



1 [General Obligation Bonds - Amending Resolution No. 284-14 - Seismic Safety Loan Program  
2 - Not to Exceed \$24,000,000]

3 **Resolution amending and supplementing Resolution No. 284-14 to authorize the sale of**  
4 **not to exceed \$24,000,000 aggregate principal amount of City and County of San**  
5 **Francisco Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992),**  
6 **Series 2014C, by private placement to the financial institution identified herein, to**  
7 **authorize the execution of a Declaration of Trust and a Continuing Covenant**  
8 **Agreement in connection therewith and authorizing and approving modifications to**  
9 **said documents, as defined herein; ratifying certain actions previously taken, as**  
10 **defined herein; and granting general authority to City officials to take necessary**  
11 **actions in connection with the authorization, issuance, sale, and delivery of said**  
12 **bonds, as defined herein.**

13  
14 WHEREAS, In November 1992 the voters of the City and County of San Francisco (the  
15 "City") approved Proposition A ("Proposition A"), which authorized the issuance of  
16 \$350,000,000 aggregate principal amount of general obligation bonds (the "Bonds") to provide  
17 funds for loans to finance the seismic strengthening of unreinforced masonry buildings within  
18 the City, of which (a) \$150,000,000 was allocated to affordable housing below market-rate  
19 loans, of which \$60,000,000 was allocated for deferred loans, and (b) \$200,000,000 was  
20 allocated to market-rate loans for residential, commercial and institutional buildings; and

21 WHEREAS, On July 22, 2014, the Board of Supervisors (the "Board") adopted  
22 Resolution No. 284-14 ("Resolution No. 284-14"), which was signed by the Mayor on July 31,  
23 2014, to authorize and direct the sale by the City of not to exceed \$24,000,000 aggregate  
24 principal amount of its Taxable General Obligation Bonds (Seismic Safety Loan Program,  
25 1992), Series 2014C (the "Series 2014C Bonds"); and

1           WHEREAS, The City has now determined that it is advisable to sell the Series 2014C  
2 Bonds by negotiated sale through a private placement of the Bonds with a financial institution  
3 selected by the City pursuant to a competitive process; and

4           WHEREAS, It is advisable in connection with such sale by private placement to  
5 approve the form of and execution of certain additional documents and the amendment of  
6 certain provisions of Resolution No. 284-14 and to amend Resolution No. 284-14 in certain  
7 respects (including changing the designation of the Series 2014C Bonds to the Series 2015A  
8 Bonds and to provide for the redemption provisions and the mandatory tender provisions of  
9 the Series 2015A Bonds through a Declaration of Trust); and

10          WHEREAS, In Resolution No. 284-14, the Board adopted certain findings pertaining to  
11 the California Environmental Quality Act, which are unaffected by this amending and  
12 supplementing Resolution, which solely affects the terms and manner of sale of the Series  
13 2015A Bonds (previously referred to in Resolution No. 284-14 as the Series 2014C Bonds);  
14 now, therefore, be it

15          RESOLVED, That the Board of Supervisors of the City and County of San Francisco,  
16 as follows:

17           SECTION 1. Recitals. All of the recitals herein are true and correct.

18           SECTION 2. Documents. The documents presented to this Board (which are a  
19 Declaration of Trust and a Continuing Covenant Agreement) and on file with the on file with  
20 the Clerk of the Board of Supervisors ("Clerk of the Board") are contained in File No. 150470.

21           SECTION 3. Amendment to Update Bond Series Designation. Any references in  
22 Resolution No. 284-14 to the "Series 2014C Bonds" are hereby amended to refer instead to  
23 the "Series 2015A Bonds", and the names of any accounts authorized by Resolution No. 284-  
24 14 to be established by the Treasurer shall bear a name corresponding to the final series  
25

1 designation of the Series 2015A Bonds.

2 SECTION 4. Approval of Declaration of Trust; Forms of Bonds. The proposed form of  
3 a Declaration of Trust (the "Declaration of Trust") setting forth certain terms of the Series  
4 2015A Bonds, on file with the Clerk of the Board, is hereby approved. The Mayor, the  
5 Controller, and the Treasurer are hereby authorized and directed, for and in the name and on  
6 behalf of the City, to execute and deliver the Declaration of Trust in substantially said form,  
7 with such changes, additions and modifications as may be made in accordance with Section  
8 8.

9 To the extent that any series of the Series 2015A Bonds is issued with a variable  
10 interest rate, the Board hereby acknowledges, and expressly authorizes, that in accordance  
11 with prevailing market conditions, the variable interest rate is established under the  
12 Declaration of Trust at a specified rate for a limited initial term of five years (or such other  
13 period as set forth in the Declaration of Trust), and thereafter, the Declaration of Trust  
14 provides for amortization of principal over a period significantly shorter than the then  
15 remaining term through the stated maturity of such series of Series 2015A Bonds. The Board  
16 hereby further authorizes the Director of Public Finance, in his or her discretion, to exercise  
17 any extension of the variable rate mode provided in the Declaration of Trust, the Continuing  
18 Covenant Agreement (as defined herein), or otherwise in connection with such series of  
19 Series 2015A Bonds; provided that such extension does not increase the Index Rate Spread  
20 (as defined in the Declaration of Trust) by more than ten (10) basis points from the Index Rate  
21 Spread set forth in the executed Declaration of Trust, and provided further that the Director of  
22 Public Finance shall provide within thirty (30) days a summary to the Board of Supervisors of  
23 any such change to the Index Rate Spread and an estimate of the cost impact of such change  
24 for the next twelve (12) month period.

25 SECTION 5. Selection of Purchaser of the Series 2015A Bonds. Each of the

1 Controller and the Director of Public Finance, acting singly, is authorized to select one or more  
2 financial institutions (the "Purchaser") to purchase the Series 2015A Bonds through a private  
3 placement sale. The Controller or the Director of Public Finance shall provide the name of the  
4 financial institution selected at the earliest practical Board meeting occurring after the  
5 selection thereof, together with the results of the sale, in accordance with Government Code  
6 Section 53509.5.

7 SECTION 6. Continuing Covenant Agreement; Negotiated Sale Through Private  
8 Placement. Each of the Controller and the Director of Public Finance, acting singly, is  
9 authorized to sell the Series 2015A Bonds by negotiated sale through a private placement  
10 pursuant to the form of Continuing Covenant Agreement (the "Continuing Covenant  
11 Agreement"), by and between the City and the Purchaser of the Series 2015A Bonds,  
12 submitted with this Resolution and on file with the Clerk of the Board. The Board hereby  
13 determines that a negotiated sale through a private placement is expected to provide a lower  
14 cost of financing and more flexibility than a competitive sale. The proposed form of the  
15 Continuing Covenant Agreement, on file with the Clerk of the Board, is hereby approved.  
16 Each of the Mayor, the Controller, and the Treasurer are hereby authorized and directed, for  
17 and in the name and on behalf of the City, to execute and deliver the Continuing Covenant  
18 Agreement in substantially said form, with such changes, additions and modifications as may  
19 be made in accordance with Section 8 hereof. Costs associated with the issuance of the  
20 Series 2015A Bonds, described in more detail in the Declaration of Trust, are estimated to  
21 range from approximately \$400,000 to approximately \$500,000. In connection with the  
22 negotiated sale of the Series 2015A Bonds, Schiff Hardin LLP and Richards, Watson &  
23 Gershon, A Professional Corporation, shall serve as co-bond counsel, and Public Resources  
24 Advisory Group and Ross Financial shall serve as co-financial advisors.

1 SECTION 7. Relationship of Declaration of Trust to Resolution No. 284-14.

2 Notwithstanding any provisions to the contrary in Resolution No. 284-14 setting forth certain  
3 terms of the Series 2015A Bonds, so long as the Declaration of Trust approved under this  
4 Resolution remains in effect its terms and provisions relative to the 2015A Bonds shall control  
5 and be binding on the holders of such obligations.

6 SECTION 8. Modification to Documents. Any City official authorized by this Resolution  
7 to execute any document is hereby further authorized, in consultation with the City Attorney,  
8 to approve and make such changes, additions, amendments or modifications to the document  
9 or documents approved by this Resolution as may be necessary or advisable (provided that  
10 such changes, additions, amendments or modifications shall not authorize an aggregate  
11 principal amount of Series 2015A Bonds in excess of \$24,000,000 or conflict with the terms of  
12 Proposition A or the provisions of Section 4 of Resolution No. 284-14). The approval of any  
13 change, addition, amendment or modification to any of the aforementioned documents shall  
14 be evidenced conclusively by the execution and delivery of the document in question, and  
15 provided further that the Director of Public Finance shall provide a copy (marked to show  
16 changes) to the Clerk of the Board of the executed form of any such documents within 30  
17 days of the closing of the transaction authorized hereby.

18 SECTION 9. Continued Effectiveness of Resolution No. 284-14. Except as amended  
19 and supplemented by this Resolution, Resolution No. 284-14 shall remain and continue in full  
20 force and effect. The provisions of Sections 22 through 25 (inclusive), 27, and 28 of  
21 Resolution No. 284-14 shall be deemed incorporated herein by reference, provided that the  
22 Accountability Report referenced in Section 24 of Resolution No. 284-14 shall be submitted by  
23 May 11, 2015, and the Board hereby consents to submission by such date.  
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SECTION 10. Effective Date. This resolution should take effect immediately upon

adoption.

APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By: 

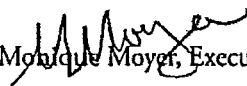
MARK BLAKE  
Deputy City Attorney  
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**To:** Angela Calvillo, Clerk of the Board of Supervisors  
Ben Rosenfield, City Controller  
Jose Cisneros, Treasurer  
Nadia Sesay, Director, Office of Public Finance  
Harvey Rose, Budget Analyst

**From:**  Monique Moyet, Executive Director, Port of San Francisco

**Date:** May 1, 2015

In accordance with Administrative Code 2.70, attached please find the Port of San Francisco's Bond Accountability Report. With the issuance of this Report, the Mayor's Office of Housing and Community Development (MOHCD) and the Port of San Francisco request approval of the sale of \$24 million in General Obligation (GO) bonds. The bond proceeds will be used to fund a seismic upgrade loan to Orton Development, Inc. (ODI) for improvements to two publically owned buildings at Pier 70 under the 1992 voter-established Unreinforced Masonry Building (UMB) Seismic Safety Loan Program (SSLP). Loan payments will be made by ODI, developer of the 20th Street Historic Buildings at Pier 70 project, to the City in an amount equal to the debt service on the proposed bonds, such that there is no impact on property tax rates, the General Fund, or the Port unless the borrower defaults on its loan payments. In such an event, property taxes would increase in an amount necessary to pay debt service payments.

The total issuance of \$24 million in net proceeds will fund the SSLP loan to ODI, to be repaid by ODI at an interest rate of 100 basis points higher than the City's True Interest Cost on the bonds.

Should you have any questions, please contact Anne Romero, Project Manager, Mayor's Office of Housing and Community Development, 701-5525 or Elaine Forbes, Director of Finance and Administration at the Port of San Francisco, 274-0445.

## **Executive Summary**

In 1992 the City voted to establish a Unreinforced Masonry Building Seismic Safety Loan Program (SSLP), which is administered through the Mayor's Office of Housing and Community Development (MOHCD).

Under this loan program, the proceeds of GO bonds fund a loan to a borrower to make improvements to eligible buildings. Loan payments are made by the borrower in the amount equal to the debt service on the GO bonds (plus 1% interest to cover the City's cost to administer the loan program), such that there is no impact on property tax rates or the General Fund unless the borrower defaults on its loan payments. In such an event, property taxes would increase in an amount necessary to pay debt service payments.

Orton Development, Inc. (ODI) has applied for a loan under this program in order to partially finance required seismic improvements and related soft costs at two unreinforced masonry buildings within the 20th Street Historic Buildings at Pier 70 (see Project Overview Section below). ODI will rehabilitate and operate the buildings through a public/private partnership under a long term ground lease with the Port of San Francisco. The SSLP loan is a critical piece of financing for overall project feasibility as it would displace costly developer equity.



## Bond Amounts and Schedule

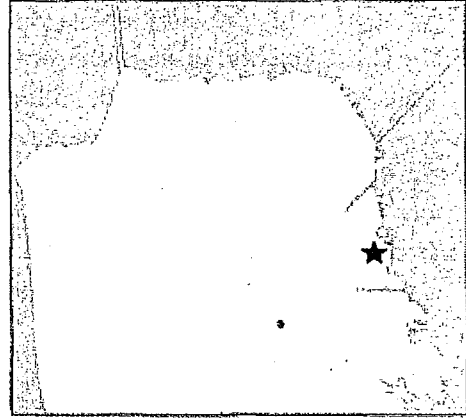
Based on current project schedules, the City will sell bonds with a total par value of \$24 million in June 2015, with proceeds available soon thereafter. The proposed loan issuance structure is a variable rate Direct Purchase Index Floater with a 5 year term bearing an interest rate of the one-month London Inter-Bank Offered Rate (LIBOR) plus a spread of 58 basis points plus 1% to cover City costs of administering the loan program. A conservative estimate of the SSLP rate is 3.5%. The loan will be secured by ODI's leasehold interest with the Port, but subordinate to any senior lender. The loan will provide a critical portion of the Project's total funding requirement since this loan can provide construction financing for the seismic components, replacing costly developer equity which accrues a 14% return compared with the loan at or below 7.5%.



## Project Overview

### PIER 70

Pier 70 is a 69-acre Port property on San Francisco's Central Waterfront, just south of Mission Bay. It is bounded by Mariposa, Illinois, and 22nd streets and the San Francisco Bay. The area is the most intact industrial maritime complex west of the Mississippi River. It has operated as a ship building or repair yard since the Spanish American War, and continues today at a reduced scale. In 2010, the Port completed the community planning process to determine a Master Plan that balances ship repair activities, new waterfront parks, rehabilitated historic buildings, and new development opportunities over the 69-acre area. Since the Pier 70 buildings are extremely deteriorated, substantial private investment is needed to address the substantial capital needs. Through a competitive process, the Port selected ODI in February 2012 as the developer for the historic rehabilitation of the 20th Street buildings, which will be the first component at Pier 70 to move forward. In addition, Crane Cove Park will be funded with Park GO Bonds and other sources, and Forest City was selected as the developer for the Waterfront Site.



## 20TH STREET HISTORIC BUILDINGS

The proposed project is the rehabilitation and seismic strengthening of the 20th Street Historic Buildings, a set of six large historic buildings located on or near 20th Street at Pier 70. Some of the buildings date back to the 1880s, and all are in urgent need of repair. The goal of the project is to return the buildings to active use, and make them a vibrant, integral part of the surrounding community. 20th Street will be designed to accommodate a safe pedestrian thoroughfare with links to Crane Cove Park. Both the atrium lobby of Building 113 and exterior courtyard will host frequent activities and events open to the public. The buildings will generally return to the modern equivalent of their historic uses; former office buildings will return to office use with the technological capabilities required for modern business, while historic industrial buildings will return to light industrial use with accessory office and retail uses. All work will be consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties.

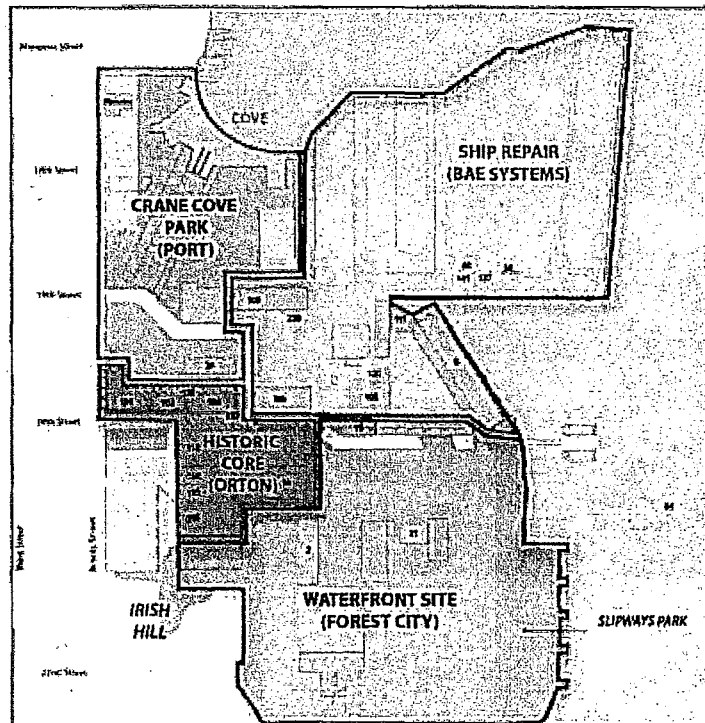
On October 9, 2012, the Port Commission endorsed the Term Sheet establishing the conceptual agreement by the parties of the terms of a transaction. On December 4, 2012, the Board of Supervisors endorsed the term sheet between the Port and ODI to rehabilitate approximately 270,000 gross square feet of the historic buildings, and to add approximately 60,000 GSF of new space primarily in the form of new mezzanines. Initial occupancy of the first building is projected in Fall 2016.

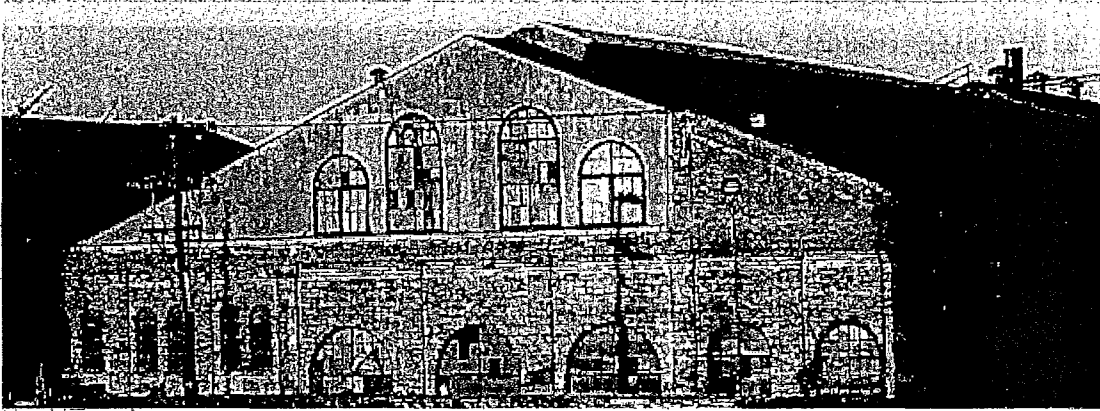


ODI is currently estimating total project costs at \$76.5 million, including approximately \$20.1 million of seismic improvements to be funded by the proposed GO Bonds as described above.

TOTAL PROJECT SOURCES & USES	\$AMOUNT (in millions)
<b>Sources</b>	
ODI Equity	12.12
Historic Tax Credits	3.11
Port Capital & CCHE Grant	1.75
Bank Loan	40.92
Seismic Safety Loan - CCSF	24.00
<b>Total Sources</b>	<b>81.90</b>
<b>Uses</b>	
Hard Costs	60.67
Soft Costs	14.80
Financing Costs	6.12
Impact Fees	0.31
<b>Total Uses</b>	<b>81.90</b>

The \$24 million seismic safety loan proceeds will be used to restore two large unreinforced masonry buildings known as buildings 113/114 and 104, which are described in detail below.



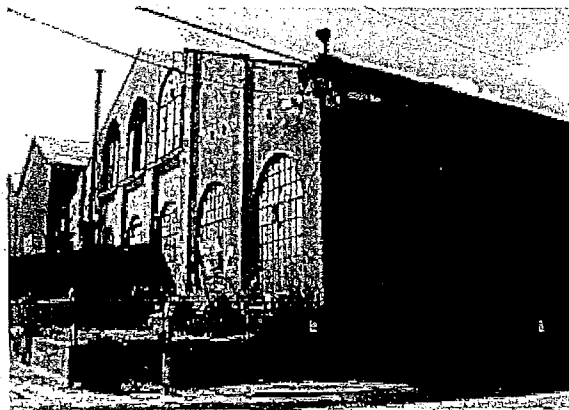


#### **BUILDING 113/114**

The Union Iron Works Machine Shop is located on the south side of 20th Street just east of Illinois Street, and is one of the most valuable and most vulnerable historic resources on the site. It consists of two masonry buildings built from 1885-1888, later joined by a concrete connector in 1914. The center connector building will become a publically accessible lobby and walkway to an exterior courtyard. Buildings 113 and 114 will be rented as office or light industrial flex space.

The scope of work includes abatement, demolition or relocation of metal additions to the building on the western and southern facades, roof repair or replacement, a new steel seismic system tying the brick perimeter into the shell, running below grade infrastructure, and pouring concrete slabs to seismically stabilize and strengthen the building. Two minor buildings, Buildings 23 and 24, totaling about 1,500 GSF, which are appendages to Building 113 on its eastern side would be demolished to facilitate the overall rehabilitation.

Existing load bearing masonry walls and piers lack steel reinforcement and do not have sufficient structural capacity to meet any seismic code requirements due to severe deterioration. The structural strengthening would essentially provide a complete new steel structural system to pick up the roof load, with a horizontal diaphragm system to transfer lateral loads. The entire system would lie



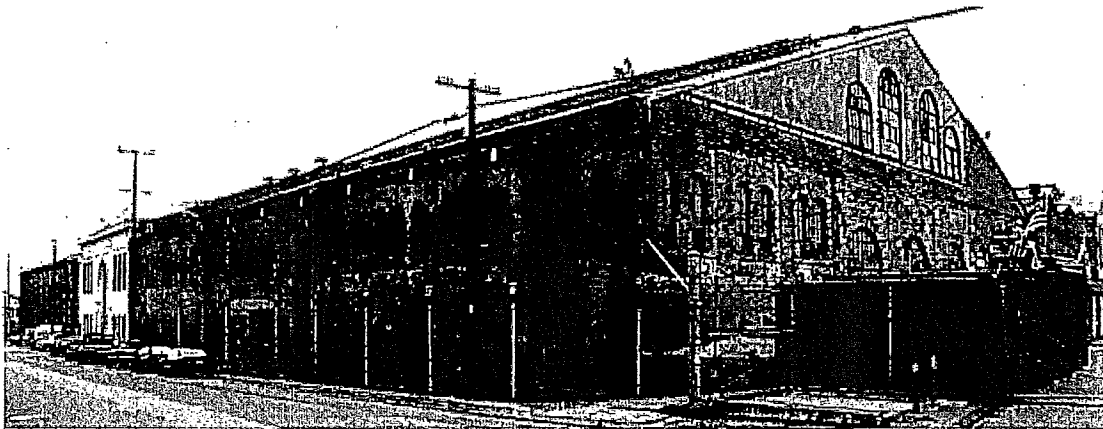
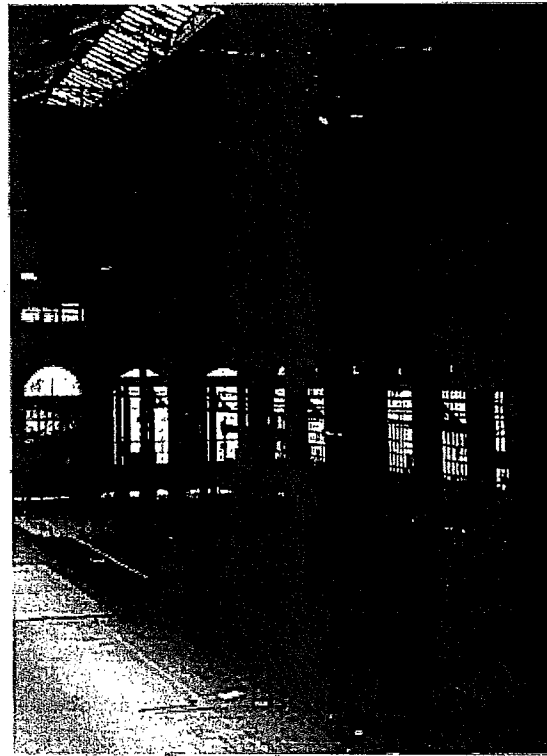
within the envelope of the existing building. The vulnerable perimeter UMB walls would change from a structural element to a cladding tied into the new structural system. The existing 17-foot high mezzanine at the northwest corner would be continued along the remainder of the north interior wall, as well as the east and south building interior to provide adequate lateral load resistance. An additional upper horizontal structure would

be added at approximately 35 feet high, to complete the necessary lateral load resistance.

