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REIMBURSEMENT AGREEMENT

Dated as of December 1, 2022

Between

CITY OF RIVERSIDE

and

PNC BANK, NATIONAL ASSOCIATION

Relating to

City of Riverside, California  
Variable Rate Refunding Water Revenue Bonds Issue of 2011A

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## REIMBURSEMENT AGREEMENT

This REIMBURSEMENT AGREEMENT (as supplemented and amended hereafter, this “*Agreement*”) is entered into as of December 1, 2022, between the CITY OF RIVERSIDE, a municipal corporation and chartered city of the State of California (the “*City*”) and PNC BANK, NATIONAL ASSOCIATION (including its successors and assigns, the “*Bank*”).

### WITNESSETH:

WHEREAS, the City on May 26, 2011 issued its \$59,000,000 Variable Rate Refunding Water Revenue Bonds Issue of 2011A, currently outstanding in the amount of \$24,050,000 (the “*Bonds*”) pursuant to Resolution No. 17664 adopted by the City Council on January 8, 1991 (as amended and supplemented from time to time, the “*Master Resolution*”), and as further supplemented by Resolution No. 22203 adopted by the City Council of the City on April 26, 2011 (the “*the Eighth Supplemental Resolution*” and, together with the Master Resolution, referred to collectively herein as the “*Resolution*”); and

WHEREAS, the City has elected to effect an unscheduled purchase of the Bonds on the Effective Date (as defined herein), and to convert the Interest Rate Period (as defined herein) of the Bonds to a Weekly Interest Rate Period (as defined herein) or a Daily Interest Rate Period (as defined herein) on such date, and such Bonds will be remarketed from time to time pursuant to the Resolution; and

WHEREAS, the City has requested that the Bank issue an irrevocable transferable letter of credit for the payment by the Tender Agent (as defined herein), when and as due, of the principal of, the purchase price and interest on the Bonds, and to provide a liquidity facility in respect of certain drawings under the Letter of Credit (as defined herein) in connection with Bonds tendered and not remarketed by the Remarketing Agent (as defined herein); and

WHEREAS, the Bank is willing to issue its Letter of Credit upon the terms and conditions provided herein;

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

## ARTICLE I

### DEFINITIONS AND ACCOUNTING TERMS

Section 1.01. *Defined Terms.* As used in this Agreement, the following terms shall have the meanings set forth below:

“*Affiliate*” means, with respect to a Person, any Person (whether for-profit or not-for-profit), which “controls,” or is “controlled” by, or is under common “control” with such Person. For purposes of this definition, a Person “controls” another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

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

“*Alternate Credit Support Instrument*” has the meaning set forth in the Eighth Supplemental Resolution.

“*Amortization Commencement Date*” means, with respect to any Liquidity Advance, the ninetieth (90th) day immediately succeeding the day the earliest outstanding Liquidity Advance was made.

“*Amortization End Date*” means the earliest to occur of (i) the fifth (5th) anniversary of the date the earliest outstanding Liquidity Advance was made, and (ii) the date each Liquidity Advance is required to be paid in full as provided in clauses (A), (B), (C) and (D) of Section 2.03(a)(i) hereof, and (iii) the date that the amount of the Letter of Credit is permanently reduced to zero or is otherwise terminated prior to the Stated Expiration Date.

“*Amortization Payment Date*” means, with respect to each Liquidity Advance, (a) the related Amortization Commencement Date and the first Business Day of each third calendar month occurring thereafter prior to the related Amortization End Date, and (b) the related Amortization End Date.

“*Amortization Period*” has the meaning specified in Section 2.03(a) hereof.

“*Assignee*” has the meaning set forth in Section 9.06(b) hereof.

“*Audited Financial Statements*” means the audited consolidated balance sheet of the Water System of the City for the Fiscal Year ended June 30, 2021, and the related consolidated statements of operations, changes in net assets and cash flows for such Fiscal Year, including the notes thereto.

“*Available Amount*” has the meaning set forth in the Letter of Credit.

“*Bank*” has the meaning set forth in the introductory paragraph hereof.

“*Bank Agreement*” means any credit agreement, letter of credit, reimbursement agreement, direct purchase agreement, bond purchase agreement, liquidity agreement or other agreement or instrument (or any amendment, supplemental or modification thereto) entered into by the City with any Person, directly or indirectly, or otherwise consented to by the City, under which any Person or Persons undertakes to make loans, extend credit or liquidity to the City or to purchase securities pursuant to such agreement in connection with any Bonds or any Debt of the City secured by Net Operating Revenues or provide credit enhancement with respect thereto.

“*Bank Bondholder*” means the Bank (but only in its capacity as owner of Bank Bonds pursuant to this Agreement) and any other Person to whom the Bank has sold Bank Bonds pursuant to Section 2.14.

