets forth below the following information relating to such Purchase (the "Proposed Purchase"):

1. The Business Day of the Proposed Purchase is _____, 20__ (the "Purchase Date"), which is at least three Business Days after the date hereof.

2. The principal amount of the Proposed Purchase of a Certificate is \$_____, which, together with all other Certificates then outstanding, is not greater than the Available Commitment as of the Purchase Date set forth in 1 above.

3. The Certificate shall bear interest at the Certificate LIBOR Rate

The Proposed Purchase shall be made by the MTC by wire transfer of immediately available funds to the undersigned in accordance with the instructions set forth below:

[Insert wire instructions]

Very truly yours,

CITY AND COUNTY OF SAN FRANCISCO

By _____
Name: _____
Title: _____

EXHIBIT B

[FORM OF REQUEST FOR EXTENSION]

REQUEST FOR EXTENSION

[Date]

Metropolitan Transportation Commission

[Address]

Telephone:

Facsimile:

Attention:

Email:

Ladies and Gentlemen:

Reference is made to the Certificate Purchase Agreement dated [June __, 2016] (together with any amendments or supplements thereto, the "Agreement") by and between the undersigned, the City and County of San Francisco (the "City") and the Metropolitan Transportation Commission (the "MTC"). All terms defined in the Agreement are used herein as defined therein.

The City hereby requests, pursuant to Section 2.10 of the Agreement, that the Commitment Expiration Date with respect to the Available Commitment as of the date hereof be extended to _____, _____. Pursuant to such Section 2.10, we have enclosed with this request the following information:

1. a reasonably detailed description of any and all Defaults that have occurred and are continuing;
2. confirmation that all representations and warranties of the City as set forth in Article IV of the Agreement and each Related Document are true and correct as though made on the date hereof and that no Default or Event of Default has occurred and is continuing on the date hereof; and
3. any other pertinent information previously requested by the MTC.

The MTC is asked to notify the City of its decision with respect to this request within 60 days of the date of receipt hereof. If the MTC fails to notify the City of the MTC's decision within such 60 day period, the MTC shall be deemed to have rejected such request.

Very truly yours,

CITY AND COUNTY OF SAN FRANCISCO

By _____
Name: _____
Title: _____

EXHIBIT C

[FORM OF NOTICE OF TERMINATION OR REDUCTION]

NOTICE OF TERMINATION OR REDUCTION

[Date]
Metropolitan Transportation Commission
[Address]
Telephone:
Facsimile:
Attention:
Email:

Ladies and Gentlemen:

Re: Certificate Purchase Agreement dated [June __, 2016]

The City and County of San Francisco (the "City"), through its undersigned, an Authorized Representative, hereby certifies to the Metropolitan Transportation Commission (the "MTC"), with reference to the Certificate Purchase Agreement dated [June __, 2016] (together with any amendments or supplements thereto, the "Agreement"), by and between the City and the MTC (the terms defined therein and not otherwise defined herein being used herein as therein defined):

[(1) The City hereby informs you that the Commitment is terminated in accordance with the Agreement.]

OR

[(1) The City hereby informs you that the Available Commitment is reduced from [insert amount as of the date of Certificate] to [insert new amount], such reduction to be effective on _____.]

IN WITNESS WHEREOF, the City has executed and delivered this Notice this _____
day of _____, _____.

CITY AND COUNTY OF SAN FRANCISCO

By _____
Name: _____
Title: _____

EXHIBIT D

[FORM OF NOTICE OF REDUCTION]

NOTICE OF REDUCTION

[Date]

City and County of San Francisco
City Hall, 1 Dr. Carlton B. Goodlett Place
Room 316
San Francisco, California 94102
Attention: City Controller

Ladies and Gentlemen:

We hereby notify you that pursuant to Section 2.7(a) of the Certificate Purchase Agreement dated [June __, 2016], by and between the undersigned, the City and County of San Francisco (the "City") and Metropolitan Transportation Commission (the "MTC"), the Available Commitment is reduced from [insert amount as of the date of Certificate] to [insert new amount], such reduction to be effective on _____.