Two to three large cranes existing within the building would be positioned to define a center atrium. Below these, new glass and steel walls would be built to the height of the first mezzanine, to partition east and west units in Building 113. At the street level, a new concrete slab would provide a new floor, cap below-ground contaminants, and provide a required lateral diaphragm. The masonry walls and wood windows would be repaired, retaining as much of the original historic fabric as possible, and replacing in kind materials when missing or irreparable.

The central atrium, defined by the two relocated 20-ton cranes and the glass and steel demising walls, would separate the east and west portions of the building, but allow visibility of the full length and heights of the buildings. The atrium would be a publicly accessible space, connecting 20th Street and the plaza formed between Building 113 on the north, Buildings 114 and 115/116 on the west, and Building 14 on the east.

Total improvements to building 113/114 are expected to cost \$29.5 million.





**BUILDING 113/114 SOURCES & USES AND SCHEDULE**

**SOURCES & USES**

<b>Sources</b>	
ODI Equity	\$1,755,664
Historic Tax Credits	\$1,092,591
Port Capital	\$1,750,000
Bank Loan	\$8,818,574
Seismic Safety Loan	\$16,120,536 (55%)
<b>Total</b>	<b>\$29,537,366</b>

<b>Uses</b>	
Soft Costs	\$5,323,172
Hard Costs	\$24,214,193
<b>Total</b>	<b>\$29,537,366</b>

**SCHEDULE**

	<b>Scheduled Start Date</b>
Planning	2013
Design	2014
Construction	2015
Completion	2016



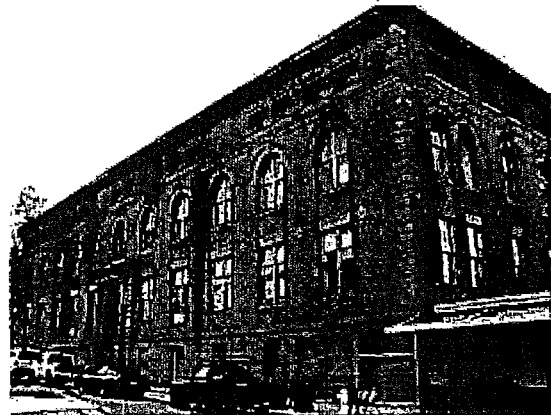


**BUILDING 104**

Building 104 is a 45,237 square foot former Union Ironworks Office building built in 1896 and will return to single tenant office, PDR or medical office use. It has very heavy loadbearing exterior brick walls, with floors that threaten to collapse during a major earthquake. It has experienced extensive changes over time and the additions and external stairs are severely deteriorated and threaten building stability.

The interior rehabilitation of Building 104 would consist of demolition of demising walls from the WWII era, rebuilding the rotted portions of the addition areas, repairing or replacing existing plumbing and electrical systems, adding ADA compliant unisex bathrooms as needed, and abatement of environmental conditions. Steel columns would be installed as a seismic bracing system. Exterior changes would be limited to cleaning and repairing brick and stone masonry, repairing wood windows and doors, repairing and selectively replacing ornamental copper work at cornice, roof eave, and roof drainage assemblies, repairing the roofing and replacing skylights.

Total improvements to Building 104 are expected to cost \$10.7 million



**BUILDING 104 SOURCES & USES AND SCHEDULE**

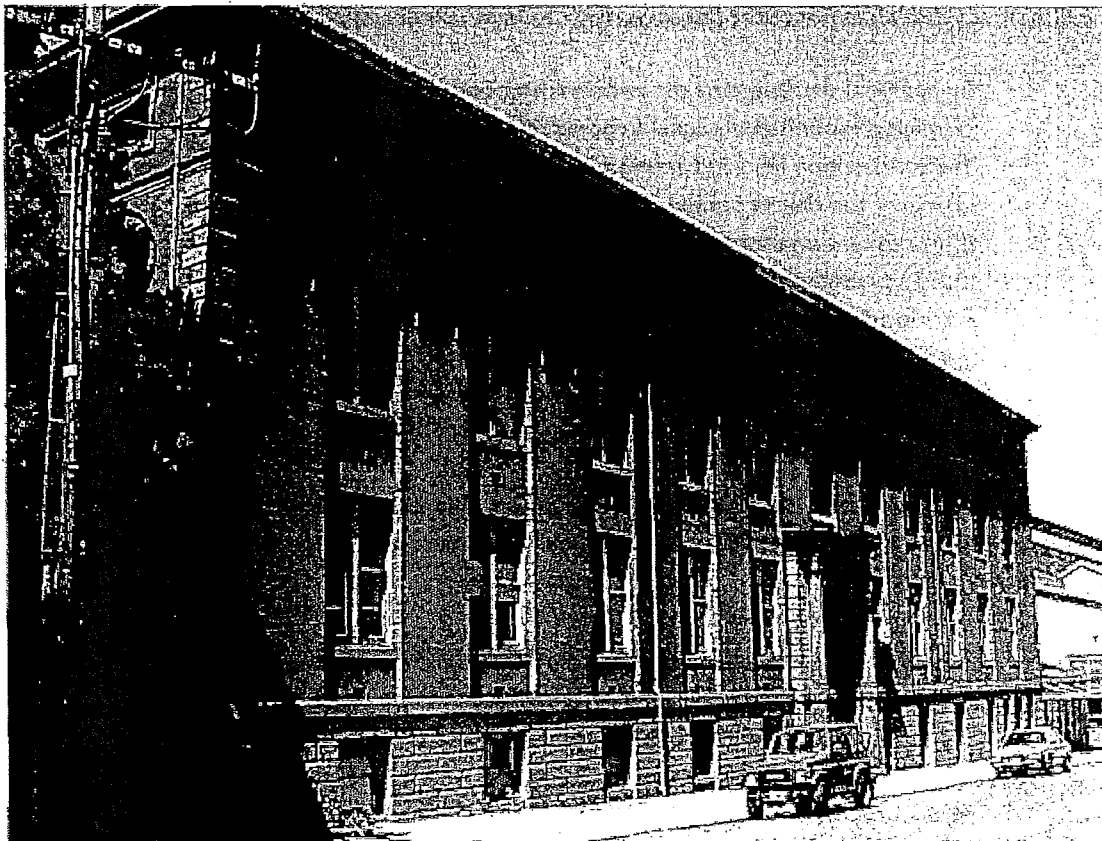
**SOURCES & USES**

<b>Sources</b>	
ODI Equity	\$858,141
Historic Tax Credits	\$534,046
Port Capital	-
Bank Loan	\$1,500,612
Seismic Safety Loan	\$7,879,464 (73%)
<b>Total</b>	<b>\$10,772,263</b>

<b>Uses</b>	
Soft Costs	\$2,137,920
Hard Costs	\$8,634,343
<b>Total</b>	<b>\$10,772,263</b>

**SCHEDULE**

	<b>Scheduled Start Date</b>
Planning	2013
Design	2014
Construction	2015
Completion	2016





#### ▣ FUTURE CONDITIONS OF LOAN APPROVAL AND ACCOUNTABILITY MEASURES

The Seismic Loan committee typically provides a conditional loan commitment subject to the borrower satisfying key project milestones such as submitting the final appraisal, securing building permits for the construction work, having firm commitments from all sources of project financing, and obtaining signed leases from major building tenants. Final approval of the loan and the actual amount of the loan will therefore be determined subsequent to the loan committee's initial, conditional approval at such time as ODI has satisfied the loan conditions and construction is ready to begin. This is expected to occur in June 2015. Specifically, the project still has several key milestones to achieve before the project is ready to begin construction:

- An appraisal that supports the underwriting criteria specified for Seismic Loans;
- Financing commitments equal to or exceeding the total development cost of the project;
- The construction loan and Seismic Loan have closed or will close simultaneously with close of escrow and delivery of the Lease;
- All required insurance is in place;
- Building permits are ready to be issued;
- A performance bond or completion guaranty is in place;
- A guaranteed maximum price construction contract is in place for the proposed rehabilitation of the project; and
- A minimum level of preleasing of the buildings has been secured.

Before the Mayor's Office of Housing and Community Development can enter into a loan agreement with ODI, and in advance of the City selling new GO bonds, the following actions will need to occur:

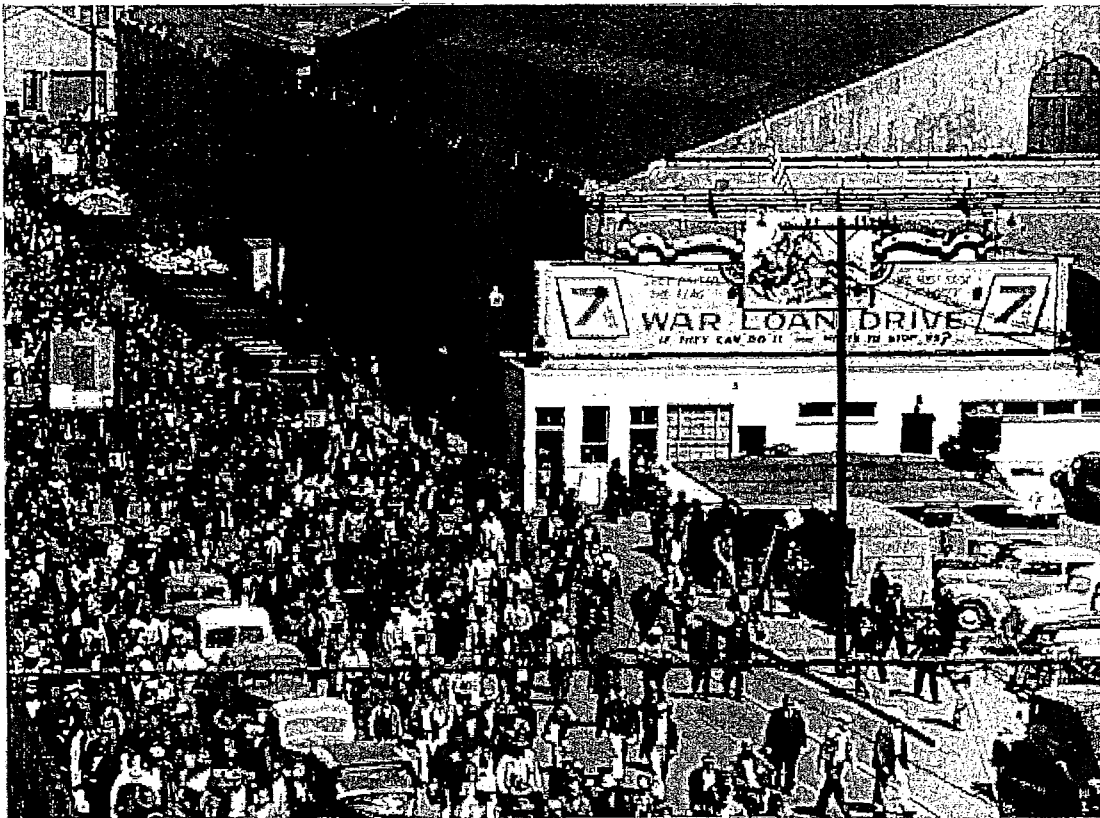
1. Seismic Loan committee review and consideration of the loan application to determine the application meets statutory underwriting requirements;
2. Capital Planning Committee approval of the bond issuance;
3. CEQA clearance of the project;
4. Port Commission review and approval of the LDDA and Lease;

5. Board of Supervisors review and approval of the LDDA and Lease;
6. Board of Supervisors review and approval of the use of the SSLP and the required bond indebtedness;
7. ODI meets all development agreement requirements and loan committee conditions, and enters into the Lease; and
8. ODI offers a personal guarantee to complete the repair and improvements of the project, and the General Contractor will take out a Performance Bond.

Items 1 - 5 above are complete.

After the bond sale, ODI is subject to a number of accountability measures and ongoing reporting requirements, including:

- Satisfaction of all loan conditions prior to loan closing;
- Submission of compliance reports regarding Local Hire and Local Business Enterprise (LBE) agreements; and
- Submission of monthly and annual statements detailing project costs and revenues and ODI's conformance with all obligations under terms of the ground lease, including conformance with the schedule of performance set forth in the LDDA.



Building 113, World War II circa 1943





**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Todd Rydstrom**  
**Deputy Controller**

**Nadia Sesay**  
**Director**  
**Office of Public Finance**

**MEMORANDUM**

**TO:** Honorable Members, Board of Supervisors

**FROM:** Nadia Sesay, Director of Public Finance *NS*

**SUBJECT:** City and County of San Francisco Taxable General Obligation Bonds,  
Unreinforced Masonry Building Seismic Safety Loan Program, Series 2015A

**DATE:** Friday, May 1, 2015

I respectfully request that the Board of Supervisors consider for review and adoption the resolution amending Resolution No. 284-14, to authorize the sale of variable rate taxable general obligation bonds by a private placement, and to approve the form of, and authorize the execution of a declaration of trust and continuing covenant agreement in connection with the sale of the bonds.

Legislation approving the sale and issuance of the bonds, and related supporting documents are expected to be introduced at the Board of Supervisors meeting on Tuesday, May 5, 2015, and we respectfully request that the items be heard at the May 13, 2015 meeting of the Budget and Finance Committee.

**Background:**

The Board of Supervisors adopted on July 22, 2014 and the Mayor approved on July 31, 2014, Resolution No. 284-14, authorizing and directing the sale of not to exceed \$24,000,000 aggregate principal amount in City and County of San Francisco Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992) (the "Bonds"). The Bonds will finance a portion of the seismic improvements to Buildings 113/114 and 104 located along the Central Waterfront of San Francisco at Pier 70. Construction of the seismic improvements is expected to be complete in first quarter of calendar 2017.

The City has now determined that it is advisable to sell the Bonds by negotiated sale through a private placement of the Bonds with a financial institution selected by the City pursuant to a competitive process. The following resolution is intended to amend Resolution No. 284-14 to allow for the sale of the Bonds through a private placement and to authorize the variable interest rate structure established in the associated Declaration of Trust. The City anticipates issuing the Bonds in June 2015.

**Financing Structure:**

The proposed resolution authorizes the issuance of not to exceed par amount of \$24,000,000. The Bonds are anticipated to contribute approximately \$20,100,871 to the Seismic Safety Loan Program to fund loans for the Buildings 113/114 and 104 seismic projects.

The continuing covenant agreement will consist of a variable rate direct purchase loan secured by general obligation bonds directly placed with the lender. The structure offered by a direct purchase loan allows for prepayment flexibility without penalty, which particularly suited the needs of this project. The City submitted a Request for Proposals to its approved pool of underwriters, and has selected US Bank as the winning lender due to the favorable loan terms and low borrowing costs offered in their proposal.

The direct loan facility will have a renewable term of five years at a rate of the London Inter-Bank Offered Rate ("LIBOR") plus a spread of 58 basis points. At current LIBOR rates, this constitutes an interest rate of 0.76%. In the event the City's credit ratings are downgraded, the interest rate payable by the City for the direct loan facility increases according the following schedule:

**Table 1: Direct Loan Rate Schedule**

Rating Thresholds: GO Bond Rating	Increase to Interest Rate Spread
Equal to Aa2/AA/AA	+ 0.0 bppa
Equal to Aa3/AA-/AA-	+ 10.0 bppa
Equal to A1/A+/A+	+ 15.0 bppa
Equal to A2/A/A	+ 25.0 bppa
Equal to A3/A-/A-	+ 35.0 bppa
Equal to Baa1/BBB+/BBB+	+ 40.0 bppa

Based upon an estimated 2.5% interest rate on the variable rate loan, OPF estimates that average fiscal year debt service on the Bonds is approximately \$1,330,000. The total par amount, based on the estimated 2.5% interest rate, is expected to result in approximately \$5,850,000 million in interest payments over the life of the Bonds. The total principal and interest payment over the approximate 20 year life of the Bonds is approximately \$26,600,000.

**Additional Information:**

The legislation is expected to be introduced at the Board of Supervisors meeting on Tuesday, May 5, 2015. The related financing documents—including the Declaration of Trust, Continuing Covenant Agreement and related documents—will also be submitted.

*Declaration of Trust.* The Declaration of Trust contains specific terms and mechanics for payment to the owners of the Bonds. This document contains financial provisions, including calculations for the interest payments on the Bonds and when such interest is paid, and how Bonds may be redeemed or otherwise paid prior to maturity. The Declaration of Trust also contains provisions governing the records of ownership of the Bonds, how ownership may be transferred, and various related operational provisions.



**Continuing Covenant Agreement:** The Continuing Covenant Agreement is an agreement between the City and the Purchaser of the Bonds, detailing the conditions of the purchase of the Bonds, including the purchase price of the Bonds, the terms of the Bonds (including Maximum Interest Rate), including the representations, warranties and covenants of the City, events of default, remedies available to the Purchaser, indemnity by the City to the Purchaser, and other related miscellaneous provisions.

Your consideration of this matter is greatly appreciated. Please contact me at 554-5956 if you have any questions. Thank you.

**Financing Timeline:**

The Bonds are expected to be issued and delivered in June 2015. Schedule milestones in connection with the financing may be summarized as follows:

<b>Milestone</b>	<b>Date*</b>
Introduction of authorizing legislation and supporting materials to the Board	May 5, 2015
Consideration by the Budget and Finance Committee	May 13, 2015
Issuance and delivery of the Bonds	June 2015
Closing of SSLP Loan, Lease and Construction Loan	June 2015

\*Please note that dates are estimated unless otherwise noted.

CC: Angela Calvillo, Clerk of the Board  
(via email) Harvey Rose, Budget Analyst  
Ben Rosenfield, Controller  
Mark Blake, Deputy City Attorney  
Nicole Elliott, Mayor's Office  
Kate Howard, Mayor's Budget Office  
Teresa Yanga, Mayor's Office of Housing and Community Development  
Anne Romero, Mayor's Office of Housing and Community Development  
Jonathan Stern, Port of San Francisco  
Phil Williamson, Port of San Francisco



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**DECLARATION OF TRUST**

executed by

THE TREASURER OF THE CITY AND COUNTY OF SAN FRANCISCO

Dated as of June 1, 2015

City and County of San Francisco  
Taxable General Obligation Bonds  
(Seismic Safety Loan Program, 1992)  
Series 2015A

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**DECLARATION OF TRUST**

Relating to

City and County of San Francisco  
Taxable General Obligation Bonds  
(Seismic Safety Loan Program, 1992)  
Series 2015A

This DECLARATION OF TRUST is executed by the Treasurer of the City and County of San Francisco (the "Treasurer") as of the first day of June, 2015.

**WITNESSETH**

WHEREAS, pursuant to Section 6.106 of the Charter of the City and County of San Francisco, the Treasurer is the officer of the City and County of San Francisco (the "City") responsible for the holding, investment and safekeeping of the moneys of the City;

WHEREAS, the Board of Supervisors of the City duly called an election that was regularly held in the City on November 3, 1992, for the purpose of submitting to the voters of the City a measure ("Proposition A") authorizing the City to incur bonded indebtedness to finance the City's Seismic Safety Loan Program (the "Program") under which the City would be authorized to use bond proceeds to provide loans to private parties for the seismic strengthening of unreinforced masonry buildings and to pay necessary administrative costs incidental thereto;

WHEREAS, more than two-thirds of the qualified voters of the City voting on said Proposition A approved the issuance by the City of its general obligation bonds in an amount not to exceed \$350,000,000 to finance the Program;

WHEREAS, On February 22, 1994, the Board of Supervisors (the "Board") adopted Resolution No. 160-94 ("Resolution No. 160-94"), which was signed by the Mayor of the City (the "Mayor") on February 25, 1994, and pursuant to which the City authorized the issuance of bonds (the "Seismic Safety Loan Bonds") in the aggregate principal amount of \$350,000,000;

WHEREAS, On July 22, 2014, the Board of Supervisors (the "Board") adopted Resolution No. 284-14 (the "Original Resolution"), which was signed by the Mayor of the City (the "Mayor") on July 31, 2014, and on \_\_\_\_\_, 2015, the Board adopted Resolution No. \_\_\_\_-15 (the "Amending Resolution," and together with the Original Resolution, the "Resolution"), which was signed by the Mayor of the City (the "Mayor") on \_\_\_\_\_, 2015, and pursuant to the Resolution, the City authorized the issuance of Seismic Safety Loan Bonds in the aggregate principal amount of not to exceed \$24,000,000 (the "Bonds");

WHEREAS, the City is authorized to issue the Seismic Safety Loan Program Bonds pursuant to the Charter of the City (the "Charter") and Article 4.5 (commencing with Section 53506) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (collectively, the "Bond Act" and collectively with the Charter, the "Law");

WHEREAS, the Bonds will be payable from proceeds of the *ad valorem* taxes levied on taxable property in the City in accordance with Proposition A;

WHEREAS, the execution by the Treasurer of this Declaration of Trust is necessary and desirable to set forth certain provisions of the Bonds and to provide for the repayment thereof; and

WHEREAS, all conditions, things and acts required by law to exist, happen and be performed precedent to and in connection with the issuance of the Bonds exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized to issue the Bonds;

NOW, THEREFORE, THIS DECLARATION OF TRUST WITNESSETH, that in order to secure the payment of the principal of, premium, if any, and the interest on all Bonds at any time issued and outstanding under this Declaration of Trust, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be paid, issued and in consideration of the premises and of the covenants herein contained and of the purchase and acceptance of the Bonds by the holders thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the Treasurer hereby declares, for the benefit of the respective holders from time to time of the Bonds, as follows:

#### SECTION 1. Definitions

Unless the context otherwise requires, the terms defined in this Section shall from all purposes hereof and of any certificate, opinion, request or other document herein mentioned have the meanings herein specified.

##### Agreement

The term "Agreement" means, during the Initial Period, the Continuing Covenant Agreement dated as of May 1, 2015, between the City and the Bank, as the same may be amended, supplemented, restated or otherwise modified from time to time, and during any Index Rate Period other than the Initial Period, means any agreement between the City and the Bank which may be designated as the Agreement.