“*Bank Bonds*” means all Bonds which may from time to time have been purchased with proceeds of drawings under the Letter of Credit.

“*Bank Counsel*” means Orrick, Herrington & Sutcliffe LLP.

“*Base Rate*” means, for any day, a per annum rate equal to the highest of (i) seven percent (7.0%), and (ii) the Prime Rate *plus* one-half percent (0.50%). Each change in the Base Rate shall take effect simultaneously with the corresponding change or changes in the Prime Rate; *provided* that from and after the occurrence of an Event of Default, the Base Rate shall mean the Default Rate; *provided, further*, that at no time shall a Bank Bond bear interest at a rate less than the rate of interest on Bonds that are not Bank Bonds; and *provided, however*, that the Bank Rate shall never exceed the Maximum Bank Bond Interest Rate. Each determination of the Base Rate by the Bank shall be conclusive and binding on the City absent manifest error.

“*BHC Act Affiliate*” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“*Bloomberg*” means Bloomberg Index Services Limited.

“*Bond Counsel*” has the same meaning given to such term in the Master Resolution.

“*Bondholder*” has the same meaning given to such term in the Master Resolution.

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

“*Business Day*” has the same meaning given to such term in the Eighth Supplemental Resolution.

“*Capital Lease*” means any lease of Property which in accordance with GAAP would be required to be capitalized on the balance sheet of the lessee.

“*Capitalized Lease Obligations*” means the amount of the liability shown on the balance sheet of any Person in respect of a Capital Lease as determined in accordance with GAAP.

“*Certificate*” or “*Statement*” has the meaning given to such term in the Master Resolution.

“*Change in Law*” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, including, without limitation, Risk Based Capital Guidelines, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (i) the Dodd Frank Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “*Change in Law*,” regardless of the date enacted, adopted or issued.

“*Charter*” means the charter of the City as in effect on the date hereof.

“*City*” has the meaning specified in the introductory paragraph hereto.

“*City Bonds*” means Bonds owned by or held for the account of the City.

“*Code*” has the meaning given to such term in the Eighth Supplemental Resolution.

“*Conversion Date*” means the date on which all of the Bonds are converted to bear interest at a rate other than the Weekly Interest Rate or the Daily Interest Rate, as such date is specified in a certificate in the form of Annex A to the Letter of Credit.

“*Covered Entity*” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“*Custodian*” means U.S. Bank Trust Company, National Association, or any successor thereto appointed pursuant to the terms of the Custody Agreement.

“*Custody Agreement*” means the Custody Agreement dated as of even date herewith between the Bank and the Custodian, substantially in the form of Exhibit B hereto, as amended from time to time.

“*Daily Interest Rate*” has the meaning set forth in the Eighth Supplemental Resolution.

“*Daily Interest Rate Period*” has the meaning set forth in the Eighth Supplemental Resolution.

“*Debt*” means, for any Person (without duplication), (i) all indebtedness created, assumed or incurred in any manner by such Person representing money borrowed (including by the issuance of debt securities), (ii) all obligations for the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business), (iii) all obligations secured by any Lien upon Property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, (iv) all Capitalized Lease Obligations of such Person, (v) all obligations, contingent or otherwise, of such Person on or with respect to letters of credit, banker’s acceptances and other evidences of indebtedness representing extensions of credit whether or not representing obligations for borrowed money, (vi) all Guarantees, (vii) all obligations under Bank Agreements, (viii) certificates of participation evidencing an undivided ownership interest in payments made by such Person (A) as lessee under any lease of property which in accordance with generally accepted accounting principles would be required to be capitalized on the balance sheet of such Person, (B) as purchaser under an installment sale agreement or (C) otherwise as an obligor in connection therewith and (ix) all obligations of such person on or with respect to Swap Contracts.

“*Debtor Relief Laws*” means the Bankruptcy Code of the United States and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.



“*Default*” means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

“*Default Rate*” means a fluctuating interest rate per annum equal to the greatest of (i) the Prime Rate *plus* three percent (3.0%); (ii) the Overnight Bank Funding Rate *plus* three and one-half percent (3.5%); and (iii) nine percent (9.0%).

“*Default Right*” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“*Differential Interest Amount*” means, with respect to any Bank Bond, the excess of (a) interest which has accrued and is payable on such Bank Bond at the Liquidity Rate and which has not been paid up to but excluding the Business Day on which such Bank Bond is purchased from the Bank Bondholder of such Bank Bond pursuant to Section 2.14(b), less (b) the interest accrued on such Bank Bond received by the Bank Bondholder of such Bank Bond as part of the Sale Price for the period such Bonds were Bank Bonds.