Very truly yours,

METROPOLITAN TRANSPORTATION
COMMISSION

By _____
Name: _____
Title: _____

EXHIBIT E
[RESERVED]

EXHIBIT F

FORM OF INVESTOR LETTER

[June __, 2016]

City and County of San Francisco
San Francisco, California

RE: \$100,000,000 City and County of San Francisco Lease Revenue Direct Placement
Revolving Certificates of Participation, Series (Taxable)

Ladies and Gentlemen:

This letter is to provide you with certain representations and agreements with respect to our purchase of the above-referenced certificates (the "Certificates"). The Certificates were executed and delivered under and secured in the manner set forth pursuant to that certain Trust Agreement by and between the City and County of San Francisco (the "City") and [U.S. Bank National Association] (the "Trustee") on [_____, 2016] (the "Trust Agreement"). The Metropolitan Transportation Commission (the "MTC," the "undersigned," "us" or "we," as applicable) is purchasing the Certificates pursuant a Certificate Purchase Agreement dated [June __, 2016], by and between the City and the MTC. We hereby represent and warrant to you and agree with you as follows:

1. We understand that the Certificates have not been registered pursuant to the Securities Act of 1933, as amended (the "1933 Act"), the securities laws of any state nor has the Trust Agreement been qualified pursuant to the Trust Indenture Act of 1939, as amended, in reliance upon certain exemptions set forth therein. We acknowledge that the Certificates (i) are not being registered or otherwise qualified for sale under the "blue sky" laws and regulations of any state, (ii) will not be listed on any securities exchange, and (iii) will not carry a rating from any rating service.

2. We have not offered, offered to sell, offered for sale or sold any of the Certificates by means of any form of general solicitation or general advertising, and we are not an underwriter of the Certificates within the meaning of Section 2(11) of the 1933 Act.

3. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other governmental obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Certificates.

4. We have authority to purchase the Certificates and to execute this letter and any other instruments and documents required to be executed by the purchaser in connection with the purchase of the Certificates.

5. The undersigned is a duly appointed, qualified and acting representative of the MTC and is authorized to cause the MTC to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the MTC.

6. The MTC is able to bear the economic risk associated with its purchase of the Certificates.

7. The undersigned understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Certificates. The undersigned has made its own inquiry and analysis with respect to the City, the Certificates and the security therefor, and other material factors affecting the security for and payment of the Certificates.

8. The undersigned acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding the City, to which a reasonable investor would attach significance in making investment decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City, the Certificates and the security therefor, so that as a reasonable investor, it has been able to make its decision to purchase the Certificates.

9. The Certificates are being acquired by the MTC for investment for its own account and not with a present view toward resale or distribution; *provided, however*, that the MTC reserves the right to sell, transfer or redistribute the Certificates, but agrees that any such sale, transfer or distribution by the MTC shall be to a Person:

(a) that is an affiliate of the MTC; and

(b) that is a trust or other custodial arrangement established by the MTC or one of its affiliates, the owners of any beneficial interest in which are limited to qualified institutional buyers.

Very truly yours,

METROPOLITAN TRANSPORTATION
COMMISSION

By _____
Name: _____
Title: _____

EXHIBIT G

CITY REQUIREMENTS

[most recent requirements to be attached]

TRANSBAY PROJECT COST OVERSIGHT AGREEMENT

This Transbay Project Cost Oversight Agreement (this “Agreement”) dated as of _____, 2016, is between the Transbay Joint Powers Authority, a joint powers authority (“TJPA”), the City and County of San Francisco, a municipal corporation and charter city and county (“City”), acting through its Controller’s Office (“Controller”), and the Metropolitan Transportation Commission, a state agency (“MTC”) (each individually a “Party” and, collectively, the “Parties”). The Parties are entering into this Agreement in connection with the provision by the City and MTC of the Interim Financing to the TJPA, as described in the Recitals below.

RECITALS

This Agreement is made with reference to the following facts and circumstances:

- A. The TJPA is a joint powers agency comprised of the City, the Alameda-Contra Costa Transit District, the Peninsula Corridor Joint Powers Board, and the State of California Department of Transportation (ex officio). The TJPA is responsible for the financing, design, development, construction, and operation of the Transbay Transit Center Program (the “Transbay Project”). In particular, the Transbay Project includes (1) the design and construction of a temporary terminal and then the permanent Transbay Transit Center, including open space on the roof of the Transit Center, a bus ramp, a bus storage facility, and the Train Box component of the rail extension (“Phase 1”); (2) the extension of Caltrain rail tracks from their current San Francisco terminus at Fourth and Townsend Streets to a new underground terminus beneath the Transbay Transit Center to accommodate Caltrain and California High Speed Rail (“Phase 2”); and (3) in coordination with the Office of Community Investment and Infrastructure, the successor to the former Redevelopment Agency, certain transit infrastructure activities related to implementation of the Redevelopment Plan for the Transbay Redevelopment Project Area.
- B. As provided in Section 6 of the Joint Powers Agreement establishing the TJPA and Article XII of the TJPA’s Bylaws, the TJPA designated the City as the “Administrator” for the TJPA, authorizing the City to provide necessary administrative services for the TJPA under an administrative services agreement. In doing so, the members of the TJPA acknowledged that appointing the City as the administrator may present conflicts of interest, and they expressly waived any liability on the part of the City arising out of any such conflict of interest.
- C. In 2001, the TJPA entered an Administrative Services Agreement with the City, confirming the terms under which the TJPA may request that the City in its capacity as Administrator for the TJPA assist the TJPA, in cooperation with consultants and contractors to the TJPA, to advance the Transbay Project. Under that Agreement, the City has from time to time provided such assistance to TJPA staff, consultants, and

contractors, including through two previous intergovernmental agreements that the TJPA approved in 2007 and 2008 with the SF Public Works.

- D. On January 13, 2015, under the Mello-Roos Community Facilities Act of 1982, as amended (the “Mello-Roos Act”), Government Code section 53311 et seq., the City and County of San Francisco Community Facilities District No. 2014-1 (the “CFD”) was formed. SF Public Works has ultimate responsibility for managing certain of the facilities that will be constructed under the CFD. Under the Mello-Roos Act, the City and the TJPA executed a Joint Community Facilities Agreement (the “JCFA”) to provide for financing design and construction of certain facilities of the Transbay Project by the City through the CFD. On June 30, 2015, the City and the TJPA entered a binding memorandum of understanding to define the City’s “project management oversight” role regarding the facilities to be constructed under the CFD as described in the JCFA (the “2015 SF Public Works MOU”).
- E. On November 12, 2015, the TJPA Board of Directors (sometimes “TJPA Board” or “Board”) adopted Resolution No. 15-043, adding a new Section 9.6(g) of the Bylaws of the TJPA, to provide as follows: “Construction of the Transbay Terminal Project. Notwithstanding the provisions of subsection (c), the Board may designate a person or entity to oversee all aspects of construction of the Transbay Project (including design and project controls related to construction), who shall take direction from and report directly to the Board and who shall also inform the Executive Director of such actions. Without limiting the foregoing, the Board may authorize the Authority to enter into an agreement with the City's Department of Public Works to perform this function.”
- F. Consistent with TJPA Bylaws Section 9.6(g), on March 10, 2016, the TJPA Board of Directors adopted Resolution No. 16-006 giving SF Public Works exclusive authority, subject to TJPA Board supervision, to oversee all aspects of construction of the Transbay Project, including, without limitation, design and project controls related to construction of the Transbay Project, which shall include the facilities identified in the JCFA. The Resolution provides that this authority includes the supervision and direction of the contractors and the TJPA engineer employees directly overseeing construction as it relates to all aspects of construction of the Transbay Project. The Resolution further provides that SF Public Works shall take direction from and report directly to the TJPA Board on all aspects of construction of the Transbay Project, and shall have a mutual responsibility with the TJPA’s Executive Director to work closely and collaboratively together and to keep each informed of any significant actions taken.
- G. In furtherance of the TJPA Board Resolution described immediately above as well as Section 6 of the TJPA’s Joint Powers Agreement, Article XII of the TJPA’s Bylaws, the Administrative Services Agreement, and the JCFA, the TJPA and the City have entered or are entering into an additional Intergovernmental Agreement under which SF Public Works agrees to perform construction management and oversight services for the Transbay Project (the “2016 SF Public Works Construction Oversight Agreement”).
- H. In 2015, MTC conducted a cost and risk review of Phase 1 of the Transbay Project. As a result of that review, MTC recommended a Phase 1 budget increase to \$2.259 billion.