##### Amortization End Date

The term "Amortization End Date" means the fifth anniversary of the related Bank Purchase Date.

##### Amortization Payment Date

The term "Amortization Payment Date" June 15 and December 15 of each year, commencing on June 15 of the calendar year immediately succeeding the calendar year in which the related Bank Purchase Date occurred.

Amortization Period

The term "Amortization Period" means, in the event the Bonds are not purchased or remarketed on the Initial Bank Purchase Date or a later Bank Purchase Date and the other conditions set forth in the Agreement are satisfied, the period commencing on the Initial Bank Purchase Date or a later Bank Purchase Date, as the case may be, and ending on the Amortization End Date.

Applicable Spread

The term "Applicable Spread" means, with respect to each Index Rate Period, the following:

During the Initial Period, 58 basis points (0.58%) and (b) during any other Index Rate Period, the rate designated by the City in a certificate to the purchaser of the Bonds with respect thereto; *provided, however*, that the Applicable Spread will be increased upon each downgrade of the City's long-term unenhanced General Obligation Debt (as defined in the Agreement) to the Level corresponding to the applicable long-term unenhanced debt rating assigned by Moody's, S&P or Fitch to any General Obligation Debt (with such increases in the Applicable Spread being cumulative):

<u>Level</u>	<u>Moody's</u>	<u>S&amp;P</u>	<u>Fitch</u>	<u>Increase to Applicable Spread (basis points)</u>
Level 1	Aa2	AA	AA	0.0
Level 2	Aa3	AA-	AA-	10.0
Level 3	A1	A+	A+	15.0
Level 4	A2	A	A	25.0
Level 5	A3	A-	A-	35.0
Level 6	Baa1	BBB+	BBB+	40.0

In the case of a split rating or differing ratings as between and among the Rating Agencies, for all purposes of determining the Applicable Spread, (1) if three Rating Agencies then provide ratings and not two are the same, the middle of such ratings shall apply, (2) if three Rating Agencies then provide ratings, and any two are the same, the two same ratings shall apply, and (3) if only two Rating Agencies then provide ratings, the lowest of such ratings shall apply. Any change in the Applicable Spread resulting from a change in a rating shall be and become effective as of and on the date of the announcement of the change in such rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The City and the Bank acknowledge that as of the date of issuance of the Bonds, the increase to Applicable Spread is that specified above for Level 1.

During any Index Rate Period other than the Initial Period, the number of basis points determined by the Market Agent on or before the first day of such Index Rate Period and

designated by the City in accordance with the terms hereof: (which may include a schedule for the Applicable Spread based upon the ratings assigned to the long term unenhanced general obligation debt of the City as described in subparagraph (a) in this definition) that, when added to the LIBOR Index would equal the minimum interest rate per annum that would enable the Bonds to be sold on such date at a price equal to the principal amount thereof (without regard to accrued interest, if any, thereon).

#### Authorized Denomination

The term “Authorized Denomination” means (i) during any Index Rate Mode, \$250,000 or any integral multiple of \$5,000 in excess of \$250,000; and (ii) during any Fixed Rate Mode, \$5,000 or any integral multiple thereof.

#### Authorized Officer

The term “Authorized Officer” means the City’s Mayor, Controller, Director of Public Finance or any other person as may be designated and authorized to sign for the City.

#### Bank

The term “Bank” means, during any Index Rate Period, the holder of the Bonds, provided that there is a single holder of all of the Bonds and provided further that the Bonds are not then held under the Book-Entry System. If there is more than one holder of the Bonds during any Index Rate Period, “Bank” means holders owning a majority of the aggregate principal amount of the Bonds then Outstanding. If the Bonds are then held under the Book-Entry System, “Bank” means the Beneficial Owner of the Bonds, provided that there is a single Beneficial Owner of all of the Bonds. [If there is more than one Beneficial Owner of the Bonds during any Index Rate Period, “Bank” means Beneficial Owners who are the beneficial owners of a majority of the aggregate principal amount of the Bonds then Outstanding.] The initial Bank is U.S. Bank National Association.

#### Bank Purchase Date

The term “Bank Purchase Date” means, during any Index Rate Period, (i) the Initial Bank Purchase Date, (ii) during any Index Rate Period other than the Initial Period, the date designated by the City pursuant to the terms hereof, and (iii) the date which is seven calendar days (or if such seventh calendar day is not a Business Day, the next Business Day) after the date on which the City receives written notice from the Bank under an Agreement which (x) advises the City of the occurrence and continuance of an “Event of Default” under and as defined in such Agreement and (y) directs the City to cause a mandatory tender of the Bonds by reason of such “Event of Default.”

#### Base Rate

The term “Base Rate” has the meaning assigned to such term in the Agreement.



Bond Fund

The term "Bond Fund" means the fund of that name established pursuant to Section 11 of Resolution No. 160-94.

Book-Entry Bonds

The term "Book-Entry Bonds" means the Bonds registered in the name of the Nominee of a Depository as the Owner thereof pursuant to the terms and provisions of Section 10 hereof.

Bondholder; holder of Bonds; Bondowner; Owner; registered owner

The term "Bondholder" or "holder of Bonds" or "Bondowner" or "Owner" or "registered owner" means the person or persons in whose name or names a Bond shall be registered on the books of the City kept for that purpose in accordance with the terms of this Declaration of Trust.

Bonds; Serial Bonds; Term Bonds

The term "Bonds" means the City and County of San Francisco Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992) Series 2015A.

The term "Serial Bonds" means Bonds for which there are no Mandatory Sinking Account Payments.

The term "Term Bonds" means Bonds which are payable on or before their specified maturity dates from Mandatory Sinking Account Payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

Business Day

The term "Business Day" means any day other than a Saturday, Sunday, legal holiday or other day on which commercial banking institutions are authorized or required by law to be closed in California or New York.

Calculation Agent

The term "Calculation Agent" means the Bank or any other party appointed by the City, with the consent of the Bank so long as the Bank owns a majority of the Bonds.

City

The term "City" means the City and County of San Francisco, a city and county duly organized and existing under and by virtue of its Charter and the laws of the State.

Computation Date

The term "Computation Date" means with respect to Index Rate Bonds, the second New York Banking Day preceding each LIBOR Index Reset Date.

### Controller

The term "Controller" means the Controller of the City and County of San Francisco.

### Conversion Date

The term "Conversion Date" means an Index Rate Conversion Date or a Fixed Rate Conversion Date.

### Costs of Issuance

The term "Costs of Issuance" means all of the costs of issuing the Bonds, including but not limited to, all printing and document preparation expenses in connection with this Declaration of Trust, the Bonds and any and all other agreements, instruments, certificates or other documents prepared in connection therewith; CUSIP service bureau charges; legal fees and expenses of co-bond counsel with respect to the financing; the initial fees and expenses of any paying agent; co-financial advisory fees; advertising costs and other fees and expenses incurred in connection with the issuance of the Bonds, including the administrative costs of the City.

### Declaration of Trust

The term "Declaration of Trust" means this Declaration of Trust dated as of June 1, 2015, by the Treasurer on behalf of the owners of the Bonds, as originally executed and as it may from time to time be amended or supplemented in accordance with the terms hereof and the Agreement.

### Default Rate

The term "Default Rate" has the meaning set forth in the Agreement.

### Depository

The term "Depository" means any securities depository acting as Depository pursuant to Section 10(b) hereof.

### DTC

The term "DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

### DTC Participant or Participant

The term "DTC Participant" or "Participant" means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds Bonds as a securities depository.

### Electronic Notice

The term "Electronic Notice" means notice given by The Bond Buyer Wire or Bloomberg Business News.

### Event of Default

The term "Event of Default" means any of the events specified in Section 16 hereof.

### Federal Funds Rate

The term "Federal Funds Rate" is the interest rate at which banks and other depository institutions lend money to each other, usually on an overnight basis.

### Federal Securities

The term "Federal Securities" means any of the following which at the time are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

(1) United States Obligations (as herein defined); and

(2) Pre-refunded fixed interest rate municipal obligations meeting the following conditions: (a) the municipal obligations are not subject to redemption prior to maturity, or the trustee has been given irrevocable instructions concerning their calling and redemption and the issuer has covenanted not to redeem such obligations other than as set forth in such instructions; (b) the municipal obligations are secured by cash and/or United States Obligations; (c) the principal of and interest on the United States Obligations (plus any cash in the escrow fund or the redemption account) are sufficient to meet the liabilities of the municipal obligations; (d) the United States Obligations serving as security for the municipal obligations are held by an escrow agent or trustee; (e) the United States Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and (f) the municipal obligations are rated (without regard to any numerical modifier, plus or minus sign or other modifier), at the time of original deposit to the escrow fund, by any two of the three Rating Agencies (as defined herein) not lower than the rating then maintained by the respective Rating Agency on United States Obligations.

As used in this definition of "Federal Securities," "United States Obligations" shall mean (i) direct and general obligations of the United States of America, or obligations that are unconditionally guaranteed as to principal and interest by the United States of America, including without limitation, the interest component of Resolution Funding Corporation (REFCORP) bonds which have been stripped by request to the Federal Reserve Bank of New York in book-entry form or (ii) any security issued by an agency or instrumentality of the United States of America which is selected by the Director of Public Finance that results in the escrow fund being rated by any two of the three Rating Agencies (as defined herein), at the time of the initial deposit to the escrow fund and upon any substitution or subsequent deposit to the escrow fund, no lower than the rating then maintained by the respective Rating Agency on United States Obligations described in (i) herein.

### Fitch

The term "Fitch" means Fitch Ratings, a limited partnership organized and existing under the laws of the State of Delaware, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P and Moody's) designated by the City, and approved by the Bank.

### Fixed Rate or Fixed Rates

The term "Fixed Rate" or "Fixed Rates" means the fixed interest rate(s) on the Bonds as determined pursuant to Section 3(f) hereof.

### Fixed Rate Bonds

The term "Fixed Rate Bonds" means Bonds converted to the Fixed Rate.

### Fixed Rate Conversion Date

The term "Fixed Rate Conversion Date" means a day on which interest begins to accrue on the Bonds at the Fixed Rate following conversion pursuant to Section 3 hereof.

### Fixed Rate Mode

The term "Fixed Rate Modes" means the Mode during which the Bonds bear interest with reference to the Fixed Rate.

### Index Rate

The term "Index Rate" means the LIBOR Index Rate, Default Rate, or the Purchaser Rate, as applicable.

### Index Rate Bonds

The term "Index Rate Bonds" means Bonds that bear interest at an Index Rate.

### Index Rate Conversion Date

The term "Index Rate Conversion Date" each date on which the then-current Index Rate Period is changed to a new Index Rate Period pursuant to Section 3 hereof.

### Index Rate Mode

The term "Index Rate Mode" means the Mode during which the Bonds bear interest with reference to the Index Rate.

### Index Rate Period

The term "Index Rate Period" means any period during which the Bonds bear interest at an Index Rate.

### Initial Bank Purchase Date

The term "Initial Bank Purchase Date" means May [ ], 2020.

### Initial Period

The term "Initial Period" means the initial Index Rate Period commencing on the date of issuance of the Bonds and ending on the first to occur of (i) the Initial Bank Purchase Date, (ii) the Conversion Date next succeeding the date of issuance, (iii) the Maturity Date, and (iv) a Bank Purchase Date; *provided, however*, in the event the Bonds are not purchased or remarketed on the Initial Bank Purchase Date and the other applicable conditions of the Agreement are satisfied, the Initial Period shall end on the first to occur of (y) the date such Bonds are successfully remarketed and (z) the Amortization End Date.

### Interest Payment Date

The term "Interest Payment Date" means June 15 and December 15 of each year, commencing on December 15, 2015.

### Interest Payment Period

The term "Interest Payment Period" means:

(i) with respect to Index Rate Bonds, the period from and including the date of issuance or the Index Rate Conversion Date, as applicable, to and including the last calendar day of such month (or the calendar day immediately preceding a day that is a Conversion Date for such Index Rate Bonds) and thereafter, the period from and including the first calendar day of each month to and including the last calendar day of such month; and

(ii) with respect to Fixed Rate Bonds, the period from and including the Fixed Rate Conversion Date to and including the calendar day immediately preceding the next Interest Payment Date for such Bonds and thereafter, the period from and including each Interest Payment Date for such Bonds to and including the calendar day immediately preceding the next Interest Payment Date for such Bonds.

### Interest Rate Mode

The term "Interest Rate Mode" means an Index Rate Mode or Fixed Rate Mode.

### LIBOR Index

The term "LIBOR Index" means, for any day, the London interbank offered rate for U.S. dollar deposits for a one-month period, as reported on Reuters Screen LIBOR01 Page or any successor thereto, which shall be that one-month LIBOR rate in effect two New York Banking Days prior to the LIBOR Index Reset Date, adjusted for any reserve requirement and any subsequent costs arising from a change in government regulation, such rate to be reset monthly on each LIBOR Index Reset Date, or is such rate is not available, another rate determined by the Calculation Agent of which the City has received written notice.

LIBOR Index Rate

The term “LIBOR Index Rate” means a per annum rate of interest established on each Computation Date equal to the sum of the Applicable Spread plus the LIBOR Index.

LIBOR Index Rate Conversion Date

The term “LIBOR Index Rate Conversion Date” means (a) the date on which the Bonds begin to bear interest at the LIBOR Index Rate or (b) if the Bonds have previously borne interest at the LIBOR Index Rate during a LIBOR Index Rate Period then ending, the Bank Purchase Date occurring at the end of the then ending LIBOR Index Rate Period.

LIBOR Index Rate Period

The term “LIBOR Index Rate Period” means (a) the Initial Period and (b) each period thereafter from and including a LIBOR Index Rate Conversion Date to but excluding the earliest of (i) the immediately succeeding Bank Purchase Date, (ii) the immediately succeeding Conversion Date and (iii) the Maturity Date; *provided, however*, that the LIBOR Index Rate Period shall not include the Amortization Period.

LIBOR Index Reset Date

The term “LIBOR Index Reset Date” means the first calendar day of each calendar month.

Loan Fund

The term “Loan Fund” means the fund by that name established pursuant to former San Francisco Administrative Code Section 10.117-110 (now codified as San Francisco Administrative Code Section 10.100-315), as described in Section 12 of Resolution No. 160-94.

Mandatory Sinking Account Payments

The term “Mandatory Sinking Account Payments” means the amount of money required by or pursuant to this Declaration of Trust to be paid by the City on any Sinking Account Payment Date toward the retirement of any particular Term Bonds on or prior to their respective stated maturities.

Market Agent

The term “Market Agent” means any Person appointed by the City to serve as market agent in connection with a conversion to an Index Rate Period.

Maturity Date

The term “Maturity Date” means [June 1, 2035].

Maximum Rate

The term "Maximum Rate" means the lesser of the maximum rate allowed by law and twelve percent (12%) per annum.

Mode

The term "Mode" means, as the context may require, the Index Rate Mode or the Fixed Rate Mode.

Moody's

The term "Moody's" means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P and Fitch) designated by the City, and approved by the Bank.

New York Banking Day

The term "New York Banking Day" means any day (other than a Saturday or Sunday) on which commercial banks are open for business in New York, New York.

Opinion of Bond Counsel

The term "Opinion of Bond Counsel" means an opinion rendered by Schiff Hardin LLP and Richards/Watson/Gershon or any other by a nationally recognized bond counsel firm experienced in matters relating to the validity of obligations of state and political subdivisions.

Outstanding

The term "Outstanding" means all Bonds except:

- (1) Bonds theretofore canceled by the City and the Treasurer or surrendered to the Treasurer for cancellation;
- (2) Bonds paid or deemed to have been paid within the meaning of Section 3(f); and
- (3) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the City and the Treasurer pursuant hereto.

Program

The term "Program" means the City's program of making seismic safety loans from proceeds of the Seismic Safety Loan Bonds, including the Bonds.

Program Costs

The term "Program Costs" means capital expenditures incurred by the City for the Program and Costs of Issuance.

Purchase Date

The term "Purchase Date" means any date on which any Bond is required to be purchased pursuant to Section 5(a) hereof.

Purchase Price

The term "Purchase Price" means the purchase price of Bonds required to be purchased pursuant to Section 5(a) hereof.

Purchaser Rate

The term "Purchaser Rate" has the meaning set forth in the Agreement.

Rating Agency or Rating Agencies

The term "Rating Agency" means each of Fitch, Moody's and S&P (or collectively, "Rating Agencies") or any other nationally recognized bond rating agency or agencies then maintaining a rating on the Bonds and approved by the Bank, but, in each instance, only so long as Fitch, Moody's, S&P or such other nationally recognized rating agency then maintains a rating on the Bonds.

Record Date

The term "Record Date" means (i) the Business Day immediately preceding the applicable Interest Payment Date during the Index Rate Mode, and (ii) the first day of the month prior to an Interest Payment Date during a Fixed Rate Mode.

Resolution No. 160-94

The term "Resolution No. 160-94" means Resolution No. 160-94, adopted by the Board on February 22, 1994 and signed by the Mayor on February 25, 1994, pursuant to which the City authorized the issuance of the Seismic Safety Loan Bonds.

Series 2015A Bond Account

The term "Series 2015A Bond Account" means the account by that name established within the Bond Fund pursuant to Section 11 of this Declaration of Trust.

Series 2015A Costs of Issuance Account

The term "Series 2015A Costs of Issuance Account" means the account by that name established within the Loan Fund pursuant to Section 12 of this Declaration of Trust.



### Series 2015A Loan Account

The term "Series 2015A Loan Account" means the account by that name established within the Loan Fund pursuant to Section 12 of this Declaration of Trust.

### S&P

The term "S&P" means Standard and Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., its successors and their assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency (other than Moody's and Fitch) designated by the City, and approved by the Bank.

### Sinking Account Payment Date

The term "Sinking Account Payment Date" means any date on which Mandatory Sinking Account Payments on the Bonds are scheduled to be paid.

### State

The term "State" means the State of California.

### Treasurer

The term "Treasurer" means the Treasurer of the City, and any successors and assigns.

## SECTION 2. Terms of the Bonds.

(a) General. The Bonds shall initially be issued bearing interest at the Index Rate. The Index Rate to be applicable to the Bonds shall be determined by the Calculation Agent and notice thereof shall be given as provided herein. The first Interest Payment Date shall be December 15, 2015. The Bonds shall be dated as of the date of initial issuance of the Bonds and shall be numbered as determined by the City. Subject to prior redemption, the Bonds shall mature on the Maturity Date.

(b) Denominations and Interest. The Bonds shall be issued as fully registered Bonds in Authorized Denominations. Bonds bearing interest at an Index Rate shall be issued in the form of one single certificated bond for the aggregate principal amount of the Bonds registered in the name of the holder thereof or as otherwise directed by such holder. The Bonds shall be dated the date of issuance thereof and shall bear interest until maturity or prior redemption, as provided herein, provided that in no event shall the rate of interest on any Bond exceed at any time the Maximum Rate. All Bonds shall operate in the same Interest Rate Mode. Interest on the Bonds shall be payable on each Interest Payment Date, provided that if any Interest Payment Date is not a Business Day, such interest (and any principal due) shall be mailed or wired pursuant to this Section 2 on the next succeeding Business Day. While the Bonds are in an Index Rate Mode, interest on the Bonds shall be computed on the basis of a 360 day year for the actual days elapsed (calculated by multiplying the principal amount of the Bonds by the interest rate, dividing that sum by 360, and multiplying that amount by the actual days elapsed). When the Bonds are in a Fixed Rate Mode, interest on the Bonds will be calculated on the basis of a 360-

day year and twelve (12) 30-day months. On the date of issuance, the Bonds shall be Index Rate Bonds and bear interest at the LIBOR Index Rate; provided that from the date of issuance to but not including the first Business Day of the next succeeding month, the Bonds shall bear interest at the rate of [ ]% per annum. The initial Index Rate Period shall commence on and be effective from the date of issuance of the Bonds and shall continue through the end of the Initial Period.

The Index Rate shall be determined in accordance with Section 2(d). The Calculation Agent shall notify the City of the Index Rate for each Index Rate Period. All Index Rate Bonds shall bear interest accruing at the same Index Rate.

Unremarketed Bonds shall bear interest at the Purchaser Rate determined in accordance with the terms and provisions of the Agreement relating to such Unremarketed Bonds, as more fully set forth in Section 3(g) hereof.

(c) Payment of Principal and Interest.

(1) The principal of and premium, if any, on the Bonds shall be payable in lawful money of the United States of America upon surrender to the Treasurer.

(2) The interest on any Bonds shall be payable to the person whose name appears on the registration books (maintained pursuant to Section 9) as the registered owner thereof as of the close of business on the Record Date for each Interest Payment Date, such interest to be paid by check mailed by first-class mail, postage prepaid, on such Interest Payment Date, to the registered owner at his or her address as it appears on such registration books or, at the request of any Owner of at least \$1,000,000 aggregate principal amount of Bonds, and at all times that the Bonds are in an Index Rate Mode, by wire transfer of immediately available funds to the bank account or number within the United States specified by such Owner in writing to the Treasurer for that purpose prior to the applicable Record Date.

(d) The Index Rate Mode. During each LIBOR Index Rate Period, the Bonds shall, except as otherwise set forth herein, bear interest at the LIBOR Index Rate. The Calculation Agent shall determine the LIBOR Index Rate on each Computation Date during the LIBOR Index Rate Period, and such rate shall become effective on the LIBOR Index Reset Date next succeeding the Computation Date and interest at such rate shall accrue each day during such LIBOR Index Rate Period, commencing on and including the first day of such period to but excluding the last day of such period. The LIBOR Index Rate shall be rounded upward to the third decimal place. Promptly following the determination of the LIBOR Index Rate, the Calculation Agent shall give notice thereof to the City. If the LIBOR Index Rate is not determined by the Calculation Agent on the Computation Date, the rate of interest born on such Index Rate Bonds shall be the rate in effect for the immediately preceding Interest Payment Period until the Calculation Agent next determines the LIBOR Index Rate as required hereunder.

(e) Default Rate. Notwithstanding the foregoing provisions but subject to the Maximum Rate, upon the occurrence and continuation of an Event of Default, from and after the effective date of such Event of Default, the interest rate for Bonds in an Index Rate Period and Unremarketed Bonds shall be established at a rate at all times equal to the greater of (A) the

Default Rate and (B) the interest rate that otherwise would be applicable to the Bonds but for the provisions of this paragraph, payable on demand to the Bank.

(f) Excess Interest. Notwithstanding anything herein to the contrary, if during an Index Rate Period (or at any time the Bonds constitute Unremarketed Bonds) the rate of interest on the Bonds exceeds the Maximum Rate for such Bonds, then (i) such Bonds shall bear interest at the Maximum Rate and (ii) interest on such Bonds calculated at the rate equal to the difference between (A) the rate of interest for such Bonds as calculated pursuant to the terms hereof and (B) the Maximum Rate (the "Excess Interest") shall be deferred until such date or dates as the rate of interest borne by such Bonds as calculated pursuant to the terms hereof, is below the Maximum Rate, at which time Excess Interest shall be payable with respect to such Bonds to the extent such Excess Interest plus the scheduled interest equals the Maximum Rate. Payments of deferred Excess Interest shall no longer be due and payable upon the earlier to occur of the date on which the Bonds are tendered for purchase and are so paid or such Bonds are paid in full.

(g) Amortization Period. During the Amortization Period, the Bonds shall bear interest at the Purchaser Rate.

### SECTION 3. Conversions.

At the option of the City, the interest rate with respect to all (but not less than all) Bonds may be (i) on any LIBOR Index Reset Date, converted from an Index Rate to a new Index Rate or (ii) converted to a Fixed Rate, as follows:

(a) Conversion Date. In any such case, the Conversion Date shall be the first day following the last day of an Interest Payment Period for the Interest Rate Mode from which such Bonds are to be converted. Interest shall accrue on such Bonds at the new interest rate commencing on such Conversion Date, whether or not a Business Day. Any action required to be taken on such Conversion Date, if such day is not a Business Day, may be taken on the next succeeding Business Day as if it had occurred on such Conversion Date.

(b) Notice of Intent to Convert. The City shall give written notice of its intent to exercise its option to effect any such conversion to the Bank, during an Index Rate Period, not fewer than five days (or such shorter period as shall be acceptable to the applicable parties) prior to the date on which the City is required to provide notice to the Owners; provided, however, that during the Initial Period any Conversion is subject to any conditions set forth in the Agreement. Such notice shall specify the proposed Conversion Date (as well as the Bonds to which the conversion will be applicable). If the City does not elect in a timely fashion to convert to a new Interest Rate Mode, the Interest Rate Mode then in effect shall continue until changed by timely notice.

Additionally, such notice may confirm the appointment of a qualified Remarketing Agent to act as Remarketing Agent for the Bonds in connection with the mandatory tender of such Bonds by reason of such conversion and the appointment, subject to and in accordance with the terms hereof of a qualified Tender Agent to act as Tender Agent in such connection; provided, however, that no such confirmation and no such appointments shall be required if such Bonds are then Index Rate Bonds or Fixed Rate Bonds with a Fixed Rate that lasts to maturity and the Market Agent, the Remarketing Agent and the Tender Agent if any then acting with respect to

such Bonds are obligated to perform their duties and responsibilities with respect to the mandatory tender of such Bonds by reason of such conversion.

In addition, if an Index Rate is to be in effect immediately following such Conversion Date, such notice shall state the new Bank Purchase Date and the new Applicable Spread. The new Applicable Spread shall be determined by the Market Agent such that the applicable Index Rate shall be the interest rate per annum (based upon obligations comparable, in the judgment of the Market Agent, to the Bonds and known to the Market Agent to have been priced or traded under the prevailing market conditions) to be the minimum interest rate at which a Person will agree to purchase the Bonds on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof.

(c) Notice of Conversion and Mandatory Tender. Not fewer than 30 days prior to the proposed Conversion Date, the City shall give written notice of the conversion and of mandatory tender of the Bonds to the Owners of such Bonds at their addresses as they appear on the registration books as of the date notice of the election.

(d) Opinion of Bond Counsel. Any conversion pursuant to this Section shall be subject to the conditions that, on or before the Conversion Date, the City shall have delivered to the Bank (during an Index Rate Period), the Market Agent with respect to the affected Bonds or Remarketing Agent, as applicable, an Opinion of Bond Counsel to the effect that the conversion is authorized by this Declaration of Trust.

(e) Conditions to Conversion. Notwithstanding the City's delivery of notice of the exercise of its option to effect a conversion pursuant hereto, such conversion to the new Interest Rate Mode shall not take effect if:

(i) the City withdraws such notice of the exercise of its option to effect conversion not later than the Business Day preceding the date on which the interest rate at the new Interest Rate Mode is to be determined;

(ii) the Market Agent or the Remarketing Agent fails to determine, when required, the interest rate for the new Interest Rate Mode;

(iii) the notice to Owners of Bonds required hereby is not given when required;

(iv) the City fails to deliver to the Bank, if applicable, and the Market Agent the Opinion of Bond counsel referred to above; or

(v) sufficient funds are not available by Noon (San Francisco time) on the Conversion Date to purchase all of the Bonds required to be purchased on such Conversion Date.

In any of such events,

the Conversion Date shall not occur, whether or not notice of the conversion has been given to the Owners;

the Bonds:

bearing interest at an Index Rate shall continue to bear interest at an Index Rate determined as otherwise provided herein; and

bearing interest at a Fixed Rate shall bear interest as determined herein until all of such Bonds have been remarketed.

the mandatory tender of the Bonds on the Conversion Date pursuant to Section 5(a) shall not occur, whether or not notice of the conversion has been given to the holders of the Bonds. Notice of withdrawal of a conversion notice shall be given by the City to the Bank, if applicable, the Remarketing Agent, the Tender Agent, and the Calculation Agent, if any, by telephone, promptly confirmed in writing, and shall thereafter be promptly given to the holders of the Bonds by the City. No cancellation of a conversion pursuant to this Section shall constitute an Event of Default hereunder.

(f) Conversion to Fixed Rate Mode.

(1) At any time, the City may, establish a Fixed Rate Conversion Date from and after which the Bonds shall bear interest at a [one or more] Fixed Rates.

(2) The City shall determine the Fixed Rates to be in effect by any means including, without limitation, competitive offering of the Bonds, appointment of a remarketing agent or underwriting firm for a negotiated public sale of Bonds or by sale to one or more financial institutions.

(3) In connection with establishing the Fixed Rates, the City may establish terms for the optional redemption of the Bonds or for mandatory redemption from Sinking Fund Payments in accordance with Section 4(b).

(4) Upon receipt of an opinion of Bond Counsel, the City may convert all or a portion of the Bonds to Serial Bonds, in which case the City will prepare new bond certificates representing the maturities of the Bonds.

(g) Unremarketed Bonds. Notwithstanding anything herein to the contrary, (a) each Unremarketed Bond shall bear interest on the outstanding principal amount thereof at the Purchaser Rate applicable to such Unremarketed Bond in accordance with the Agreement relating to such Unremarketed Bond (as calculated by the Calculation Agent in accordance with such Agreement) for each day from and including the day such Bond becomes an Unremarketed Bond to and excluding the day such Bond ceases to be an Unremarketed Bond or is paid in full, (b) interest on each Unremarketed Bond shall be calculated on the basis of a 365 day year or a 360 day year, as applicable to the Purchaser Rate, in accordance with the Agreement relating to such Unremarketed Bond and the actual number of days elapsed, and (c) interest on each Unremarketed Bond shall be payable on such dates as are specified in the Agreement relating to such Unremarketed Bond (each such date an "Interest Payment Date" for such Unremarketed Bond). A Bond shall cease to be an Unremarketed Bond only if such Unremarketed Bond is remarketed and transferred or such Unremarketed Bond is redeemed in full.

(h) Calculation Agent. During the Initial Period, the Calculation Agent shall be the Bank, and thereafter shall be such other person as the City may appoint meeting the requirements herein. The City shall appoint any successor Calculation Agent for the Bonds, subject to the conditions set forth herein. Any Calculation Agent which is not also the Bank shall designate its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the City in which the Calculation Agent will agree to perform all calculations and provide all notices required of the Calculation Agent under this Declaration of Trust.

The Calculation Agent shall be a corporation duly organized under the laws of the United States of America or any state or territory thereof and shall be authorized by law to perform all the duties imposed upon it by this Declaration of Trust. The Calculation Agent may at any time resign and be discharged of the duties and obligations created by this Declaration of Trust by giving at least 60 days' notice to the City, and, if applicable, the Tender Agent and the Remarketing Agent. Upon receipt of such notice, during any Interest Rate Mode in which the services of a Calculation Agent are required under this Declaration of Trust, the City will diligently seek to appoint a successor Calculation Agent to assume the duties of the Calculation Agent on the effective date of the prior Calculation Agent's resignation with the prior consent of the Bank. In the event that the City shall fail to appoint a successor Calculation Agent in a timely manner when required under this Declaration of Trust, the holders shall either (i) appoint a Calculation Agent to act as such, or (ii) petition any court of competent jurisdiction for the appointment of a successor Calculation Agent, and such court may thereupon, after such notice, if any, as it may deem proper, appoint such successor Calculation Agent; provided however, that during the pendency of any such petition the holders shall act as Calculation Agent, service in any such case shall commence on the effective date of the resignation of the prior Calculation Agent and to remain in effect until a successor Calculation Agent assumes such position in accordance with the provisions hereof. The Calculation Agent may be removed at any time by written notice from the City to the Bank, provided that such removal shall not be effective until a successor Calculation Agent assumes such position in accordance with the provisions hereof.

Promptly after determining any interest rate required to be determined by the Calculation Agent under this Declaration of Trust, the Calculation Agent shall provide notice to the Bank, if applicable, the Tender Agent, the Remarketing Agent and any requesting Owner.

#### SECTION 4. Redemption of Bonds.

(a) Optional Redemption During Index Rate Mode and on a Conversion Date. The Bonds are subject to optional redemption as a whole or in part prior to maturity (i) on any Libor Index Reset Date that is a Business Day while the Bonds are in an Index Rate Mode, and (ii) on any Conversion Date at a redemption price equal to the principal amount thereof, without premium, plus accrued interest, if any, to the date fixed for redemption. The Bonds also are subject to optional redemption as a whole or in part prior to maturity on any date other than an Index Reset Date or Conversion Date while in the Index Mode, at the principal amount thereof, plus LIBOR Index breakage costs as calculated by the Calculation Agent, plus accrued interest, if any, to the date fixed for redemption.

(b) Mandatory Redemption from Mandatory Sinking Account Payments. The Bonds are subject to mandatory redemption by lot, on the dates and in the respective amounts as set

forth in Section 4(c) and 4(d) below, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; provided, however, that (i) if some but not all of the Bonds have been redeemed pursuant to subsections (a) above, the total principal amount of Bonds to be redeemed pursuant to this Section 4(b) subsequent to such redemption shall be reduced on a pro rata basis, or as otherwise specified in writing by the City, in integral multiples of an Authorized Denomination, and (ii) if the maturities of any Bonds are converted to Serial Bonds following a conversion to the Fixed Rate, such Serial Bonds shall not be subject to mandatory sinking fund redemption pursuant to this Section 4(b).

(c) Required Redemptions Following the Initial Bank Purchase Date. While the Bonds bear interest at an Index Rate following the Initial Bank Purchase Date, the City agrees to redeem Bonds in accordance with the Agreement.

(d) Redemption During Fixed Rate Mode.

(1) In connection with the Fixed Rate Conversion Date, the City may establish redemption provisions to be applicable thereafter. In such event, the City shall complete Exhibit C—"Redemption Provisions Applicable to Fixed Rate Bonds" and shall attach such Schedule as Exhibit C and this Declaration of Trust shall be deemed amended in such respect.

(2) During the Fixed Rate Period, in addition to the payment of interest on the Bonds, the City may redeem Bonds pursuant to optional redemption and shall redeem Bonds from Sinking Account Payments, in each case, in accordance with Exhibit C. Any mandatory redemption during the Fixed Rate Period shall be by lot on the dates and as set forth in Exhibit C, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; provided, however, that (i) if some but not all of the Bonds have been redeemed pursuant to subsections (a) above, the total principal amount of Bonds to be redeemed pursuant to this Section 4(d) subsequent to such redemption shall be reduced on a pro rata basis, or as otherwise specified in writing by the City, in integral multiples of an Authorized Denomination, and (ii) if the maturities of any Bonds are converted to Serial Bonds pursuant to Section 3(f) following a conversion to the Fixed Rate, such Serial Bonds shall not be subject to mandatory sinking fund redemption pursuant to this Section 4(d).

(e) Selection of Bonds for Redemption. Whenever less than all the Outstanding Bonds maturing on any one date are called for redemption on any one date, the Treasurer shall select the Bonds or portions thereof (in denominations of \$5,000 or any integral multiple thereof) to be redeemed from the Outstanding Bonds maturing on such date not previously selected for redemption, by lot, in any manner which the Treasurer deems fair.

(f) Notice of Redemption. Notice of any redemption of Bonds shall be mailed, postage prepaid, to the respective registered Owners thereof at the addresses appearing on the bond registration books not less than thirty (30) nor more than sixty (60) days prior to the redemption date. The notice of redemption shall (a) state the redemption date; (b) state the redemption price; (c) state the dates of maturity of the Bonds and, if less than all of any such

maturity is called for redemption the distinctive numbers of the Bonds of such maturity to be redeemed, and in the case of Bonds redeemed in part only, the respective portions of the principal amount thereof, to be redeemed; (d) state the series and the CUSIP number, if any, of each Bond to be redeemed; (e) require that such Bonds be surrendered by the Owners at the office of the Treasurer; and (f) give notice that further interest on such Bonds will not accrue after the designated redemption date.

The actual receipt by the Owner of any Bond of notice of such redemption shall not be a condition precedent to redemption, and failure to receive such notice shall not affect the validity of the proceedings for the redemption of such Bonds or the cessation of interest on the date fixed for redemption.

No less than thirty (30) days nor more than sixty (60) days before the redemption date, notice of the redemption shall be given by (i) registered or certified mail, postage prepaid, (ii) confirmed facsimile transmission or (iii) overnight delivery service, to each of the Securities Depositories and each of the Information Services.

The notice or notices required for redemption shall be given by the Treasurer. A certificate by said Treasurer that notice of call and redemption has been given to Owners of the Bonds as herein provided shall be conclusive as against all parties, and no Owner whose Bond is called for redemption may object thereto or object to the cessation of interest on the fixed redemption date by any claim or showing that said Owner failed to actually receive such notice of call and redemption. Any notice of redemption may be cancelled and annulled if for any reason funds are not or will not be available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation and annulment shall not be a default hereunder.

The City shall have the right to provide a conditional notice of optional redemption to the Owner of any Bond and to rescind any optional redemption by written notice to the Owner of any Bond previously called for redemption prior to the redemption date. Notice of rescission of optional redemption shall be provided in the same manner notice of redemption was originally provided. The actual receipt by the Owner of any Bond of notice of such rescission shall not be a condition precedent to rescission, and failure to receive such notice or any defect in such notice shall not affect the validity of the rescission.

(g) Payment of Bonds Called for Redemption. Prior to the time the City determines to call and redeem any of the Bonds, the Treasurer shall establish (i) an escrow fund with an escrow agent or (ii) a Redemption Fund to be described or known as the "Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992), Series 2015A Redemption Fund." Prior to or on the redemption date there shall be set aside in said escrow fund or Redemption Fund moneys or Federal Securities available for the purpose and sufficient to redeem, as in this Declaration of Trust provided, the Bonds designated in said notice of redemption. Said moneys must be set aside in said escrow fund or Redemption Fund solely for that purpose and shall be applied on or after the redemption date to payment for the Bonds to be redeemed upon presentation and surrender of such Bonds, and shall be used only for that purpose. After all of the Bonds have been redeemed and cancelled or paid and cancelled, any moneys remaining in said escrow fund or Redemption Fund shall be transferred to the General Fund of the City (the "General Fund"); provided, however, if the remaining moneys are part of the proceeds of



refunding bonds, said moneys shall be transferred to the fund created for the payment of principal of and interest on such refunding bonds.

When notice of redemption has been given and when the amount necessary for the redemption of the Bonds called for redemption (principal and premium, if any) is set aside for that purpose in said escrow fund or Redemption Fund, as provided for herein, the Bonds designated for redemption shall become due and payable on the date fixed for redemption, such Bonds shall be redeemed and paid at said redemption price out of said escrow fund or Redemption Fund, and no interest will accrue on such Bonds called for redemption after the date fixed for redemption in such notice, and the Owners of said Bonds so called for redemption after such redemption date shall look for the payment of such Bonds only to said escrow fund or Redemption Fund. All Bonds redeemed shall be cancelled forthwith by the Treasurer and shall not be reissued.

#### SECTION 5. Mandatory Tender of Bonds.

(a) Mandatory Tender During Index Rate Mode and on a Conversion Date. The Bonds are subject to mandatory tender, as a whole, but not in part, prior to maturity (i) on any Libor Index Reset Date that is a Business Day while the Bonds are in an Index Rate Mode, (ii) on any Conversion Date, (iii) on each Bank Purchase Date (each, a "Purchase Date") at a purchase price equal to the principal amount thereof, without premium, plus accrued interest, if any, to the Purchase Date. The Bonds also are subject to mandatory tender as a whole or in part prior to maturity on a Purchase Date other than an Index Reset Date or Conversion Date while in the Index Mode, at the principal amount thereof, plus LIBOR Index breakage costs as calculated by the Calculation Agent, plus accrued interest, if any, to the Purchase Date. On any Purchase Date, the Owner of such Bond shall tender such Bond for purchase as provided below and such Bond shall be purchased or deemed purchased as provided in Section 5(b) below at a purchase price equal to the principal amount thereof plus accrued interest thereon (the "Purchase Price"). Subject to Section 5(b) hereof, payment of the Purchase Price of such Bond shall be made by 1:30 p.m. (California time), in the same manner as payment of interest on the Bonds. The Owner shall deliver such Bonds no later than 9:30 a.m. (California time) on the Purchase Date to the Treasurer, accompanied by an instrument of transfer thereof, in form satisfactory to the Treasurer, with the signature guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs.

(b) Purchase of Bonds. The City shall establish a fund (the "Purchase Fund") to be held separate and apart from all other City funds, to be applied solely to the purchase of tendered Bonds. If moneys sufficient to pay the Purchase Price of Bonds to be purchased pursuant to Section 5(a) shall be on deposit in the Purchase Fund on the date such Bonds are to be purchased, any Bonds to be so purchased will be deemed to have been transferred on such date and to have been purchased. The Owner will thereafter have no rights with respect to such Bonds except to receive payment of the Purchase Price therefor.

(c) Notice of Mandatory Tender. Notice of any mandatory tender of Bonds shall be mailed, postage prepaid, to the respective registered Owners thereof at the addresses appearing on the bond registration books not less than thirty (30) nor more than sixty (60) days prior to the redemption date. The notice of mandatory tender shall (a) state the Purchase Date; (b) state the Purchase Price; (c) require that such Bonds be surrendered by the Owners at the office of the

Treasurer; and (d) give notice that further interest on such Bonds will not accrue after the designated Purchase Date.

Except when the Bonds are in an Index Rate Mode, actual receipt by the Owner of any Bond of notice of such mandatory tender shall not be a condition precedent to purchase, and failure to receive such notice shall not affect the validity of the proceedings for the purchase of such Bonds or the cessation of interest on the Purchase Date.

The notice required for mandatory tender shall be given by the Treasurer. A certificate by said Treasurer that notice of mandatory tender has been given to Owners of the Bonds as herein provided shall be conclusive as against all parties, and no Owner whose Bond is required to be purchased may object thereto or object to the cessation of interest on the Purchase Date by any claim or showing that said Owner failed to actually receive such notice of tender.

(d) Notwithstanding paragraph (a) above and anything to the contrary in this Declaration of Trust, in the event the Bonds are not purchased or remarketed on a Bank Purchase Date and all conditions precedent to any Amortization Period set forth in the Agreement are satisfied, then the Bonds shall be payable on the following terms: (i) the Bonds shall bear interest at the Purchaser Rate, unless an Event of Default (as defined in the Agreement) shall have occurred and be continuing, in which case the Bonds shall bear interest at the Default Rate, (ii) interest and principal shall be payable as set forth in the Agreement. In the event the Bonds are not purchased or remarketed on a Bank Purchase Date and all conditions precedent to any Amortization Period set forth in the Agreement are not satisfied, an Event of Default shall occur under this Declaration of Trust.

SECTION 6. Execution of Bonds. As provided in the Resolution, the Bonds shall be signed by the Mayor and the Treasurer and countersigned by the Clerk of the Board of Supervisors. The Treasurer is hereby authorized to authenticate Bonds. All signatures may be facsimile or manual, except for the Treasurer's authentication of the Bonds, which shall be a manual signature. Only such of the Bonds as shall bear thereon a certificate of authentication and registration in the form attached hereto as Exhibit A, executed by the Treasurer, shall be valid or obligatory for any purpose or entitled to the benefits of this Declaration of Trust, and such certificate of the Treasurer shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Declaration of Trust.

The Treasurer shall assign each Bond authenticated and registered a distinctive letter, or number, or letter and number, and shall maintain a record thereof which shall be available for inspection.

SECTION 7. Transfer of Bonds. (a) General. Subject to the limitations set forth below with respect to Index Rate Bonds, any Bond may, in accordance with its terms, be transferred, upon the books required to be kept pursuant to the provisions of Section 9 hereof, by the person in whose name it is registered, in person or by the duly authorized attorney of such person, upon surrender of such Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Treasurer.

Whenever any Bond or Bonds shall be surrendered for transfer, the designated City officials shall execute and the Treasurer shall authenticate and deliver a new Bond or Bonds of the same series and maturity, for a like aggregate principal amount. The Treasurer shall require the payment by any Bondowner requesting any such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

The City and the Treasurer may deem and treat the registered Owner of any Bonds as the absolute Owner of such Bonds for the purpose of receiving payment thereof and for all other purposes, whether such Bonds shall be overdue or not, and neither the City nor the Treasurer shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of and redemption premium, if any, on such Bonds shall be made only to such registered Owner, which payments shall be valid and effectual to satisfy and discharge liability on such Bonds to the extent of the sum or sums so paid.

No transfer of Bonds shall be required to be made by the Treasurer during the period from the Record Date next preceding each Interest Payment Date to such Interest Payment Date or after a notice of redemption shall have been mailed with respect to such Bond.

(b) Restrictions on Transfer of the Bonds. Prior to the Fixed Rate Conversion Date, the Bonds, or any interest thereon, may not be transferred other than to a purchaser who delivers to the City and the Initial Bondowner, a Purchaser Letter in the form attached hereto as Exhibit B.

(c) Bank as Representative. During the Initial Period, (1) the City shall be required to deal only with the Bank with respect to any matters under the Agreement; (2) only the Bank shall be entitled to enforce the provisions of the Agreement against the City, and (3) in the event the Bank, any Purchaser Transferee (as defined in the Agreement) or any combination thereof ceases to be the owner of a majority of the aggregate principal amount of the Bonds, no Non-Purchaser Transferee (as defined in the Agreement) shall constitute a Holder hereunder or have the benefits of the terms and provisions of the Agreement except to the extent necessary to give meaning and effect to the provisions of this Declaration of Trust.

SECTION 8. Exchange of Bonds. Bonds may be exchanged at the office of the Treasurer for a like aggregate principal amount of other authorized denominations of the same maturity and the same series. The Treasurer shall require the payment by the Bondowner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

No exchange of Bonds shall be required to be made by the Treasurer during the period from the Record Date next preceding each Interest Payment Date to such Interest Payment Date or after a notice of redemption shall have been mailed with respect to such Bond.

SECTION 9. Bond Registration Books. The Treasurer will keep or cause to be kept, at the office of the Treasurer sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection, and, upon presentation for such purpose, the Treasurer shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Bonds as hereinbefore provided.

SECTION 10. Book-Entry System.

(a) Initial Physical Bonds. The Bonds will be issued in the form of one physical bond certificate, registered in the name of the Initial Bondowner.