While the TJPA has identified federal, state and local funding sources of approximately \$2.012 billion, there are still unidentified funding needs to close the gap. In light of such short-term funding needs and at the TJPA's request, the City, subject to approval of the City's Board of Supervisors, is willing to execute and deliver lease revenue commercial paper certificates of participation and direct placement revolving certificates of participation, in the maximum amount of \$260,000,000 (the "Interim Financing"), which includes the estimated cost of issuance and the financing. To facilitate the City's execution and delivery of the Interim Financing, and subject to approval by the Bay Area Toll Authority ("BATA"), BATA would hold as an investment up to \$100 million of such commercial paper certificates. It is expected that the indebtedness under the Interim Financing, which is an obligation of the City's General Fund, will be repaid in part from an allocation of a portion of the CFD special taxes generated in the Transbay Redevelopment Project Area, and an allocation of a portion of the property tax increment that will be derived from the Transbay Redevelopment Project will pay on-going debt service on the outstanding balance, as and when such funds are available. The TJPA would be expected to secure a long-term take-out of the Interim Financing when the TJPA's net tax increment revenue stream matures.

- I. Notwithstanding the construction management and oversight role of SF Public Works under the 2016 SF Public Works Construction Management Agreement and the role of the Cost Review Committee under this Agreement, the TJPA, through its Board of Directors, retains ultimate responsibility for the Transbay Project.

AGREEMENT

ACCORDINGLY, in consideration of the public benefits and other matters described in the foregoing recitals, the obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the TJPA, MTC and the City agree as follows:

1. COST REVIEW COMMITTEE

In connection with the Interim Financing and for the entire term that the indebtedness under the Interim Financing is outstanding, the TJPA agrees to work with a Cost Review Committee (the "Committee") to help ensure financial oversight of the TJPA's activities and projects, as follows.

A. Membership of Committee; Access to Expert Advice. The Committee shall consist of the following three voting members, or their designated representatives: the City's Controller, the Executive Director of the MTC, and the Executive Director or Chief Financial Officer of the TJPA. The Committee may seek expert advice as the Committee determines is appropriate to exercise its financial oversight, including from one or more of the City's Public Finance Director and the Executive Director of the San Francisco County Transportation Authority, or their designated representatives, and a City employee designated by the City Administrator with a background in construction management.

B. Purpose and Authority. The purpose of the Committee is to provide recommendations to help ensure that the TJPA is implementing the Transbay Program in a cost-effective manner and that the Interim Financing is timely repaid and to oversee the proper expenditure by the TJPA of the proceeds of the Interim Financing. In furtherance of that purpose, the Committee shall have following authority during the time that the Interim Financing is outstanding:

(i) The Committee may make recommendations to the TJPA Board about any proposed budget or budget amendment, before the TJPA Board considers taking action on any such budget or amendment;

(ii) The Committee may make recommendations to the TJPA Board about any new contract or amendment of an existing contract, with a cost to the TJPA in each instance in excess of \$250,000, before the TJPA Board considers such contract or contract amendment for approval, and if TJPA Board approval is not required, before the TJPA staff enter into any such contract or contract amendment;

(iii) The Committee may make recommendations to the TJPA Board about any construction contract change order with a cost to the TJPA in each instance in excess of \$250,000, before the TJPA Board considers the change order for approval, and if TJPA Board approval is not required, before the TJPA staff approve any such change order;

(iv) The Committee may make recommendations to the TJPA Board or TJPA staff regarding adoption and implementation of internal controls for financial management;

(v) The Committee must approve any expenditure of the proceeds of the Interim Financing before the TJPA may make such expenditure or take any action committing to expend any such proceeds, provided that once the Committee grants an approval and the TJPA subsequent to that approval takes action to commit to expend those funds, such approval may not be reversed by the Committee; and

(vi) The Committee may obtain financial or performance audits or reviews as the Committee may from time to time deem necessary, with the cost of such audits to be borne the TJPA, and the TJPA shall cooperate fully in such audits and reviews. Such audits or reviews may be performed by the City, the MTC or any consultant or expert that the Committee may select.

In connection with the Committee's role under clauses (i)–(iii) above, the TJPA shall give the Committee at least 10 business days written notice of any proposed action before placing the item on the agenda for the action by the TJPA Board. The Committee may recommend approval, including with conditions, or disapproval, provided that if it recommends disapproval of any matter the Committee shall state generally its reasons why and describe any actions it recommends that the TJPA take. The Committee shall use its good faith efforts to provide any recommendations within a reasonable period, but in no event more than 10 business days after receiving notice of a proposed action by the TJPA. The Committee and TJPA staff shall use good faith efforts to resolve any recommendation of disapproval of any matter so that the Committee and staff can make a reconciled recommendation to the TJPA Board.