(b) Use of Depository. The City may elect at any time to convert the bonds to book-entry form in accordance with the following process; provided, that no such election shall be made without the prior written consent of the Bank at any time during which the Bonds are in an Index Rate Mode. The Depository Trust Company may appointed as depository for the Bonds. The Bonds will then be thereafter be in book-entry form ("Book-Entry Bonds"), and each maturity shall be in the form of a separate single fully registered Bond (which may be typewritten). Upon a conversion of the Bonds to Book-Entry Bonds, the ownership of each such Bond shall be registered in the bond register in the name of the CEDE & Co., as nominee (the "Nominee") of the Depository.

With respect to Book-Entry Bonds, the City shall have no responsibility or obligation to any Participant or to any person on behalf of which such a Participant holds an interest in such Book-Entry Bonds. Without limiting the immediately preceding sentence, the City shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee, or any Participant with respect to any ownership interest in Book-Entry Bonds, (ii) the delivery to any Participant or any other person, other than an Owner as shown in the bond register, of any notice with respect to Book-Entry Bonds, including any notice of redemption, (iii) the selection by the Depository and its Participants of the beneficial interests in Book-Entry Bonds to be redeemed in the event the City redeems such in part, or (iv) the payment of any Participant or any other person, other than an Owner as shown in the bond register, of any amount with respect to principal of, premium, if any, or interest on Book-Entry Bonds. The City may treat and consider the person in whose name each Book-Entry Bond is registered in the bond register as the absolute owner of such Book-Entry Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Treasurer shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owner, as shown in the bond register, or the respective Owner's attorney duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner as shown in the bond register, shall receive a Bond evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to this Declaration of Trust. Upon delivery by the Depository to the Bondowners, the Treasurer and the City of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to record dates, the word Nominee in this Declaration of Trust shall refer to such nominee of the Depository.

(c) Letter of Representations. In order to qualify the Book-Entry Bonds for the Depository's book-entry system, the City shall execute and deliver to the Depository a Letter of Representations. The execution and delivery of such Letter of Representations shall not in any way impose upon the City or the Treasurer any obligation whatsoever with respect to persons having interests in such Book-Entry Bonds other than the Owners, as shown on the bond register.

In addition to the execution and delivery of such Letter of Representations, the City shall take such other actions, not inconsistent with this Declaration of Trust, as are reasonably necessary to qualify Book-Entry Bonds for the Depository's book-entry program.

(d) Transfers Outside Book-Entry System. In the event (i) the Depository determines not to continue to act as securities depository for the Book-Entry Bonds, or (ii) the Depository shall no longer so act and gives notice to the Treasurer and the City of such determination, then the City will discontinue the book-entry system with the Depository. If the City determines to replace the Depository with another qualified securities depository, the City shall prepare or direct the preparation of a new single, separate, fully registered Bond for each of the maturities of such Book-Entry Bonds, registered in the name of such successor or substitute qualified securities depository or its nominee. If the City fails to identify another qualified securities depository to replace the Depository, then the Bonds shall no longer be restricted to being registered in such bond register in the name of the Nominee, but shall be registered in whatever name or names Owners transferring or exchanging such Bonds shall designate, in accordance with provisions of Sections 6 and 7 hereof.

Notwithstanding any other provision of this Declaration of Trust to the contrary, so long as any Book-Entry Bond is registered in the name of the Nominee, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Letter of Representations or as otherwise instructed by the Depository.

SECTION 11. Series 2015A Bond Account of the Bond Fund. Pursuant to Section 4 of Resolution No. 160-94, there has previously been established with the Treasurer a special fund designated as the Taxable General Obligation Bonds (Seismic Safety Loan Program) Bond Fund (the "Bond Fund"), into which all taxes levied and collected for the purpose of paying the principal of and interest on the Seismic Safety Loan Bonds are deposited. There is hereby established in trust a special account within the Bond Fund designated the "Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992), Series 2015A Bond Account" (the "Series 2015A Bond Account"). Any amounts on deposit in the Series 2015A Bond Account when there are no longer any Bonds Outstanding and no amounts owing under any Agreement shall be applied as specified in Section 4 of Resolution No. 160-94.

All taxes levied pursuant to the Resolution for payment of the Bonds shall be deposited upon collection by the City into the Series 2015A Bond Account and used for the payment of the principal of (whether due on account of maturity or due to Mandatory Sinking Account Payments), premium, if any, and interest on the Bonds (collectively, the "Debt Service") and the purchase price of the Bonds upon tender. On the Business Day immediately preceding each Interest Payment Date, the Treasurer shall transfer from the Series 2015A Bond Account any amounts necessary, when added to any available moneys contained in the Series 2015A Bond Account, to pay the Debt Service on the Bonds on such Interest Payment Date and purchase price of the Bonds on any Purchase Date.

On or prior to the date on which any Bonds are to be redeemed or prepaid at the option of the City pursuant to this Declaration of Trust, the Treasurer may allocate to and deposit in the Series 2015A Redemption Account, from amounts held in the Bond Fund pursuant to Section 4 of Resolution No. 160-94, an amount which, when added to any available moneys contained in

the Series 2015A Redemption Fund, is sufficient to pay principal, interest and premium, if any, on such Bonds on such date. The Treasurer may make such other provision for the payment of principal and interest and any premium on the Bonds as is necessary or convenient to permit the optional redemption or prepayment of the Bonds.

If at any time it is deemed necessary or desirable by the City, the Treasurer may establish additional funds under this Declaration of Trust and/or accounts or subaccounts within any of the funds or accounts established hereunder.

SECTION 12. Loan Fund; Series 2015A Loan Account and Series 2015A Costs of Issuance Account. As described in Section 14 of Resolution No. 160-94 and pursuant to former San Francisco Administrative Code Section 10.117-110 (now codified as San Francisco Administrative Code Section 10.100-315), there has previously been established with the Treasurer a special fund designated as the Seismic Safety Loan Fund (the "Loan Fund"). There is hereby established in trust a special account within the Loan Fund designated the "Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992), Series 2015A Loan Fund" (the "Series 2015A Loan Account"). The Series 2015A Loan Account shall be maintained by the Treasurer, as a separate account, segregated and distinct from all other accounts. All moneys in the Series 2015A Loan Account shall be applied exclusively to the object and purpose specified in the proposition set forth in Section 3 of Resolution No. 160-94.

The Treasurer shall establish, maintain and hold in trust a separate account within the Loan Fund designated as the "Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992), Series 2015A Costs of Issuance Account" (the "Series 2015A Costs of Issuance Account"). Moneys deposited in the Series 2015A Costs of Issuance Account shall be used to pay Costs of Issuance with respect to the Bonds. At the end of four months from the date of initial execution and delivery of the Bonds, the City shall transfer the balance remaining therein to the Series 2015A Loan Account to be applied to Program Costs.

All of the proceeds of the sale of the Bonds, excluding any premium and accrued interest received thereon (which shall be deposited in the Series 2015A Bond Account), shall be deposited by the Treasurer to the credit of the Series 2015A Loan Account and the Series 2015A Costs of Issuance Account as provided in Section 12 of this Declaration of Trust. Any moneys remaining in the Series 2015A Loan Account when such objects and purposes set forth above have been accomplished shall be transferred to the Series 2015A Bond Account and applied to the payment of the principal of and interest on the Bonds.

SECTION 13. Application of Bond Proceeds. Proceeds from the sale of the Bonds in the amount of \$ \_\_\_\_\_ shall be deposited in the Series 2015A Loan Account, [and \$ \_\_\_\_\_ into the Costs of Issuance Account within the Series 2015A Loan Account].

SECTION 14. Investment of Moneys. All moneys held by the Treasurer in any of the accounts or funds shall be invested solely in cash or securities which constitute legal investments of City funds.

SECTION 15. Moneys Held in Trust. All amounts held in any fund or account established hereunder) are held in trust for the benefit of the registered Owners of the Bonds and are hereby irrevocably pledged to the payment of the interest and premium, if any, and principal

of the Bonds as provided herein, and such amounts shall not be used for any other purpose while any of the Bonds remain Outstanding; provided, however, that out of such amounts there may be applied such sums for such purposes as are permitted hereunder. This pledge shall constitute a first pledge of and charge and lien upon all moneys on deposit in the funds and accounts established hereunder the payment of the interest on, premium, if any, and principal of the Bonds in accordance with the terms hereof and thereof.

SECTION 16. Events of Default. (a) While all of the Bonds are owned by the Initial Bondowner, the occurrence of any of the following events shall constitute an Event of Default:

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

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

(3) if default shall be made by the City in the performance or observance of any other of the material covenants, agreements or conditions on its part in this Declaration of Trust, the Agreement, or in the Bonds contained, and such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the City by the Initial Bondowner,

(4) failure to purchase Bonds on a Purchase Date (except as provided in Section 5(d) hereof; or

(5) during an Index Rate Period or in the event any Bonds constitute Unremarketed Bonds, the City shall receive a written notice from the Bank that an event of default has occurred under the Agreement.

then and in each and every such case during the continuance of such Event of Default, the Initial Bondowner in its discretion, may proceed to protect or enforce its rights under the Bonds by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein or therein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Initial Bondowner shall deem most effectual in support of any of its rights.

(b) During the continuance of an Event of Default, all such unpaid amounts shall bear interest at the Default Rate.

SECTION 17. Defeasance. Any Bonds may be defeased prior to maturity in the following ways:

(a) By irrevocably depositing an amount of cash which together with amounts then on deposit in the Series 2015A Bond Account, is sufficient, without reinvestment, to pay and discharge all of the Outstanding Bonds (including all principal, interest and premium, if any) at

or before their stated maturity date and to pay all amounts due or to become due under the Agreement; or

(b) By irrevocably depositing Federal Securities not subject to call, together with cash, if required, in such amount as will, without reinvestment, in the opinion of an independent certified public accountant, together with interest to accrue thereon and moneys then on deposit in the Series 2015A Bond Account together with the interest to accrue thereon, be fully sufficient to pay and discharge all of the Bonds (including all principal and interest and premium, if any) at or before their stated maturity date and to pay all amounts due or to become due under the Agreement;

then, notwithstanding that any of the Bonds shall not have been surrendered for payment, all obligations of the City with respect to all said outstanding Bonds shall cease and terminate, except only the obligation of the City to pay or cause to be paid from funds deposited pursuant to paragraphs (a) or (b) of this Section, to the Owners of said Bonds not so surrendered and paid all sums due with respect thereto; provided that the City shall have received an Opinion of Bond Counsel to the effect that said Bonds have been defeased.

If cash or Federal Securities have been set aside and are held for the payment of principal of any particular Bonds at the maturity date thereof and all interest installments and any redemption premium thereon in accordance with the preceding paragraph, then such Bonds shall be deemed defeased within the meaning and with the effect as provided in the preceding paragraph.

SECTION 18. Amendments. The City, from time to time and at any time, may amend this Declaration of Trust or enter into a declaration of trust supplemental hereto, which shall form a part hereof; provided that the City shall have received an Opinion of Bond Counsel to the effect that such amendment or supplement will not materially and adversely affect the interests of the Owners of the Bonds. Further, the City and the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding may from time to time and at any time, amend this Declaration of Trust or enter into a declaration of trust supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Declaration of Trust or of any supplemental declaration of trust; provided, however, that no such amendment or supplement shall (1) extend or have the effect of changing the fixed maturity or redemption terms of any Bond or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof, without the express consent of the Owner of such Bond or (2) reduce the aforesaid percentage of Owners whose consent is required for the execution of such amendments or supplements.



This DECLARATION OF TRUST is executed by the Treasurer of the City and County of San Francisco as of the date and year first above mentioned.

TREASURER OF THE CITY AND COUNTY OF  
SAN FRANCISCO

---

APPROVED:

MAYOR OF THE CITY AND  
COUNTY OF SAN FRANCISCO

---

ATTESTED:

---

Clerk of the Board of  
Supervisors

CONTROLLER OF THE CITY AND  
COUNTY OF SAN FRANCISCO

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Approved as to form:  
DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

EXHIBIT A

[FORM OF BOND]

TRANSFER OF THIS BOND IS RESTRICTED AS SET FORTH IN THE DECLARATION  
OF TRUST

<u>Number</u> _____	UNITED STATES OF AMERICA STATE OF CALIFORNIA	<u>Amount</u> \$ _____
	CITY AND COUNTY OF SAN FRANCISCO GENERAL OBLIGATION BONDS (SEISMIC SAFETY LOAN PROGRAM, 1992) SERIES 2015A	

<u>Interest Rate</u> Variable	<u>Maturity Date</u> [June 1, 2035]	<u>Dated</u> June __, 2015
----------------------------------	--	-------------------------------

REGISTERED OWNER:  
PRINCIPAL AMOUNT:

THE CITY AND COUNTY OF SAN FRANCISCO, State of California (herein called the "City"), acknowledges itself indebted to and promises to pay to the Registered Owner hereof or registered assigns, on the Maturity Date set forth above, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America, and to pay interest thereon in like lawful money from the interest payment date next preceding the date of authentication of this bond (unless this bond is authenticated during the period from the last day of the month immediately preceding each Interest Payment Date (the "Record Date") to such Interest Payment Date, inclusive, in which event it shall bear interest from such Interest Payment Date, or unless this bond is authenticated on or before December 15, 2015, in which event it shall bear interest from the date of its delivery) until payment of such principal sum. Interest on the Bonds shall be payable on each Interest Payment Date, provided that if any Interest Payment Date is not a Business Day, such interest (and any principal due) shall be mailed or wired pursuant to this Section 2 on the next succeeding Business Day. While the Bonds are in an Index Rate Mode, interest on the Bonds shall be computed on the basis of a 360 day year for the actual days elapsed (calculated by multiplying the principal amount of the Bonds by the interest rate, dividing that sum by 360, and multiplying that amount by the actual days elapsed). When the Bonds are in a Fixed Rate Mode, interest on the Bonds will be calculated on the basis of a 360-day year and twelve (12) 30-day months

The principal hereof is payable to the registered owner hereof upon the surrender hereof at the office of the Treasurer of the City (the "Treasurer") in San Francisco, California. The interest on any Bonds shall be payable to the person whose name appears on the registration books of the Treasurer as the registered owner thereof as of the close of business on the Record Date for each Interest Payment Date, such interest to be paid by check mailed by first-class mail, postage prepaid, on such Interest Payment Date, to the registered owner at his or her address as it

appears on such registration books or, at the request of any Owner of at least \$1,000,000 aggregate principal amount of Bonds, and at all times that the Bonds are in an Index Rate Mode, by wire transfer of immediately available funds to the bank account or number within the United States specified by such Owner in writing to the Treasurer for that purpose prior to the applicable Record Date.

This bond is one of a duly authorized issue of bonds of like tenor (except for such variations, if any, as may be required to designate varying numbers, denominations, interest rates, maturities and redemption provisions), amounting in the aggregate of \$24,000,000 (the "Bonds"), and is authorized, issued and sold by the City pursuant to and in strict conformity with the provisions of the Constitution and laws of said State, and the Charter of the City. The Board of Supervisors of the City (the "Board of Supervisors") authorized the issuance of the Bonds in Resolution No. \_\_-15 adopted by the Board of Supervisors on May 19, 2015 which was signed by the Mayor on May \_\_, 2015 (the "Resolution") and a Declaration of Trust executed by the Treasurer as of June 1, 2015 (the "Declaration of Trust").

On the date of issuance, the Bonds shall be Index Rate Bonds and bear interest at the LIBOR Index Rate; provided that from the date of issuance to but not including the first Business Day of the next succeeding month, the Bonds shall bear interest at the rate of [ ]% per annum. The initial Index Rate Period shall commence on and be effective from the date of issuance of the Bonds and shall continue through the end of the Initial Period. The Index Rate shall be determined in accordance with the Declaration of Trust (hereinafter defined).

At the option of the City, the interest rate with respect to all (but not less than all) Bonds may be (i) on any LIBOR Index Reset Date, converted from an Index Rate to a new Index Rate or (ii) converted to a Fixed Rate, in each case in accordance with the Declaration of Trust.

The Bonds are subject to optional redemption as a whole or in part prior to maturity (i) on any Libor Index Reset Date that is a Business Day while the Bonds are in an Index Rate Mode, and (ii) on any Conversion Date at a redemption price equal to the principal amount thereof, without premium, plus accrued interest, if any, to the date fixed for redemption. . The Bonds are also subject to optional redemption purchase, as a whole or in part, prior to maturity on any date other than the Index Reset Date or a Conversion Date, while in the Index Mode, at the principal amount thereof, plus LIBOR Index breakage costs as calculated by the Calculation Agent, plus accrued interest, if any, to the date fixed for redemption. During the Fixed Rate Mode, the Bonds are subject to optional redemption on the dates and at the redemption prices specified in the Declaration of Trust. The Bonds are also subject to redemption from Mandatory Sinking Account Payments established for the dates and in the amounts set forth in the Declaration of Trust.

The Bonds are subject to mandatory tender for purchase as a whole, but not in part, prior to maturity (i) on any Libor Index Reset Date that is a Business Day while the Bonds are in an Index Rate Mode, and (ii) on any Conversion Date at a purchase price equal to the principal amount thereof, without premium, plus accrued interest, if any, to the purchase date. The Bonds are also subject to mandatory tender for purchase, as a whole, but not in part, prior to maturity on any date other than the Index Reset Date or a Conversion Date, while in the Index Mode, at the principal amount thereof, plus LIBOR Index breakage costs as calculated by the Calculation Agent, plus accrued interest, if any, to the purchase date.

The Bonds are issuable as fully registered bonds without coupons in Authorized Denominations, provided that no Bond shall have principal maturing on more than one principal maturity date. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Resolution, Bonds may be exchanged for a like aggregate principal amount of Bonds of the same series and maturity in authorized denominations.

This Bond is transferable by the Registered Owner hereof, in person or by attorney duly authorized in writing, at said office of the Treasurer, but only in the manner, subject to the limitations and upon payment of the charges provided in the Declaration of Trust, and upon surrender and cancellation of this Bond. Upon such transfer, a new Bond or Bonds of authorized denomination or denominations for the same series and same aggregate principal amount will be issued to the transferee in exchange herefor.

Prior to the Fixed Rate Conversion Date, the Bonds, or any interest thereon, may not be transferred other than to a purchaser who delivers to the City and the Initial Bondowner, a Purchaser Letter in the form attached hereto as Exhibit B to the Declaration of Trust.

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

The Board of Supervisors hereby certifies and declares that the total amount of indebtedness of said City, including the amount of this Bond, is within the limit provided by law, that all acts, conditions and things required by law to be done or performed precedent to and in the issuance of this Bond have been done and performed in strict conformity with the laws authorizing the issuance of this Bond, that this Bond is in the form prescribed by order of the Board of Supervisors duly made and entered on its minutes and shall be payable out of the interest and sinking fund of said City, and the money for the redemption of this Bond, and the payment of interest thereon, shall be raised by taxation upon the taxable property of said City.

This Bond shall not be entitled to any benefit under the Ordinance and the Declaration of Trust, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon endorsed shall have been signed by the Treasurer.

In the event of any conflict or inconsistency between the terms and provisions of this Bond and the terms and provisions of the Declaration of Trust, the terms and provisions of the Declaration of Trust shall control.

IN WITNESS WHEREOF the Board of Supervisors of the City and County of San Francisco has caused this Bond to be executed with the official seal of the City and County of San Francisco and with the signature or a facsimile thereof by the Mayor of the City and County of San Francisco and the Treasurer, to be countersigned by the Clerk of said Board, which signature is to be countersigned by a Deputy Clerk of said Board all as of June \_\_, 2015.

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Mayor of the City and County  
of San Francisco

[SEAL]

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Treasurer of the City and County  
of San Francisco

Countersigned:

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Clerk of the Board of  
Supervisors

Countersigned:

---

Deputy Clerk of the Board  
of Supervisors

**FORM OF TREASURER'S CERTIFICATE**

**OF AUTHENTICATION AND REGISTRATION TO APPEAR ON BONDS**

This is one of the Bonds described in the within-mentioned Ordinance and authenticated and registered on June \_\_, 2015.

TREASURER OF THE CITY AND COUNTY  
OF SAN FRANCISCO

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

**FORM OF ASSIGNMENT**

For value received the undersigned do(es) hereby sell, assign and transfer unto \_\_\_\_\_ the within-mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, to transfer the same on the books of the Treasurer with full power of substitution in the premises.

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

Signature Guarantee: \_\_\_\_\_

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

Tax ID Number: \_\_\_\_\_

**PRIOR TO THE FIXED RATE CONVERSION DATE, THE BONDS, OR ANY INTEREST THEREON, MAY NOT BE TRANSFERRED OTHER THAN TO A PURCHASER WHO DELIVERS TO THE CITY AND THE INITIAL BONDOWNER, A PURCHASER LETTER IN THE FORM ATTACHED TO THE DECLARATION OF TRUST AS EXHIBIT B.**

EXHIBIT B

FORM OF PURCHASER LETTER

[ADDRESSEES]

Re: \$ \_\_\_\_\_ City and County of San Francisco Taxable General Obligation  
Bonds (Seismic Safety Loan Program, 1992), Series 2015A

Ladies and Gentlemen:

[NAME OF PURCHASER] ("Purchaser") has agreed to purchase the above-referenced debt obligations (the "Debt Obligations") in the amount of [AMOUNT] which were issued in the original aggregate principal amount of [AMOUNT] by the City and County of San Francisco (the "Issuer") pursuant to the Declaration of Trust executed by the Issuer. All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Indenture. The undersigned, an authorized representative of the Purchaser, hereby represents to you that:

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits represented by the purchase of the Debt Obligations.
2. The Purchaser has authority to purchase the Debt Obligations 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 Debt Obligations.
3. The Purchaser is a national bank organized under the laws of the United States of America and is able to bear the economic risks of purchasing the Debt Obligations.
4. The Purchaser understands that an official statement, prospectus, offering circular, or other comprehensive offering statement has not been provided with respect to the Debt Obligations. The Purchaser has made its own inquiry and analysis with respect to the Issuer and the Debt Obligations and the security therefor, and other material factors affecting the security for and payment of the Debt Obligations.
5. The Purchaser acknowledges that it has reviewed information, including financial statements and other financial information, regarding the Issuer and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer and the Debt Obligations and the security therefor, so that it has been able to make an informed decision to purchase the Debt Obligations; provided, however, that this letter shall not constitute a waiver of any rights or remedies the Purchaser may have with respect to any untrue information it may have received or any material information which was withheld from its review.
6. The Debt Obligations are being acquired by the Purchaser for its own account and not with a present view toward resale, transfer or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or distribute the Debt Obligations, but agrees that any such sale, transfer or distribution by the Purchaser shall be to a Person that:

- (a) is an affiliate of the Purchaser;
- (b) the Purchaser reasonably believes is qualified to purchase the Debt Obligations;
- (c) is a trust or other custodial arrangement established by the Purchaser or one of its affiliates; or
- (d) executes a letter substantially in the form of this letter.

[PURCHASER]

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



EXHIBIT C

REDEMPTION PROVISIONS APPLICABLE TO FIXED RATE BONDS

Optional Redemption

Mandatory Redemption from Sinking Fund Installments

37941-0008  
SF321451006.1



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CONTINUING COVENANT AGREEMENT

dated as of June 1, 2015,

between

CITY AND COUNTY OF SAN FRANCISCO

and

U.S. BANK NATIONAL ASSOCIATION

relating to

\$24,000,000

CITY AND COUNTY OF SAN FRANCISCO TAXABLE GENERAL OBLIGATION BONDS  
(SEISMIC SAFETY LOAN PROGRAM, 1992)  
SERIES 2015A

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RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
MAY 15 AM 9:52

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## CONTINUING COVENANT AGREEMENT

THIS CONTINUING COVENANT AGREEMENT, dated as of June 1, 2015 (as amended, modified or restated from time to time, this "*Agreement*"), between the CITY AND COUNTY OF SAN FRANCISCO and U.S. BANK NATIONAL ASSOCIATION, a national banking association.

### RECITALS

WHEREAS, the City and County of San Francisco (the "*Issuer*") has issued its \$24,000,000 City and County of San Francisco Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992) Series 2015A (the "*Bonds*") pursuant to a Declaration of Trust dated as of June [ ], 2015 (as the same may be amended, modified or restated in accordance with the terms thereof and hereof, as amended, supplemented or otherwise modified in accordance with the terms hereof, the "*Declaration of Trust*") of the Issuer; and

WHEREAS, the Purchaser has agreed to make a loan to the Issuer by purchasing the Bonds, and as a condition to such purchase, the Purchaser has required the Issuer to enter into this Agreement.

NOW, THEREFORE, to induce the Purchaser to make a loan to the Issuer by purchasing the Bonds, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Issuer and the Purchaser hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

*Section 1.01. Certain Defined Terms.* In addition to the terms defined in the recitals and elsewhere in this Agreement and the Declaration of Trust, the following terms shall have the following meanings:

"*1933 Act*" means the Securities Act of 1933, as amended.

"*Affiliate*" means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

"*Agreement*" has the meaning set forth in the introductory paragraph hereof.

"*Amortization End Date*" means the earliest to occur of (a) the fifth (5th) anniversary of the Mandatory Tender Date, (b) the date on which the interest rate on all of the Bonds have been

converted to an interest rate other than the Index Interest Rate and (c) the date on which all Bonds are redeemed, repaid, prepaid or cancelled in accordance with the terms of the Declaration of Trust.

*"Anti-Terrorism Laws"* has the meaning set forth in Section 5.01(t) hereof.

*"Applicable Spread"* has the meaning set forth in the Declaration of Trust.

*"Bank Agreement"* means any credit agreement, liquidity agreement, standby bond purchase agreement, reimbursement agreement, direct purchase agreement, bond purchase agreement, or other agreement or instrument (or any amendment, supplement or other modification thereof) under which, directly or indirectly, any Person or Persons undertake(s) to make or provide funds to make payment of, or to purchase or provide credit enhancement for General Obligation Debt.

*"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 (1.00%), (ii) the Federal Funds Rate in effect at such time *plus* two percent (2.00%), and (iii) six percent (6.00%).

*"Bond Counsel"* means Schiff Hardin LLP and Richards, Watson & Gershon, Professional Corporation, or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Issuer.

*"Bondholder"* means the Purchaser and each Purchaser Transferee or Non-Purchaser Transferee pursuant to Section 9.13 hereof so long as such Purchaser Transferee or Non-Purchaser Transferee is an owner of Bonds.

*"Bonds"* has the meaning set forth in the recitals hereof.

*"Business Day"* means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the states where the principal corporate office of the Issuer is located are authorized by law to close, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal offices of the Calculation Agent or the principal office of the Purchaser is closed.

*"CAFR"* has the meaning set forth in Section 6.01(a) hereof.

*"Calculation Agent"* has the meaning assigned to such term in the Declaration of Trust.

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

*"Code"* means the Internal Revenue Code of 1986, as amended, and, where appropriate any statutory predecessor or any successor thereto.

“*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 Issuer, are treated as a single employer under Section 414 of the Code.

“*Debt*” of any Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person as lessee under capital leases, (e) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, (f) all Guarantees by such Person of Debt of other Persons and (g) all obligations of such Person under any Swap Agreement; *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 Issuer, Debt shall exclude conduit, enterprise and other Debt that have no claim on the General Fund of the Issuer.

“*Declaration of Trust*” has the meaning set forth in the recitals hereof.

“*Default*” means any event or condition which, with notice, the passage of time or any combination of the foregoing, would constitute an Event of Default.

“*Default Rate*” means, for any day, a rate of interest per annum equal to the sum of the Base Rate in effect on such day plus two percent (2.00%). [NTD: **put rate cap on Bonds in DOT**]

“*Effective Date*” means June [ ], 2015, subject to the satisfaction or waiver by the Purchaser of the conditions precedent set forth in Article III hereof.

“*EMMA*” means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

“*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, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time. References to Sections of ERISA shall be construed also to refer to any successor Sections.

“*Event of Default*” with respect to this Agreement has the meaning set forth in Section 7.01 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 4.02(c) hereof.

“*Excluded Taxes*” means, with respect to a Bondholder, taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or in which its principal office is located.

“*Executive Order*” has the meaning set forth in Section 5.01(t) 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 Purchaser on such day on such transactions as determined by the Purchaser.

“*Fiscal Year*” means the twelve month period from July 1 through the following June 30.

“*Fitch*” means Fitch Ratings, Inc.

“*FRB*” means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“*General Obligation Debt*” means any Debt of the Issuer secured by or payable from voter-approved property tax levies authorized under Proposition A, including, without limitation, all obligations represented by bonds, notes, indentures, certificates, debentures and similar obligations which are general obligations of the Issuer.

*"Generally Accepted Accounting Principles"* or *"GAAP"* means generally accepted accounting principles in effect from time to time in the United States and applicable to entities such as the Issuer.

*"Governmental Approval"* means an authorization, consent, approval, license, or exemption of, registration or filing with, or report to any Governmental Authority.

*"Governmental Authority"* means any federal, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including any zoning authority, the Federal Deposit Insurance Corporation or the Federal Reserve Board, any central bank or any comparable authority), or any arbitrator with authority to bind a party at law.

*"Guarantee"* means, as to any Person, any (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Debt or other obligation payable or performable by another Person (the *"primary obligor"*) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Debt or other obligation of any other Person, whether or not such Debt or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Debt to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term *"Guarantee"* as a verb has a corresponding meaning.

*"Indemnitee"* has the meaning set forth in Section 8.01 hereof.

*"Index Rate"* has the meaning set forth in the Declaration of Trust.

*"Index Rate Period"* has the meaning set forth in the Declaration of Trust.

*"Initial Period"* has the meaning set forth in the Declaration of Trust.

*"Interest Payment Date"* shall mean with respect to Unremarketed Bonds, (i) each June 15 and December 15, and (ii) any date on which any of the Bonds (including Unremarketed Bonds) are redeemed.

*“Investment Policy”* means the investment policy of the Issuer delivered to the Purchaser, pursuant to Section 3.01(a)(iii) hereof.

*“Issuer”* means the City and County of San Francisco, California.

*“Issuer Representative”* means any person authorized from time to time in writing by the Issuer, or its successors and assigns, to perform a designated act or execute a designated document.

*“Laws”* 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.

*“Liabilities”* has the meaning set forth in Section 8.01 hereof.

*“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).

*“Mandatory Tender Date”* means any date on which the Bonds are subject to mandatory tender for purchase including, without limitation, on the last day of the Initial Period pursuant to Section 5(a)(3) of the Declaration of Trust, (i.e., June [ ], 2020). **[Do the comments indicate that a term out would be available if the City causes a mandatory tender prior to the end of the Initial Period?]**

*“Mandatory Tender Purchase Price”* means an amount equal to 100% of the principal amount of the Bonds subject to mandatory tender for purchase on the Mandatory Tender Date and accrued interest thereon, if applicable.

*“Margin Stock”* has the meaning ascribed to such term in Regulation U promulgated by the FRB, as now and hereafter from time to time in effect.

*“Material Adverse Effect”* means: (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Issuer; (b) a material impairment of the ability of the Issuer to perform its obligations under any Related Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Issuer of any Related Document to which it is a party.

“*Maximum Interest Rate*” means the lesser of (i) the maximum rate of interest on the relevant obligation permitted by applicable law and (ii) twelve (12) percent per annum].

“*Moody’s*” means Moody’s Investors Service, Inc.

“*Non-Purchaser Transferee*” has the meaning set forth in Section 9.13(c) hereof.

“*Obligations*” means all amounts payable by the Issuer, and all other obligations to be performed by the Issuer, pursuant to this Agreement and the other Related Documents (including any amounts to reimburse the Purchaser for any advances or expenditures by it under any of such documents).

“*OFAC*” has the meaning set forth in Section 5.01(t) hereof.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56 (signed into law October 26, 2001)..

“*PBGC*” means the Pension Benefit Guaranty Corporation or any successor thereto.

“*Person*” means any individual, corporation, not for profit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity.

“*Plan*” means, with respect to the Issuer 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 Issuer 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 Issuer is a part is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

“*Prime Rate*” means on any day, the rate of interest per annum then most recently established by the Purchaser 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 the Purchaser 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 Purchaser may make various business or other loans at rates of interest having no relationship to such rate. If the Purchaser 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.

*"Property"* means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

*"Proposition A"* means that certain ballot measure approved by the voters of the City of County of San Francisco by more than two-thirds of the votes cast on the proposition at any election held on November 3, 1992, authorizing the issuance by the Issuer of \$350,000,000 aggregate principal amount of general obligation bonds, including the Bonds, to provide funds for loans to finance the seismic strengthening of unreinforced masonry buildings within the City and County of San Francisco.

*"Purchase Price"* has the meaning set forth in Section 2.01(a) hereof.

*"Purchaser"* means U.S. Bank National Association, a national banking association, and its successors and assigns.

*"Purchaser Letter"* has the meaning set forth in Section 9.13(c) hereof.

*"Purchaser Rate"* means a fluctuating interest rate per annum which, for each day, shall equal the Base Rate from time to time in effect *plus* 1.0%; *provided that* if an Event of Default has occurred and is continuing, the Purchaser Rate shall equal the Default Rate.

*"Purchaser Transferee"* has the meaning set forth in Section 9.13(b) hereof.

*"Rating Agency"* means any of S&P, Moody's and Fitch, as applicable.

*"Rating Documentation"* has the meaning set forth in Section 3.01(d)(iii) hereof.

*"Related Documents"* means this Agreement, the Declaration of Trust, the Bonds, the Resolution, and any other documents related to any of the foregoing or executed in connection therewith, and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing.

*"Resolution"* means, collectively, Resolution No. 160-94 adopted by the Board of Supervisors of the Issuer on February 22, 1994, which was signed by the Mayor of the Issuer on February 25, 1994, Resolution No. 284-14 adopted by the Board of Supervisors of the Issuer on July 22, 2014, which was signed by the Mayor of the Issuer on July 31, 2014, and Resolution No. [ ]-15 adopted by the Board of Supervisors of the Issuer on [ ], 2015, which was signed by the Mayor of the Issuer on [ ], 2015.

*"Risk-Based Capital Guidelines"* means (i) the risk-based capital guidelines in effect in the United States, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States including transition rules, and any amendments to such regulations.

*"S&P"* means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

“State” means the State of California.

“Swap Agreement” 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.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Unremarketed Bonds” means Bonds with respect to which the Purchaser has not received payment of the Mandatory Tender Purchase Price on the Mandatory Tender Date.

*Section 1.02. Computation of Time Periods.* In this Agreement, 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 mean “to but excluding.”

*Section 1.03. Construction.* Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The Section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Section, subsection and exhibit references are to this Agreement unless otherwise specified.

*Section 1.04. 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 Effective Date, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Section 5.01(l) 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 Issuer or the Purchaser may by notice to the other party hereto, require that the Purchaser and the Issuer 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 Issuer shall be the same as if such change had not been made. No delay by the Issuer or the Purchaser 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 1.04, financial covenants shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles.

*Section 1.05. 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 Issuer 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 Issuer 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 Issuer nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) of this Section 1.05, 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.

(c) All provisions of this Agreement making reference to specific Sections of any Related Document shall be deemed to incorporate such Sections into this Agreement by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and shall continue in full force and effect with respect to this Agreement notwithstanding payment of all amounts due under or secured by the Related Documents, the termination or defeasance thereof or any amendment thereto or any waiver given in connection therewith, so long as this Agreement is in effect and until all Obligations are paid in full. No amendment, modification, consent, waiver or termination with respect to any of such Sections shall be effective as to this Agreement until specifically agreed to in writing by the parties hereto with specific reference to this Agreement.

(d) In the event of any direct conflict between the terms and provisions relating to the payment of principal and interest on the Bonds set forth in the Declaration of Trust and those set forth herein, the Declaration of Trust shall control.

## ARTICLE II

### PURCHASE OF BONDS

*Section 2.01. Purchase of Bonds.* (a) *Purchase Price.* Upon the conditions set forth in Article III hereof and based on the representations, warranties and covenants of the Issuer set

forth herein, the Purchaser hereby agrees to make a loan to the Issuer by purchasing from the Issuer all, but not less than all, of the Bonds at the purchase price of [\$24,000,000] representing the aggregate principal amount of the Bonds (the "Purchase Price").

(b) *Closing.* On the Effective Date, the Issuer shall deliver to the Purchaser the documents described in Article III hereof. Upon delivery of such documents, the Purchaser will pay the full Purchase Price for the Bonds in immediately available federal funds payable to the Issuer. One fully registered Bond, in the aggregate principal amount equal to the Purchase Price, shall be issued to and registered in the name of the Purchaser, or as otherwise directed by the Purchaser. The Bonds shall be so issued and registered to and held by the Purchaser, or as otherwise directed by the Purchaser.

### ARTICLE III

#### CONDITIONS PRECEDENT TO PURCHASE OF BONDS

*Section 3.01. Documentary Requirements.* The obligation of the Purchaser to make a loan to the Issuer by purchasing the Bonds is subject to the conditions precedent that the Purchaser shall have received, on or before the Effective Date, the items listed below in this Section, each dated and in form and substance as is satisfactory to the Purchaser.

(a) The following Issuer documents:

(i) copies of the Resolution certified by an Issuer Representative as being true and complete and in full force and effect as of a date reasonably prior to the Effective Date;

(ii) the audited annual financial statements of the Issuer for the Fiscal Year ended June 30, 2014; and [NTD: **The Bank will provide a customary investor letter**]

(iii) a certificate dated the Effective Date and executed by a Issuer Representative certifying the names and signatures of the persons authorized to sign, on behalf of the Issuer, the Related Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(b) The following financing documents:

(i) an executed original or certified copy, as applicable, of each of the Related Documents; and

(ii) one fully registered Bond in certificated form, executed by the Issuer, in the principal amount equal to the Purchase Price, issued to and registered in the name of the Purchaser, or as otherwise directed by the Purchaser.



(c) The following opinions, dated the Effective Date and addressed to the Purchaser or on which the Purchaser is otherwise expressly authorized to rely:

(i) An opinion or opinions of the City Attorney of the Issuer or Bond Counsel, in form and substance satisfactory to the Purchaser and its counsel, addressed to the Purchaser, to the effect that (A) this Agreement and the other Related Documents have been duly authorized, executed and delivered by the Issuer and constitute a legal, valid and binding agreements of the Issuer enforceable against the Issuer in accordance with their respective terms (except that (i) the enforcement of the Agreement and the Related Documents 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) this Agreement satisfies the terms and conditions of the Declaration of Trust and the Resolution, (C) the Board of Supervisors of the Issuer has the power and authority to, is duly authorized to, and is obligated to, levy ad valorem taxes for the payment of the principal of the Bonds and the interest thereon and all other Obligations payable hereunder, upon all property subject to taxation by the Issuer without limitation as to rate or amount (except certain personal property which is taxable at limited rates), and (D) the Issuer has the authority and power to execute this Agreement and the other Related Documents.

(ii) from the City Attorney of the Issuer as counsel to the Issuer, in form and substance satisfactory to the Purchaser and its counsel, and addressed to the Purchaser.

(d) The following documents and other information:

(i) a certificate dated the Effective Date and executed by a Issuer Representative certifying (A) that there has been no event or circumstance since June 30, 2014, that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (B) that the representations and warranties contained in Article V hereof and the other Related Documents are true and correct in all material respects on the Effective Date, (C) no event has occurred and is continuing, or would result from entry into this Agreement, which would constitute a Default or Event of Default and (D) since the dated date of the Rating Documentation, the unenhanced long-term debt ratings assigned to any General Obligation Debt has not been withdrawn, suspended or reduced;

(ii) true and correct copies of all Governmental Approvals, if any, necessary for the Issuer to execute, deliver and perform the Related Documents to which it is a party; and

(iii) recent evidence that the unenhanced long-term debt rating assigned by Moody's, S&P and Fitch to any General Obligation Debt is at least "Aa1," "AA+" and "AA," respectively (the "*Rating Documentation*").

*Section 3.02. Litigation.* The Purchaser shall have received a written description of all actions, suits or proceedings pending or threatened against the Issuer in any court or before any arbitrator of any kind or before or by any governmental or non-governmental body which could reasonably be expected to result in a Material Adverse Effect, if any, and such other statements, certificates, agreements, documents and information with respect thereto as the Purchaser may reasonably request.

*Section 3.03. Other Matters.* All other legal matters pertaining to the execution and delivery of this Agreement and the Related Documents shall be satisfactory to the Purchaser and its counsel, and the Purchaser shall have received such other statements, certificates, agreements, documents and information with respect to the Issuer and the other parties to the Related Documents and matters contemplated by this Agreement as the Purchaser may reasonably request.

*Section 3.04. Payment of Fees and Expenses.* On or prior to the Effective Date, Chapman and Cutler LLP, as counsel to the Purchaser, shall have received (or the Issuer shall have provided for) payment of its legal fees and expenses incurred in connection with the preparation, review, negotiation, execution and delivery of the Related Documents.

*Section 3.05. No Bond Rating; DTC; CUSIP.* At no time during an Index Rate Period shall the Bonds be (i) assigned a specific rating by any Rating Agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of official statement, private placement memorandum or other offering document, (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service or (v) placed or offered by a broker-dealer in the capacity of an underwriter or a placement agent.

## ARTICLE IV

### THE ISSUER'S OBLIGATIONS

*Section 4.01. Payment Obligations.* (a) The Issuer hereby unconditionally, irrevocably and absolutely agrees to make prompt and full payment of all payment obligations owed to the Purchaser under the Related Documents and to pay any other Obligations owing to the Purchaser whether now existing or hereafter arising, irrespective of their nature, whether direct or indirect, absolute or contingent, with interest thereon at the rate or rates (but subject to the Maximum Rate) provided in such Related Documents and under such Obligations.

(b) In the event the Purchaser has not received the Mandatory Tender Purchase Price on the Mandatory Tender Date, the Issuer shall cause the Unremarketed Bonds to be redeemed in full on the Mandatory Tender Date; *provided* that, if the Issuer is required to redeem Unremarketed Bonds as set forth above and (i) no Default or Event of Default shall have occurred and be continuing and (ii) the representations and warranties set forth in Article V shall be true and correct as if made on, and shall be deemed to have been made on, the Mandatory Tender Date (except to the extent that any such representations and warranties expressly relate to an earlier date), then the Issuer shall cause the principal amount of such Bonds to be redeemed in semi-annual installments in accordance with the Declaration of Trust; *provided, however,* that

the Issuer acknowledges and agrees that, notwithstanding anything contained herein or in any Related Document to the contrary, Unremarketed Bonds shall be redeemed in full no later than the Amortization End Date. Interest on Unremarketed Bonds shall accrue at the Purchaser Rate or the Default Rate, as applicable, be payable on each Interest Payment Date, and be calculated on the basis of a 360-day year and actual days elapsed.

(c) The Issuer shall pay within thirty (30) days after demand:

(i) if an Event of Default shall have occurred, all costs and expenses of the Purchaser in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Agreement, the other Related Documents and such other documents which may be delivered in connection therewith;

(ii) a fee for each amendment to this Agreement or any other Related Document or any consent or waiver by the Purchaser with respect to any Related Document, in each case, in a minimum amount of \$2,500 plus the reasonable fees and expenses of counsel to the Purchaser;

(iii) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Purchaser in connection with advising the Purchaser as to its rights and responsibilities under this Agreement and the other Related Documents or in connection with responding to requests from the Issuer for approvals, consents and waivers; and

(iv) any amounts advanced by or on behalf of the Purchaser 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, if at any time any Governmental Authority shall require revenue or other documentary stamps or any other tax in connection with the execution or delivery of this Agreement or other Related Documents, then, if the Issuer lawfully may pay for such stamps, taxes or fees, the Issuer shall pay, when due and payable, for all such stamps, taxes and fees, including interest and penalties thereon, and the Issuer agrees to save the Purchaser harmless from and against any and all liabilities with respect to or resulting from any delay of the Issuer in paying, or omission of the Issuer to pay, such stamps, taxes and fees hereunder.

*Section 4.02. Increased Payments. (a). Increased Costs.* (i) If, on or after the Effective Date, the adoption of any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any change in the interpretation, promulgation, implementation or administration thereof by any governmental or quasi-governmental authority, central bank or comparable agency charged with the interpretation or administration thereof including, notwithstanding the foregoing, all requests, rules, guidelines or directives in connection with Dodd-Frank Wall Street Reform and Consumer Protection Act, or promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) pursuant to Basel III or any successor Basel accord regardless of the date enacted, adopted or

issued, or compliance by the Purchaser or any other Bondholder with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency:

(A) subjects the Purchaser or any other Bondholder to any Taxes, or changes the basis of taxation of payments (other than with respect to Excluded Taxes) to the Purchaser or any other Bondholder hereunder or with respect to the Bonds, or

(B) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by the Purchaser or any other Bondholder, or

(C) imposes any other condition the result of which is to increase the cost to the Purchaser or any other Bondholder with respect to this Agreement, the Bonds or its making, maintenance or funding of the Bonds or any security therefor, or reduces any amount receivable by the Purchaser or any other Bondholder with respect to this Agreement, the Bonds, or the loan evidenced by the Bonds, or requires any Purchaser to make any payment calculated by reference to any amount received with respect to this Agreement, the Bonds, or the making, maintenance or funding of any loan, by an amount deemed material by such Purchaser or other Bondholder as the case may be,

and the result of any of the foregoing is to increase the cost to such Purchaser or other Bondholder with respect to this Agreement, the Bonds, or the making, maintenance or funding of the purchase of the Bonds or of participating the same or to reduce the return received by such Purchaser or other Bondholder, as the case may be, in connection with the same, then, to the extent permitted by law, within sixty (60) days of demand by such Purchaser or other Bondholder, as the case may be, the Issuer shall pay such Purchaser or other Bondholder such additional amount or amounts as will compensate such Purchaser, or other Bondholder for such increased cost or reduction in amount received; *provided however*, the Issuer shall not be obligated to pay such costs incurred before 180 days prior to the notification thereof, except where (i) the Bank or such other Bondholder, as applicable, had no actual knowledge of the action resulting in such increased costs, increased capital or reduction in the rate of return, as applicable, as of the date which is 180 days prior to the notification thereof or (ii) such increased costs, reserve or tax apply to the Bank or such other Bondholder retroactively to a date prior to the date which is 180 days prior to the notification thereof; *provided, further*, that the Purchaser acknowledges that the Issuer may have to levy taxes in accordance with Proposition A to pay the amounts (if any) that may arise under this sub clause.