In connection with its approval authority under clause (v) above, the Committee may approve any matter subject to conditions or may request further information from or action by the TJPA before considering granting approval. If the Committee disapproves any matter it shall state generally its reasons why and describe any actions the TJPA may take to gain its approval. The Committee shall use its good faith efforts to respond to requests for approval within a reasonable period.

C. Meetings and Approvals. The Committee shall meet at least quarterly, and otherwise on an as needed basis as is necessary to facilitate timely review and approvals required by this agreement. Its meetings shall be subject to all applicable laws, including the open meeting and sunshine laws applicable to such bodies in the State of California and the City and County of San Francisco. The TJPA shall cooperate with the Committee in connection with the development of agenda for each meeting, and making TJPA staff available for such purposes. The Committee may meet with a quorum of two of its members, and may act with the approval of at least two of its three voting members. The Committee may from time to time increase any of the dollar thresholds for review established under clauses (ii) – (iii) above, by majority vote of its members and written notice to the TJPA .

D. Rules and Procedures. The Committee may adopt rules and procedures for how it operates, including rules for delegating its review or approval authority to one or more individual members of the Committee or increasing the approval thresholds permitted in clauses (i) – (iii), so that it may issue its recommendations and approvals on a timely basis consistent with the needs of the TJPA to implement the Transbay Project.

E. Documents and Information. The TJPA’s Executive Director and staff shall cooperate fully with the Committee and shall furnish such documents and information as the Committee or any of its individual members may request from time to time, in furtherance of its authority as described above; notwithstanding the foregoing, the TJPA shall not be required to provide copies of documents or information that are protected from disclosure by the attorney-client privilege or other privileges and protections.

F. Waiver of Liability. In light of the limited financial purposes of the review by the Committee, any approval granted by or recommendation made by the Committee shall not be deemed approval of the Transbay Project or any substantive component of it, nor shall it imply any assurance that the action proposed complies with applicable laws, regulations, grants or agreements. The TJPA waives any liability on the part of the Committee, the City or the MTC (including BATA) arising out of the Committee’s exercise, or any failure to exercise, of any of its authority or rights under this Agreement.

G. Termination. This Agreement shall terminate when the indebtedness under the Interim Financing is fully paid.

2 GENERAL

A. Amendments. This Agreement may be amended or modified only by written agreement signed by all three Parties.

B. **Severability.** If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall be given effect to the fullest extent reasonably possible.

C. **Relationship to Other Agreements.** This Agreement is intended to be separate from and consistent with the 2015 SF Public Works MOU and the 2016 SF Public Works Construction Oversight Agreement.

D. **Successors and Assigns.** This Agreement shall inure to the benefit of and bind the respective successors and assigns of the TJPA, MTC and the City. This Agreement is for the exclusive benefit of the Parties and not for the benefit of any other person or entity and shall not be deemed to have conferred any rights, express or implied, upon any other person or entity.

E. **Interpretation of Agreement.**

(i) **Attachments.** Whenever an “Exhibit” or “Attachment” is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Attachments are incorporated in this Agreement by reference.

(ii) **Captions.** Whenever a section or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The title of this Agreement, and the captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such title and captions shall not define or limit the scope or intent of any provision of this Agreement.

(iii) **Words of Inclusion.** The use of the term “including,” “such as” or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(iv) **References.** Wherever reference is made to any provision, term or matter “in this Agreement,” “herein” or “hereof” or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Agreement or any specific subdivision thereof.

(v) **Recitals.** In the event of any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail. The Recitals in this Agreement are included for convenience of reference only and are not intended to create or imply covenants under this Agreement.

F. **Cooperation.** In connection with this Agreement, the Committee and the TJPA shall deal with one another in good faith and reasonably cooperate with one another to achieve the objectives and purposes of this Agreement. In so doing, each of the Parties shall each refrain from doing anything that would render its performance under this Agreement impossible and each shall

do everything that this Agreement contemplates that the Party shall do to accomplish the objectives and purposes of this Agreement. Also, the Committee shall also cooperate and coordinate with SF Public Works as it performs its functions under the 2016 Transbay Transit Program Construction Oversight Agreement.