(ii) If a Purchaser or other Bondholder determines the amount of capital required or expected to be maintained by such Purchaser or other Bondholder or any corporation controlling such Purchaser or other Bondholder is increased as a result of a Change (as hereinafter defined), then, within forty-five (45) days of demand by such Purchaser or other Bondholder, the Issuer shall, to the extent permitted by law, pay such Purchaser or other Bondholder the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which such Purchaser or other Bondholder determines is attributable to this Agreement or the Bonds, as the case may be, hereunder (after taking into account such Purchaser or other

Bondholder's policies as to capital adequacy). "Change" means (i) any change after the date of this Agreement in the Risk-Based Capital Guidelines (as hereinafter defined) or (ii) any adoption of or change in any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) or in the interpretation, promulgation, implementation or administration thereof after the date of this Agreement which affects the amount of capital required or expected to be maintained by any Purchaser or other Bondholder or any corporation controlling any such Purchaser or other Bondholder. Notwithstanding the foregoing, for purposes of this Agreement, all requests, rules, guidelines or directives in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act shall be deemed to be a Change regardless of the date enacted, adopted or issued and all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) pursuant to Basel III or any successor Basel accord or the United States financial regulatory authorities shall be deemed to be a Change regardless of the date adopted, issued, promulgated or implemented; *provided however*, the Issuer shall not be obligated to pay such additional compensation for a period up to 180 days prior to the notification thereof, except where (i) the Bank or such other Bondholder, as applicable, had no actual knowledge of the action resulting in such amounts, as of the date which is 180 days prior to the notification thereof or (ii) such amounts apply to the Bank or such other Bondholder retroactively to a date prior to the date which is 180 days prior to the notification thereof; *provided, further*, that the Purchaser acknowledges that the Issuer may have to levy taxes in accordance with Proposition A to pay the amounts (if any) that may arise under this sub clause.

(iii) In connection with any costs imposed upon the Issuer by the Purchaser or other Bondholder pursuant to this Section 4.02(a), the Purchaser or other Bondholder shall (A) promptly notify the Issuer of such costs and (B) provide the Issuer with a certificate as to such increased cost, increased capital or reduction in return incurred by the Purchaser or other Bondholder as a result of any event mentioned in clause (i) or (ii) of this Section 4.02(a) setting forth, in reasonable detail, the basis for such calculation and the amount of such calculation submitted by the Purchaser or other Bondholder to the Issuer which calculation shall be conclusive (absent manifest error) as to the amount thereof. In making the determinations contemplated by the above referenced certificate, the Purchaser or other Bondholder may make such reasonable estimates, assumptions, allocations and the like that the Purchaser or other Bondholder in good faith determines to be appropriate.

(b) *Default Rate.* Upon the occurrence and during the continuance of an Event of Default, the Obligations shall bear interest at the Default Rate, which shall be payable by the Issuer to each Bondholder (or, if applicable, the Purchaser) upon demand therefore and be calculated on the basis of a 360-day year and actual days elapsed. [NTD: Calculation convention is 360 days per Term Sheet]

(c) *Maximum Interest Rate.* (i) If the amount of interest payable for any period in accordance with the terms hereof or the Bonds exceeds the amount of interest that would be payable for such period had interest for such period been calculated at the Maximum Interest Rate, then interest for such period shall be payable in an amount calculated at the Maximum Interest Rate.

(ii) Any interest that would have been due and payable for any period but for the operation of the immediately preceding subclause (i) shall accrue and be payable as provided in this subclause (ii) and shall, less interest actually paid to each Bondholder for such period, constitute the "Excess Interest Amount." If there is any accrued and unpaid Excess Interest Amount as of any date, then the principal amount with respect to which interest is payable shall bear interest at the Maximum Interest Rate until payment to each Bondholder of the entire Excess Interest Amount.

(iii) Notwithstanding the foregoing, on the date on which no principal amount with respect to the Bonds remains unpaid, the Issuer shall, to the extent not prohibited by law, pay to each Bondholder a fee equal to any accrued and unpaid Excess Interest Amount.

(d) *Survival.* To the extent not prohibited by law, the obligations of the Issuer under clauses (a) and (b) of this Section 4.02 shall survive the termination of this Agreement and the redemption or other payment in full of the Bonds.

*Section 4.03. Obligations Absolute.* The payment obligations of the Issuer under this Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including without limitation the following:

(a) any lack of validity or enforceability of this Agreement, the Bonds 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 Issuer may have at any time against the Purchaser, any other Bondholder 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.

Notwithstanding this Section, the Purchaser acknowledges the Issuer may have the right to bring a collateral action with respect to one or more of the foregoing circumstances. The Issuer's payment obligations shall remain in full force and effect pending the final disposition of any such action. All fees payable pursuant to this Agreement shall be deemed to be fully earned when due and non-refundable when paid.

*Section 4.04. Funding Indemnity.* In the event the Purchaser shall incur any loss, cost, or expense (including, without limitation, any loss, cost, or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired or contracted to be acquired by the Purchaser to purchase or hold the Bonds or the relending or reinvesting of such deposits or other funds or amounts paid or prepaid to the Purchaser) as a result of any redemption or conversion of the Bonds on a date other than an Interest Payment Date for any reason, whether

before or after default, and whether or not such payment is required by any provision of this Agreement or the Declaration of Trust, then upon the demand of the Purchaser, the Issuer shall pay to the Purchaser a redemption or conversion premium, as applicable in such amount as will reimburse the Purchaser for such loss, cost, or expense. If the Purchaser requests such redemption or conversion premium, as applicable, it shall provide to the Issuer a certificate setting forth the computation of the loss, cost, or expense giving rise to the request for such redemption or conversion premium, as applicable in reasonable detail and such certificate shall be conclusive if reasonably determined. All of the Issuer's obligations under this Section 4.04 shall survive the termination of this Agreement and the repayment, satisfaction or discharge of all other Obligations.

*Section 4.05. Purchaser Consent to Subsequent Index Interest Rate Period.* (a) So long as the Purchaser is the Bondholder, on or before the date one hundred eighty (180) days prior to the end of the Initial Period, the Issuer may provide written notice to the Purchaser of its desire to change the interest rate mode of the Bonds (including conversion to a new Index Interest Rate Period) and requesting the Purchaser to purchase such Bonds in such new Index Interest Rate Period or provide the liquidity or credit enhancement necessary to facilitate the conversion of the Bonds to such new interest rate mode. The Purchaser will make reasonable efforts to respond to such request within ninety (90) days after receipt of all information necessary, in the Purchaser's reasonable judgment, to permit the Purchaser to make an informed credit decision. The Purchaser may, in its sole and absolute discretion, decide to accept or reject any such request and no consent shall become effective unless the Purchaser shall have consented thereto in writing. In the event the Purchaser fails to definitively respond to such request within such ninety (90) day period, the Purchaser shall be deemed to have refused to grant such request. The consent of the Purchaser, if granted, shall be conditioned upon the preparation, execution and delivery of documentation in form and substance satisfactory to the Purchaser. In the event the Issuer and the Purchaser fail to document in writing their agreement of the proposed rate(s) and terms of the succeeding period(s), the Issuer shall continue to be required to repurchase the Bonds on the Mandatory Tender Date for a purchase price of 100% of the par amount plus accrued interest to the Mandatory Tender Date.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

*Section 5.01. Representations and Warranties.* The Issuer makes the following representations and warranties to each Bondholder:

(a) *Existence.* The Issuer 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 Bonds, 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 Issuer of this Agreement and the other Related Documents to which it is a party are within the Issuer's powers, have been duly authorized by all necessary action, and duly executed, 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 Issuer or by which the Issuer 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 Issuer (other than pursuant to such enumerated documents). The Issuer is not a party to, or otherwise subject to, any provision contained in any instrument evidencing indebtedness of the Issuer, 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 Issuer that would materially and adversely affect the ability of the Issuer 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 Issuer is a party each constitutes a valid, binding and enforceable agreement of the Issuer, 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 Issuer 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 Purchaser prior to the Effective Date, there is no action, suit or proceeding pending with service of process having been accomplished against, or to the knowledge of the Issuer, threatened against or affecting, the Issuer before any court or arbitrator or any governmental body, agency or official seeking to restrain or enjoin the sale, execution or delivery of the Bonds (including, without limitation the Unremarketed Bonds) or in any way contesting or affecting the validity of the Bonds (including, without limitation the Unremarketed Bonds) 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 Issuer to perform its obligations hereunder or under the Related Documents to which it is a party or (ii) the enforceability or validity of the Declaration of Trust or any of the other Related Documents.

(f) *No Sovereign Immunity.* The Issuer 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 Issuer hereby makes to the Purchaser the same representations and warranties made by the Issuer 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 Purchaser.

(h) *No Proposed Legal Changes.* There is no amendment, or, to the knowledge of the Issuer, 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 Issuer is a party, or (ii) the performance by the Issuer of its obligations under this Agreement or the other Related Documents to which the Issuer is a party.

(i) *No Public Vote or Referendum.* There is no public vote or referendum pending, proposed or concluded, the results of which could reasonably be expected to result in a Material Adverse Effect.

(j) *Disclosure.* Except as disclosed in writing to the Purchaser prior to the Effective Date, there is no fact known to the Issuer, as of the date this representation is made, that would have a material adverse effect on (i) the ability of the Issuer 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 Issuer as of June 30, 2014, as well as each CAFR of the Issuer as of any more recent date, delivered to the Purchaser 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 Issuer as at such date and the results of the operations of the Issuer 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 Issuer which would materially and adversely affect the ability of the Issuer to perform its obligations hereunder or under any other Related Documents to which it is a party which has not been disclosed by the Issuer to the Purchaser.

(l) *Legal Matters.* The Issuer is in material compliance with all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction over the Issuer, non-compliance with which would materially and adversely affect the ability of the Issuer 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 Issuer conducts an ongoing review of Environmental Regulations on the business, operations and properties of the Issuer, 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 Issuer has reasonably concluded that Environmental Regulations are unlikely to have a material adverse effect on the Property or the ability of the Issuer to pay any of its Obligations hereunder or under any other Related Document.

(n) *Regulations T, U and X.* The Issuer 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 Bonds will be or have been used to extend credit to others for the purpose of purchasing or carrying any margin stock.

(o) *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.

(p) *General Obligation.* The Charter, Proposition A, the Resolution, and the Declaration of Trust obligate the Issuer to levy ad valorem property taxes on all property subject to taxation by the Issuer sufficient to pay the principal of and interest on the Bonds (including, without limitation the Unremarketed Bonds) and all other Obligations. All obligations in respect of principal of, and interest on, the Bonds (including, without limitation the Unremarketed Bonds) and all other Obligations constitute obligations of the Issuer payable from an annual tax upon all property subject to taxation by the Issuer or other available moneys, and such principal and interest are secured by a pledge of such *ad valorem* property taxes levied and collected pursuant to Proposition A.

(q) *Anti-Terrorism Laws.* The Issuer hereby agrees to provide documentary and other evidence as may be reasonably requested by the Purchaser at any time to enable the Purchaser to verify the Issuer's compliance with applicable law or regulation, including, without limitation, regulations of OFAC (defined below). The Issuer is not any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “*Executive Order*”);

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which the Purchaser is prohibited from dealing or otherwise engaging in any transaction by any Laws relating to terrorism or money laundering (“*Anti-Terrorism Laws*”), including the Executive Order;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(v) a Person that is named as a “specially designated national and blocked person” on the most current list published by the Office of Foreign Asset Control (“*OFAC*”) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list.

## ARTICLE VI

### COVENANTS OF THE ISSUER

*Section 6.01. Covenants.* The Issuer covenants and agrees, until the full and final payment and satisfaction of all of the Obligations, except in any instance in which the Purchaser specially agrees in writing to any performance or noncompliance, that:

(a) *Information.* The Issuer will prepare or cause to be prepared and deliver to the Purchaser, as promptly as available, and in any event no later than 270 days after the end of each fiscal year of the Issuer, the complete Comprehensive Annual Financial Report (“*CAFR*”) of the Issuer, certified as to the fairness of presentation and conformity with GAAP consistently applied, by a recognized firm of independent certified public accountants; *provided* that delivery of such financial statements shall be deemed satisfied upon the Bank’s receipt of written notice that the same have been posted electronically on a website that the Bank has access to; and

(i) concurrently with the delivery of the financial statements delivered to the Purchaser 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 Issuer 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.

**[Reporting of Prop A Collections and Debt Service to be discussed]**

All factual information hereinafter delivered by Issuer in writing to the Purchaser 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 Purchaser.* Without the prior written consent of the Purchaser, the Issuer will not agree or consent to any amendment, supplement, waiver or modification of any provision of any Related Document to which the Issuer is a party that affects the rights, interests, security or remedies of the Purchaser hereunder.

(c) *Incorporation of Covenants by Reference.* The Issuer 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 Purchaser and such document, opinion or other instrument shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Purchaser.

(d) *Defaults.* The Issuer will promptly (and in any event within five Business Days) notify the Purchaser of the occurrence of any Default or Event of Default specifying the details of such Default or Event of Default and the action that the Issuer proposes to take with respect thereto.

(e) *Books, Records.* The Issuer will permit, during normal business hours and from time to time, upon reasonable prior notice, the Purchaser or any of its agents or representatives to examine and make copies of and abstracts from the records and books of account of the Issuer (except records and books of accounts the examination of which by the Purchaser is prohibited by law), and to discuss the affairs, finances and accounts of the Issuer with any representative or any other appropriate officer of the Issuer or the Issuer's independent public accountants.

(f) *Other Obligations.* The Issuer will comply with and observe all other obligations and requirements set forth in the Declaration of Trust and each other Related Document to which it is a party (including without limitation all provisions therein for the benefit of the Purchaser) in all material respects and in all laws, statutes and regulations

binding upon it, noncompliance with which would materially adversely affect the Issuer's ability to perform its obligations under the Bonds, this Agreement or any of the Related Documents.

(g) *Litigation; Material Change.* The Issuer shall promptly notify the Purchaser 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 Issuer to perform its obligations hereunder or under the other Related Documents or (B) the enforceability or validity of the Declaration of Trust or any of the other Related Documents.

(h) *Obligations under Related Documents.* The Issuer shall take all actions as may be reasonably requested by the Purchaser to enforce the obligations under the Related Documents of each of the other parties thereto.

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

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

(k) *No Impairment.* The Issuer will not take any action, or cause or permit the any other party thereto to take any action, under the Declaration of Trust or any other Related Document inconsistent with the rights and remedies of the Purchaser under this Agreement.

(l) *References to the Purchaser.* The Issuer will not refer to the Purchaser in any official statement, offering memorandum, or private placement memorandum or make any changes in reference to the Purchaser in any revision of any official statement, offering memorandum, or private placement memorandum (other than identifying the Purchaser as a party to this Agreement) without the Purchaser's prior written consent thereto, which consent shall not be unreasonably withheld or delayed *provided* that, without the prior written consent of the Purchaser, the Issuer may identify the Purchaser as a party to this Agreement, the Purchase Price, the outstanding principal amount of the Bonds, the Mandatory Tender Date, and that the Issuer's obligations under this Agreement are secured by and payable from voter-approved property tax levies, in offering documents of the Issuer, so long as no other information relating to the Agreement or the Purchaser is disclosed in such offering documents without the prior written consent of the Purchaser. Notwithstanding the foregoing, the Issuer may refer to the Purchaser and this Agreement in staff reports, annual statements, audited financial statements, and Rating Agency presentations, without prior consent of the Purchaser.

(m) *Security.* The Board of Supervisors of the Issuer shall levy *ad valorem* taxes without limitation as to rate or amount upon all property subject to taxation by the Issuer for the payment of the principal of and interest on the Bonds when due and all other Obligations payable hereunder.

(n) *Budget.* The Issuer shall include in each annual budget of the Issuer all amounts reasonably anticipated to be necessary to pay all principal of and interest on the Bonds (including, without limitation, Unremarketed Bonds) and all amounts necessary to pay all Obligations due to the Purchaser hereunder and under the Related Documents. If the amounts so budgeted are not adequate for the payment of the Obligations due hereunder and under the Related Documents and in connection with all Bonds (including, without limitation, Unremarketed Bonds), the Issuer will take such action as may be necessary to cause such annual budget to be amended, corrected or augmented so as to include therein the amounts required to be paid to the Purchaser during the course of the Fiscal Year to which such annual budget applies.

(o) *Use of Proceeds.* The Issuer will not take or omit to take any action, which action or omission will in any way result in the proceeds from the issuance of the Bonds being applied in a manner other than as provided in the Resolution.

(p) *Ratings.* The Issuer shall give written notice to the Purchaser 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 General Obligation Debt, in respect of the Issuer's unenhanced General Obligation Debt, unless such rating is terminated due to the payment in full of such General Obligation Debt; *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 Issuer shall cause to be maintained at all times long-term unenhanced ratings on its General Obligation Debt from at least two (2) of Moody's, Fitch and S&P.

(q) *Conversions and Redemptions.* (i) The Issuer shall provide thirty (30) days written notice to the Purchaser prior to the date of any proposed conversion of the interest rate on the Bonds to a rate of interest other than the Index Interest Rate.

(ii) The Issuer shall provide thirty (30) days written notice to the Purchaser prior to the date of any proposed optional redemption or purchase in lieu of redemption of Bonds pursuant to Section 4(a) of the Declaration of Trust.

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

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

(t) *Swap Agreements.* (i) The Issuer will use its best efforts to enter into all future Swap Agreements relating to or secured by General Obligation Debt 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 Agreement secured by or payable from a pledge of the full faith and credit and taxing power of the Issuer 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 Purchaser, at the time of entering into such Swap Agreement.

(u) *Future Credit Facilities.* In the event that the Issuer shall, directly or indirectly, enter into or otherwise consent to any Bank Agreement, which such Bank Agreement provides such Person with additional or more restrictive covenants, additional or more restrictive events of default, shorter amortization periods with respect to term outs and/or rights or remedies than are provided to the Purchaser in this Agreement or a maximum rate with respect to the obligations under the related Bank Agreement in excess of 12% per annum (collectively, the "Additional Rights"), such Additional Rights shall automatically be deemed to be incorporated into this Agreement and the Purchaser shall have the benefits of such Additional Rights. Upon the request of the Purchaser, the Issuer shall promptly, enter into an amendment to this Agreement to include such Additional Rights, provided that the Purchaser shall maintain the benefit of such Additional Rights even if the Issuer fails to provide such amendment. Notwithstanding the foregoing, no Additional Rights (except for those relating to shorter amortization periods with respect to term outs or a maximum rate as described further below) shall be incorporated by reference into this Agreement, and the Issuer shall have no obligation to enter into an amendment to include any such Additional Rights, if the related Bank Agreement is entered into by the Issuer after the four (4) month anniversary of the Effective Date; except that any Additional Rights relating to shorter amortization periods with respect to term outs or a maximum rate with respect to the obligations under the related Bank Agreement in excess of 12% per annum shall be incorporated herein by reference pursuant to this Section, and the Issuer shall enter into an amendment hereto to include such Additional Rights, no matter when such Bank Agreement is entered into. If the Issuer shall amend the related Bank Agreement such that it no longer provides for such Additional Rights, then, without the consent of the Purchaser this Agreement shall be deemed to automatically no longer contain the related Additional Rights and the Purchaser shall no longer have the benefits of any such Additional Rights.

## ARTICLE VII

### EVENTS OF DEFAULT

*Section 7.01. 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, unless waived in writing by Purchaser:

(a) The Issuer shall fail to pay (i) the principal of or interest on any Bond (including any Unremarketed Bond) when due (whether by scheduled maturity, required

prepayment, redemption or otherwise) or (ii) any Obligation (other than the obligation to pay the principal of or interest on the Bonds or Unremarketed Bonds) when due and such failure shall continue for three (3) Business Days;

(b) The Issuer shall default in the performance of any of the covenants set forth in Section 6.01(b), (c) (but subject to any grace periods or cure provisions set forth in such Related Documents), (d), (k), (m), (n), (o), (p), (r) or (t) hereof;

(c) The Issuer 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 Issuer by the Purchaser or (ii) the tenth (10th) day after the Controller of the Issuer shall have actual knowledge of such default;

(d) Any representation, warranty, certification or statement made by the Issuer (or incorporated by reference) in this Agreement or by the Issuer 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 Issuer shall (A) fail to make any payment on any General Obligation Debt (other than the Bonds) 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 General Obligation 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 General Obligation 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 General Obligation Debt; or (C) any General Obligation 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;

(f) The Issuer 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 Issuer;



(g) A case or other proceeding shall be commenced against the Issuer 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 Issuer 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 Issuer, 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 Issuer, or the Issuer shall contest the validity or enforceability thereof;

(i) Any pledge or security interest created hereunder or under the Declaration of Trust 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);

(k) (i) Any long-term unenhanced rating assigned by Moody's, Fitch or S&P (to the extent such Rating Agency is then maintaining a rating on General Obligation Debt) to any General Obligation Debt shall be withdrawn, suspended or otherwise unavailable for credit related reasons or (ii) any long-term unenhanced rating assigned by Moody's, Fitch or S&P (to the extent such Rating Agency is then maintaining a rating on General Obligation Debt) on any General Obligation Debt shall be reduced below "Baa1" (or its equivalent), "BBB+" (or its equivalent) or "BBB+" (or its equivalent), respectively; or

(l) a debt moratorium, debt restructuring, debt adjustment or comparable restriction is imposed on the repayment when due and payable of the principal of or interest on any Debt of the Issuer by the Issuer or any Governmental Authority with appropriate jurisdiction;

*Section 7.02. Consequences of an Event of Default.* If an Event of Default specified in Section 7.01 hereof shall occur and be continuing, the Purchaser 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):

(i) deliver a written notice to the Issuer that an Event of Default has occurred and is continuing and direct the Issuer to cause a mandatory tender of the Bonds or take such other remedial action as is provided for in the Declaration of Trust;

(ii) 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 Issuer under the Related Documents, whether for specific performance of any agreement or covenant of the Issuer or in aid of the execution of any power granted to the Purchaser in the Related Documents;

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

(iv) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents (other than as provided for in clause (i) of this Section 7.02(a)) and as otherwise available at law and at equity.

(b) Notwithstanding the provisions of Section 7.02(a)(i), (x) the Purchaser shall not cause a mandatory tender of the Bonds as described in Section 7.02(a)(i) until seven (7) days after the occurrence of an Event of Default specified in Section 7.01(a), 7.01(b) (but only in the event that the Issuer defaults in the performance of the covenant set forth in Section 6.01(m)), 7.01(e), 7.01(f), 7.01(g), 7.01(h), 7.01(i) or 7.01(m) and (y) the Purchaser shall notify the Issuer of a mandatory tender at least thirty (30) days prior thereto in the case of any Event of Default not specified in the immediately preceding clause (x). Notwithstanding the foregoing sentence of this Section 7.02(b), if any other holder or credit enhancer of Debt or any counterparty under any Swap Agreement relating to or secured by General Obligation Debt related thereto causes any such Debt or other obligations of the Issuer to become immediately due and payable, the Purchaser may immediately, without notice, avail itself of the remedies set forth in Section 7.02(a)(i) hereof.

*Section 7.03. Remedies Cumulative; Solely for the Benefit of Purchaser.* To the extent permitted by, and subject to the mandatory requirements of, applicable Law, each and every right, power and remedy herein specifically given to the Purchaser in the Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or

otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Purchaser, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

The rights and remedies of the Purchaser specified herein are for the sole and exclusive benefit, use and protection of the Purchaser, and the Purchaser is entitled, but shall have no duty or obligation to the Issuer or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Purchaser hereunder or under any of the other Related Documents.

*Section 7.04. Waivers or Omissions.* No delay or omission by the Purchaser 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 Purchaser or to be acquiescence therein. No express or implied waiver by the Purchaser of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default.

*Section 7.05. Discontinuance of Proceedings.* In case the Purchaser 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 Purchaser shall have the unqualified right so to do and, in such event, the Issuer and the Purchaser 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 Purchaser hereunder shall continue as if the same had never been invoked.

## ARTICLE VIII

### INDEMNIFICATION

*[Section 8.01. Indemnification.* In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights pursuant hereto or under law or equity, the Issuer hereby agrees (to the extent permitted by law) to indemnify and hold harmless each Bondholder and its officers, directors and agents (each, an "Indemnitee") from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever (including reasonable attorneys' fees) which may incur or which may be claimed against an Indemnitee by any Person or entity whatsoever (collectively, the "Liabilities") by reason of or in connection with (a) the execution and delivery or performance or transfer of, or payment or failure to pay under, any Related Document; (b) the issuance and sale of the Bonds; and (c) the use of the proceeds of the Bonds; *provided that the Issuer shall not be required to indemnify an Indemnitee 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 such Indemnitee. Nothing under this Section 8.01 is intended to limit the Issuer's payment of the Obligations.*

**Section 8.02. Survival.** The obligations of the Issuer under this Article VIII shall survive the payment of the Bonds and the termination of this Agreement.] [under review by City]

## ARTICLE IX

### MISCELLANEOUS

**Section 9.01. Government Regulations.** (a) The Purchaser hereby notifies the Issuer that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Issuer, which information includes the name and address of the Issuer and other information that will allow the Purchaser to identify the Issuer in accordance with the Patriot Act. The Issuer hereby agrees that it shall promptly provide such information upon request by the Purchaser.

(b) The Issuer shall ensure that (i) no person who controls the Issuer is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control (“OFAC”), the Department of the Treasury or included in any Executive Orders, that prohibits or limits the Purchaser from making any advance or extension of credit to the Issuer or from otherwise conducting business with the Issuer, and (ii) the Bonds proceeds shall not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto. Further, the Issuer shall comply with all applicable Bank Secrecy Act (“BSA”) laws and regulations, as amended. The Issuer agrees to provide documentary and other evidence of Issuer’s identity as may be requested by the Purchaser at any time to enable the Purchaser to verify the Issuer’s identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the Patriot Act.

**Section 9.02. Further Assurances.** From time to time upon the request of either party hereto, the other shall promptly and duly execute, acknowledge and deliver any and all such further instruments and documents as the requesting party may in its reasonable discretion deem necessary or desirable to confirm this Agreement, and the other Related Documents, to carry out the purpose and intent hereof and thereof or to enable the requesting party to enforce any of its rights hereunder or thereunder. At any time, and from time to time, upon request by the Purchaser, the Issuer will, at the Issuer’s expense, correct any defect, error or omission which may be discovered in the form or content of any of the Related Documents. Upon any failure by the Issuer to do so, the Purchaser may make, execute and record any and all such instruments, certificates and other documents for and in the name of the Issuer, all at the sole expense of the Issuer, and the Issuer hereby appoints the Purchaser and the Trustee the agent and attorney-in-fact of the Issuer to do so, this appointment being coupled with an interest and being irrevocable. In addition, at any time, and from time to time, upon request by the Purchaser, the Issuer will, at the Issuer's expense, provide any and all further instruments, certificates and other documents as may, in the opinion of the Purchaser, be necessary or desirable in order to verify the Issuer’s identity and background in a manner satisfactory to the Purchaser.

*Section 9.03. Amendments and Waivers; Enforcement.* The Purchaser and the Issuer may from time to time enter into agreements amending, modifying or supplementing this Agreement or the other Related Documents or changing the rights of the Purchaser or the Issuer hereunder or thereunder, and the Purchaser may from time to time grant waivers or consents to a departure from the due performance of the obligations of the Issuer hereunder or thereunder. Any such agreement, waiver or consent must be in writing and shall be effective only to the extent specifically set forth in such writing. In the case of any such waiver or consent relating to any provision hereof, any Default or Event of Default so waived or consented to shall be deemed to be cured and not continuing, but no such waiver or consent shall extend to any other or subsequent Default or Event of Default or impair any right consequent thereto.

*Section 9.04. No Implied Waiver; Cumulative Remedies.* No course of dealing and no delay or failure of the Purchaser in exercising any right, power or privilege under this Agreement or the other Related Documents shall affect any other or future exercise thereof or exercise of any right, power or privilege; nor shall any single or partial exercise of any such right, power or privilege or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any further exercise thereof or of any other right, power or privilege. The rights and remedies of the Purchaser under this Agreement are cumulative and not exclusive of any rights or remedies which the Purchaser would otherwise have under any Related Document, at law or in equity.

*Section 9.05. 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 Issuer: City and County of San Francisco  
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 316  
San Francisco, California 94102  
Attention: City Controller

The Purchaser: U.S. Bank National Association  
15910 Ventura Boulevard, Suite 1712  
Encino, California 91436  
Attention: Kenneth Haber  
Facsimile: (818) 789-3041  
Telephone: (818) 817-7235

The Purchaser 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 9.06. Reserved.*

*Section 9.07. No Third-Party Rights.* Nothing in this Agreement, whether express or implied, shall be construed to give to any Person other than the parties hereto and the Bondholders any legal or equitable right, remedy or claim under or in respect of this Agreement, which is intended for the sole and exclusive benefit of the parties hereto.

*Section 9.08. Severability.* The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

*Section 9.09. Governing Law; Consent to Jurisdiction and Venue; Waiver of Jury Trial.*

(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 OF ANY FEDERAL OR STATE COURT OF COMPETENT JURISDICTION SITTING IN THE STATE OF CALIFORNIA. 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 9.09 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 9.10. Prior Understandings.* This Agreement and the other Related Documents supersede all other prior understandings and agreements, whether written or oral, among the parties hereto relating to the transactions provided for herein and therein.

*Section 9.11. Duration.* All representations and warranties of the Issuer contained herein or made in connection herewith shall survive the making of and shall not be waived by the execution and delivery of this Agreement or the other Related Documents. All covenants and agreements of the Issuer contained herein shall continue in full force and effect from and after the date hereof until the Obligations have been fully discharged.

*Section 9.12. Counterparts.* This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

*Section 9.13. Successors and Assigns.*

(a) *Successors and Assigns Generally.* This Agreement is a continuing obligation and shall be binding upon the Issuer, its successors, transferees and assigns and shall inure to the benefit of the Bondholders and their respective permitted successors, transferees and assigns. The Issuer may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Purchaser. Each Bondholder may, in its sole discretion and in accordance with applicable Law, from time to time assign, sell or transfer in whole or in part, this Agreement, its interest in the Bonds and the Related Documents in accordance with the provisions of paragraph (b) or (c) of this Section. Each Bondholder may at any time and from time to time enter into participation agreements in accordance with the provisions of paragraph (d) of this Section. Each Bondholder may at any time pledge or assign a security interest subject to the restrictions of paragraph (e) of this Section. U.S. Bank National Association shall be the Purchaser hereunder, notwithstanding the sale or transfer of any Bond to a Non-Purchaser Transferee as herein provided.

(b) *Sales and Transfers by Bondholder to a Purchaser Transferee.* Without limitation of the foregoing generality, a Bondholder may at any time sell or otherwise transfer to one or more transferees all or a portion of the Bonds to a Person that is (i) an Affiliate of the Purchaser or (ii) a trust or other custodial arrangement established by the Purchaser or an Affiliate of the Purchaser, the owners of any beneficial interest in which are limited to "qualified institutional buyers" as defined in Rule 144A promulgated under the 1933 Act, or institutional "accredited investors" as defined in Rule 501 of Regulation D under the 1933 Act (each, a "Purchaser Transferee"). From and after the date of such sale or transfer, U.S. Bank National Association (and its successors) shall continue to have all of the rights of the Purchaser hereunder and under the other Related Documents as if no such transfer or sale had occurred; *provided, however,* that

(A) no such sale or transfer referred to in clause (b)(i) or (b)(ii) hereof shall in any way affect the obligations of the Purchaser hereunder, (B) the Issuer shall be required to deal only with the Purchaser with respect to any matters under this Agreement and (C) in the case of a sale or transfer referred to in clause (b)(i) or (b)(ii) hereof, only the Purchaser shall be entitled to enforce the provisions of this Agreement against the Issuer.

(c) *Sales and Transfers by Bondholder to a Non-Purchaser Transferee.* Without limitation of the foregoing generality, a Bondholder may at any time sell or otherwise transfer to one or more transferees which are not Purchaser Transferees, *provided* that each such transferee shall constitute a commercial bank organized under the laws of the United States, or any state thereof, or any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country, and, in any such case, having a combined capital and surplus, determined as of the date of any transfer pursuant to this Section, of not less than \$5,000,000,000, *provided further* that each such transferee constitutes a "qualified institutional buyer" as defined in Rule 144A promulgated under the 1933 Act or is an institutional "accredited investor" as defined in Rule 501 of Regulation D under the 1933 Act (each a "*Non-Purchaser Transferee*"), all or a portion of the Bonds if (A) written notice of such sale or transfer, including that such sale or transfer is to a Non-Purchaser Transferee, together with addresses and related information with respect to the Non-Purchaser Transferee, shall have been given to the Issuer and the Purchaser (if different than the Bondholder) by such selling Bondholder and the Non-Purchaser Transferee, and (B) the Non-Purchaser Transferee shall have delivered to the Issuer and the selling Bondholder, an investment letter in substantially the form attached as Exhibit B to the Declaration of Trust ("*Purchaser Letter*").

From and after the date the Issuer and the selling Bondholder have received written notice and an executed Purchaser Letter, (A) the Non-Purchaser Transferee thereunder shall be a party hereto and shall have the rights and obligations of a Bondholder hereunder and under the other Related Documents, and this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to effect the addition of the Non-Purchaser Transferee, and any reference to the assigning Bondholder hereunder and under the other Related Documents shall thereafter refer to such transferring Bondholder and to the Non-Purchaser Transferee to the extent of their respective interests, and (B) if the transferring Bondholder no longer owns any Bonds, then it shall relinquish its rights and be released from its obligations hereunder and under the Related Documents; *provided, however*, that (1) the Issuer shall be required to deal only with the Purchaser with respect to any matters under this Agreement; (2) only the Purchaser shall be entitled to enforce the provisions of this Agreement against the Issuer, and (3) in the event the Purchaser, any Purchaser Transferee or any combination thereof ceases to be the owner of a majority of the aggregate principal amount of the Bonds, no Non-Purchaser Transferee shall constitute a Bondholder hereunder or have the benefits of the terms and provisions of this Agreement except to the extent necessary to give meaning and effect to the provisions of the Declaration of Trust.

(d) *Participations.* The Purchaser shall have the right to grant participations in all or a portion of the Purchaser's interest in the Bonds, this Agreement and the other Related Documents to one or more other banking institutions; *provided, however*, that (i) no such participation by any such participant shall in any way affect the obligations of the Purchaser



hereunder and (ii) the Issuer shall be required to deal only with the Purchaser, with respect to any matters under this Agreement, the Bonds and the other Related Documents and no such participant shall be entitled to enforce any provision hereunder against the Issuer.

(e) *Certain Pledges.* In addition to the rights of the Purchaser set forth above, the Purchaser may at any time pledge or grant a security interest in all or any portion of its rights or interests under the Bonds, this Agreement and/or the Related Documents to secure obligations of the Purchaser or an Affiliate of the Purchaser, including any pledge or assignment to secure obligations to a Federal Reserve Bank or to any state or local governmental entity or with respect to public deposits; *provided* that no such pledge or assignment shall release the Purchaser from any of its obligations hereunder or substitute any such pledgee or assignee for the Purchaser as a party hereto.

*Section 9.14. Headings.* 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.

*Section 9.15. Acknowledge and Appointment as the Calculation Agent.* The Purchaser hereby acknowledges and accepts its appointment as Calculation Agent during the Initial Period pursuant to the Declaration of Trust and acknowledges, accepts and agrees to all the duties and obligations of the Calculation Agent set forth in the Declaration of Trust.

*Section 9.16. No Fiduciary Relationship.* The Issuer acknowledges and agrees that its dealing with the Purchaser are solely in the nature of a debtor/creditor relationship and that in no event shall the Purchaser be considered to be a partner or joint venturer of the Issuer. Also, the Issuer represents and warrants that it has independently evaluated the business transaction and has not relied upon, nor will it rely upon, the expertise, advice or other comments or statements of the Purchaser (including agents of the Purchaser), if any, in deciding to pursue such undertaking. As the Issuer is experienced in business, in no event shall the Purchaser owe any fiduciary or similar obligations to it in connection with the subject transaction.

*Section 9.17. Electronic Signatures.* 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 9.18. Issuer Requirements.* The Purchaser hereby agrees to the Issuer’s requirements, as provided in Exhibit A attached hereto and incorporated hereby by this reference.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the Effective Date.

U.S. BANK NATIONAL ASSOCIATION

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

CITY AND COUNTY OF SAN FRANCISCO

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

## EXHIBIT A

### ISSUER REQUIREMENTS

#### 1. *Nondiscrimination; Penalties.*

(a) *Nondiscrimination.* In the performance of this Agreement, the Purchaser agrees not to discriminate against any employee, Issuer employee working with the Purchaser, applicant for employment with the Purchaser, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) *Subcontracts.* The Purchaser shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from the Issuer) and shall require all subcontractors to comply with such provisions. The Purchaser's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) *Nondiscrimination in Benefits.* The Purchaser, as of the date of this Agreement, does not and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by the Issuer, or where work is being performed for the Issuer elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

(d) *Condition to Contract.* As a condition to this Agreement, the Purchaser shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) *Incorporation of Administrative Code Provisions by Reference.* The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. The Purchaser shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, the Purchaser understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this

Agreement may be assessed against the Purchaser and/or deducted from any payments due the Purchaser.

2. *MacBride Principles—Northern Ireland.* Pursuant to San Francisco Administrative Code §12F.5, the Issuer urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The Issuer urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Agreement on behalf of the Purchaser acknowledges and agrees that he or she has read and understood this section.

3. *Tropical Hardwood and Virgin Redwood.* Pursuant to §804(b) of the San Francisco Environment Code, the Issuer urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

4. *Drug-Free Workplace Policy.* The Purchaser acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on Issuer premises. The Purchaser agrees that any violation of this prohibition by the Purchaser, its employees, agents or assigns will be deemed a material breach of this Agreement.

5. *Sunshine Ordinance.* In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between the Issuer and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

6. *Limitations on Contributions.* Through execution of this Agreement, the Purchaser acknowledges that it is familiar with Section 1.126 of the Issuer's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the Issuer for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a Issuer elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The Purchaser acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. The Purchaser further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of the Purchaser's board of directors; the

Purchaser's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in the Purchaser; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by the Purchaser. Additionally, the Purchaser acknowledges that the Purchaser must inform each of the persons described in the preceding sentence of the prohibitions contained in said Section 1.126.

7. *Requiring Minimum Compensation for Covered Employees.* The Purchaser agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of the Purchaser's obligations under the MCO is set forth in this Section. The Purchaser is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, the Purchaser agrees to all of the following:

(a) The MCO requires the Purchaser to pay the Purchaser's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and the Purchaser is obligated to keep informed of the then-current requirements. Any subcontract entered into by the Purchaser shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is the Purchaser's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, the Issuer may pursue any of the remedies set forth in this Section against the Purchaser. Nothing in this Section shall be deemed to grant the Purchaser the right to subcontract.

(b) The Purchaser shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(c) The Purchaser shall maintain employee and payroll records as required by the MCO. If the Purchaser fail to do so, it shall be presumed that the Purchaser paid no more than the minimum wage required under State law.

(d) The Issuer, upon reasonable notice to the Purchaser, is authorized to inspect the Purchaser's job sites during normal business hours.

(e) The Purchaser's commitment to provide the minimum compensation required by the MCO is a material element of the Issuer's consideration for this

Agreement. The Issuer in its sole discretion shall determine whether such a breach has occurred. The Issuer and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Purchaser fail to comply with these requirements. The Purchaser agree that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the Issuer and the public will incur for the Purchaser's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(f) The Purchaser understands and agrees that if it fails to comply with the requirements of the MCO, the Issuer shall have the right to pursue any rights or remedies available under Chapter 12P (including at its option the liquidated damages provided for therein), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, the Purchaser fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Purchaser fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the Issuer shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the Issuer.

(g) The Purchaser represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(h) If the Purchaser is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with the Issuer for the fiscal year is less than \$25,000, but the Purchaser later enters into an agreement or agreements that cause the Purchaser to exceed that amount in a fiscal year, the Purchaser shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Purchaser and the Issuer to exceed \$25,000 in the fiscal year.

8. *Requiring Health Benefits for Covered Employees.* The Purchaser agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, the Purchaser shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If the Purchaser chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Purchaser is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) The Purchaser's failure to comply with the HCAO shall constitute a material breach of this Agreement. The Issuer shall notify the Purchaser if such a breach has occurred. If, within 30 days after receiving Issuer's written notice of a breach of this Agreement for violating the HCAO, the Purchaser fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Purchaser fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the Issuer shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the Issuer.

(d) Any Subcontract entered into by the Purchaser shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. The Purchaser shall notify Issuer's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. The Purchaser shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the Issuer may pursue the remedies set forth in this Section against the Purchaser based on the Subcontractor's failure to comply, provided that the Issuer has first provided the Purchaser with notice and an opportunity to obtain a cure of the violation.

(e) The Purchaser shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the Issuer with regard to the Purchaser's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) The Purchaser represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) The Purchaser shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the Issuer Contract.

(h) The Purchaser shall keep itself informed of the current requirements of the HCAO.



(i) The Purchaser shall provide reports to the Issuer in accordance with any reporting standards promulgated by the Issuer under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) The Purchaser shall provide the Issuer with access to records pertaining to compliance with HCAO after receiving a written request from the Issuer to do so and being provided at least ten business days to respond.

(k) The Purchaser shall allow the Issuer to inspect the Purchaser's job sites and have access to the Purchaser's employees in order to monitor and determine compliance with HCAO.

(l) The Issuer may conduct random audits of the Purchaser to ascertain its compliance with HCAO. The Purchaser agrees to cooperate with the Issuer when it conducts such audits.

(m) If the Purchaser is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but the Purchaser later enters into an agreement or agreements that cause either Purchaser's aggregate amount of all agreements with the Issuer to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Purchaser and the Issuer to be equal to or greater than \$75,000 in the fiscal year.

9. *Prohibition on Political Activity with Issuer Funds.* In accordance with San Francisco Administrative Code Chapter 12.G, the Purchaser may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. The Purchaser agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the Issuer's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event the Purchaser violates the provisions of this section, the Issuer may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit the Purchaser from bidding on or receiving any new Issuer contract for a period of two (2) years. The Controller will not consider the Purchaser's use of profit as a violation of this section.

10. *Protection of Private Information.* The Purchaser has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. The Purchaser agrees that any failure of the Purchaser to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the Issuer may terminate this Agreement, bring a false claim action against the Purchaser pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Purchaser.

11. *Graffiti Removal.* Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the Issuer's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the Issuer and its residents, and to prevent the further spread of graffiti.

The Purchaser shall remove all graffiti from any real property owned or leased by the Purchaser in the Issuer and County of San Francisco within forty eight (48) hours of the earlier of the Purchaser's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require the Purchaser to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the (Red wine to first to find!) Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.). Any failure of the Purchaser to comply with this section of this Agreement shall constitute a breach of this Agreement.

12. *Airport Intellectual Property.* Pursuant to Resolution No. 01-0118, adopted by the Issuer on April 18, 2001, the Issuer affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, without the Airport Director's prior consent.

13. *Submitting False Claims; Monetary Penalties.* Pursuant to San Francisco Administrative Code §21.35, any Purchaser, subcontractor or consultant who submits a false claim shall be liable to the Issuer for three times the amount of damages which the Issuer sustains because of the false claim. An underwriter, subcontractor or consultant who submits a false claim shall also be liable to the Issuer for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the Issuer for a civil penalty of up to \$10,000 for each false claim. An underwriter, subcontractor or consultant will be deemed to have submitted a false claim to the Issuer if the underwriter, subcontractor or

consultant: (a) knowingly presents or causes to be presented to an officer or employee of the Issuer a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the Issuer; (c) conspires to defraud the Issuer by getting a false claim allowed or paid by the Issuer; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Issuer; or (e) is a beneficiary of an inadvertent submission of a false claim to the Issuer, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the Issuer within a reasonable time after discovery of the false claim.

14. *Conflict of Interest.* Through its execution of this Agreement, the Purchaser acknowledges that it is familiar with the provision of Section 15.103 of the Issuer's Charter, Article III, Chapter 2 of Issuer's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the Issuer if it becomes aware of any such fact during the term of this Agreement.

15. *Assignment.* The Purchaser is prohibited from assigning, delegating or transferring this Agreement or any part of it unless such assignment, delegation or transfer is first approved by Issuer in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any contract made in violation of this provision shall confer no rights on any party and shall be null and void.

16. *Food Service Waste Reduction Requirements.* The Purchaser agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, the Purchaser agrees that if either breaches this provision, the Issuer will suffer actual damages that will be impractical or extremely difficult to determine; further, the Purchaser agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that the Issuer will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by the Issuer because of the Purchaser's failure to comply with this provision.

OFFICE OF THE MAYOR  
SAN FRANCISCO



RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

EDWIN M. LEE  
MAYOR

2015 MAY -5 PM 4:44

TO: Angela Calvillo, Clerk of the Board of Supervisors *BJ*  
FROM: *for* Mayor Edwin M. Lee *ML*  
RE: General Obligation Bonds – Seismic Safety Loan Program – Not to Exceed \$24,000,000  
DATE: May 5, 2015

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Attached for introduction to the Board of Supervisors is a resolution amending and supplementing Resolution No. 284-14 to authorize the sale of not to exceed \$24,000,000 aggregate principal amount of City and County of San Francisco Taxable General Obligation Bonds (Seismic Safety Loan Program, 1992), Series 2014C by private placement to the financial institution identified herein, to authorize the execution of a Declaration of Trust and a Continuing Covenant Agreement in connection therewith and authorizing and approving modifications to said documents; ratifying certain actions previously taken; and granting general authority to City officials to take necessary actions in connection with the authorization, issuance, sale, and delivery of said bonds.

I respectfully request that this item be calendared in Budget & Finance Committee on May 13<sup>th</sup>, 2015.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.