G. Entire Agreement. This Agreement (including any Attachments) contain all the representations and the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement may be introduced as evidence in any litigation or other dispute resolution proceeding by either Party and no court or other body shall consider those drafts in interpreting this Agreement.

H. Notices. All notices required by this Agreement shall be given to the TJPA, MTC and the City in writing, by first-class mail, postage prepaid, addressed as follows:

TJPA: Chair of the Board of Directors
Transbay Joint Powers Authority
201 Mission Street, Suite 2100
San Francisco, CA 94105

and to: Executive Director
Transbay Joint Powers Authority
201 Mission Street, Suite 2100
San Francisco, CA 94105

MTC: Steve Heminger
Executive Director
Metropolitan Transportation Commission
375 Beale Street
San Francisco CA 94105

City: Controller
City and County of San Francisco
City Hall, Room 316
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Every notice given to a Party under to the terms of this Agreement must state (or must be accompanied by a cover letter that states) substantially the following:

- (i) the Section of this Agreement to which the notice is given and the action or response required, if any;
- (ii) if applicable, the period of time within which the recipient of the notice must respond;

- (iii) if approval or review is being requested, shall be clearly marked “Request for Approval/Review under the Transbay Project Cost Review Oversight Agreement”; and
- (iv) if a notice of a disapproval or an objection that requires reasonableness, shall specify with particularity the reasons.

I. **Non-Waiver.** Any delay or failure by either Party to exercise any of its respective rights or remedies under this Agreement shall not be deemed a waiver of that or any other right contained in this Agreement.

J. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

K. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TRANSBAY JOINT POWERS AUTHORITY

Greg Harper, Chair of the Board of Directors

APPROVED AS TO FORM:

By _____
TJPA Legal Counsel

METROPOLITAN TRANSPORTATION
COMMISSION

Steve Heminger, Executive Director

APPROVED AS TO FORM:

By _____
Adrienne Weil
MTC General Counsel

CONTROLLER'S OFFICE

Benjamin Rosenfield, Controller

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By _____
Deputy City Attorney



City/MTC Financing

April 14, 2016

Transbay Transit Center

TJPA





Phase 1 Budget/ Financing Overview

- **Interim financing required to augment Phase 1 budget to level recommended by Metropolitan Transportation Commission (MTC)**
- **To be provided by Wells Fargo (up to \$160 million) and MTC (up to \$100 million)**
- **Secured by City's credit, at very low cost of funds**
- **TJPA will only draw on financing as needed**
- **City and MTC committee to approve expenditures from financing**
- **On-going debt service paid with incoming net tax increment; debt paid down with CFD proceeds as received; long-term tax increment financing to retire debt when tax increment stream is mature (6-10 years)**

Short-Term Need (\$millions)

TJPA Approved Budget (2013)	1,899.4
MTC Recommended Budget (2015)	2,259.4
Total Shortfall	(360.0)
Approved Parcel F Transaction Consideration	160.0
Net Shortfall	(200.0)
Plus: CFD Special Tax Proceeds Shortfall During Construction	(47.5)
Total Interim Financing Required	(247.5)
Plus Fees/Expenses/Reserve for Market Uncertainty	(12.5)
Maximum Interim Financing	(260.0)

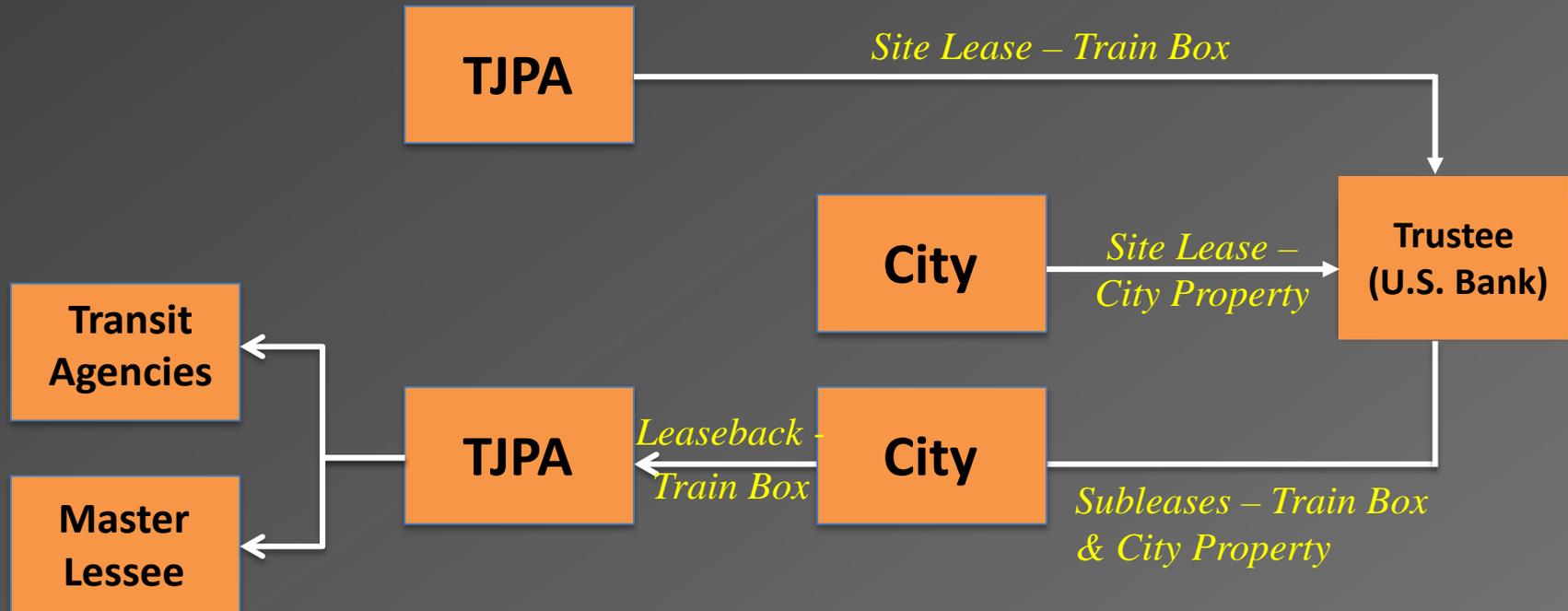


Interim Financing Procurement

- **City issued Request for Information from banks for interim financing in January**
- **Seven proposals received from banks/investment banks**
- **City selected Wells Fargo Bank for negotiations**
- **City also negotiated with MTC to purchase portion of the interim financing**
- **Short-term variable rate certificates to be issued by the City, privately placed with Wells Fargo and sold to MTC**



Interim Financing Structure





Interim Financing Security

- On parity with TIFIA loan, including pledge of net tax increment
- During term of financing, net tax increment pays ongoing interest costs (through lease payments)
- After Phase 1 completion, CFD proceeds used to pay down outstanding debt, reducing ultimate amount of long-term takeout
- If net tax increment and/or CFD proceeds insufficient, City general fund steps in



Interim Financing Rate

	Wells Fargo	MTC
Taxable	1-month LIBOR + 0.56%	1-month LIBOR + 0.61%
Tax Exempt	70% of 1-month LIBOR + 0.375%	n/a

1-month LIBOR = 0.435% (as of April 8, 2016)

Interim Financing Sources and Uses

Sources of Funds	
Certificate Par Amount (Wells Fargo)	\$158,157,549
Certificate Par Amount (MTC)	\$100,000,000
Reserve for Market Uncertainty*	<u>\$1,842,451</u>
Total Sources:	\$260,000,000
Uses of Funds	
Project Fund	\$247,500,000
Costs of Issuance	\$800,000
Fees and Expenses	\$9,857,549
Reserve for Market Uncertainty*	<u>\$1,842,451</u>
Total Uses:	\$260,000,000

*Estimates only; indicative costs and estimates as of March 2016; actual costs dependent on market and finalized at financial close



Remaining Actions to Close

- **TJPA Board Approval**
 - Resolution
 - Form of Site Lease – TJPA Property and form of Leaseback Lease
 - Cost Oversight Agreement
 - Potential TIFIA Loan Amendment (future meeting if necessary)
- **City Board of Supervisors Approval**
 - Introduced April 12
 - Budget & Finance Committee April 20
 - Heard at full Board April 26
- **MTC Approval**
 - Bay Area Toll Authority Oversight Committee April 13
 - Heard at full Authority Board April 27
- **60-day passive validation period following City approval**
- **Financial close approximately June 30**



Transbay Transit Center

Questions?