“*Dodd Frank Act*” means the Dodd Frank Wall Street Reform and Consumer Protection Act of 2010, as enacted by the United States Congress, and signed into law on July 21, 2010, and all statutes, rules, regulations, requests, guidelines or directives adopted, issued or promulgated thereunder.

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

“*Drawing*” has the same meaning herein as in the Letter of Credit.

“*Effective Date*” means December 1, 2022, the date on which the Letter of Credit is issued.

“*Eighth Supplemental Resolution*” has the meaning set forth in the recitals hereof.

“*Environmental Claims*” means any and all administrative, regulatory or judicial actions, suits, demand letters, claims, Liens, notices of noncompliance or violation, investigations or proceedings relating in any way to any Environmental Law (hereinafter referred to as “claims”) or any permit issued under any such Environmental Law, including, without limitation, (a) any and all claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law, and (b) any and all claims by any third parties seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or arising from alleged injury or threat of injury to health, safety or the environment.

“*Environmental Laws*” means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

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

“*Event of Default*” has the meaning specified in Section 8.01 hereof

“*Event of Insolvency*” means, with respect to any Person, the occurrence of one or more of the following events:

(a) the Person shall (i) commence a voluntary case or other proceeding seeking liquidation, reorganization, arrangement, adjustment, winding-up, dissolution, composition or other similar relief with respect to itself or its indebtedness under any bankruptcy, insolvency, reorganization or other similar law for the relief of debtors now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official for it or a substantial part of its property, (ii) 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, (iii) make a general assignment for the benefit of creditors, (iv) fail generally to pay or admit in writing its inability to pay its indebtedness as it becomes due, or (v) take (through an authorized officer or representative) any official action to authorize any of the foregoing; or

(b) any of the following shall occur with respect to such Person: (i) an involuntary case or other proceeding shall be commenced against such Person 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 either (A) such Person shall consent in writing to such action or (B) such case shall not be dismissed within sixty (60) days, (ii) an order for relief shall be entered against such Person under the federal bankruptcy laws as now or hereafter in effect or pursuant to any other State or federal laws concerning insolvency or of similar purpose, (iii) a final and non-appealable debt moratorium, debt adjustment, debt restructuring or comparable extraordinary restriction with respect to the payment of principal or interest on the indebtedness of such Person shall be declared or imposed pursuant to a finding or ruling by such Person, the United States of America, the State, any instrumentality thereof or any other Governmental Authority of competent jurisdiction over such Person, or (iv) the issuance, under the laws of any state or under the laws of the United States of America, of an order of rehabilitation, liquidation or dissolution of such Person.

“*Excess Interest*” has the meaning specified in Section 3.03 hereof.

“*Existing Expiration Date*” has the meaning set forth in Section 2.12(a) hereof.

“*Facility Fee*” has the meaning set forth in the Fee Letter.

“*Favorable Opinion of Bond Counsel*” has the meaning set forth in the Eighth Supplemental Resolution.

“*Fee Letter*” means the Fee Letter, dated December 1, 2022, by and between the City and the Bank.

“*Fiscal Agent*” means U.S. Bank Trust Company, National Association and its successors and assigns.

“*Fiscal Year*” has the meaning provided in the Master Resolution.

“*Fitch*” means Fitch, Inc. and any successor thereto.

“*GAAP*” means generally accepted accounting principles in the United States as in effect from time to time, applied by the City on a basis consistent with the City’s most recent financial statement relating to the Water System furnished to the Bank.

“*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 nation or government, any state, department, agency or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government, and any corporation or other entity owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing.

“*Guarantees*” means, as to any Person, all guarantees, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations of such Person to purchase, to provide funds for payment, to supply funds to invest in any other Person or otherwise to assure a creditor of another Person against loss.

“*Indemnified Party*” has the meaning set forth in Section 9.04(a) hereof.

“*Ineligible Bonds*” means City Bonds, Bank Bonds, and Bonds bearing interest at a rate other than the Weekly Interest Rate or the Daily Interest Rate.

“*Insolvency Proceeding*” means a receivership, insolvency, liquidation, resolution, or similar proceeding.

“*Interest Drawing*” means a drawing under the Letter of Credit resulting from a presentation of a certificate by the Tender Agent to the Bank in the form of Annex C to the Letter of Credit to pay accrued interest on the Bonds.

“*Interest Rate Period*” has the meaning set forth in the Eighth Supplemental Resolution.

“*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.

“*Letter of Credit*” means the irrevocable transferrable direct-pay letter of credit issued by the Bank for the account of the City in favor of the Tender Agent supporting the Bonds, in the form of Exhibit A hereto, with appropriate insertions, as amended. The Letter of Credit is an Alternate Credit Support Instrument as provided in the Eighth Supplemental Resolution.

“*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, and any financing lease having substantially the same economic effect as any of the foregoing).

“*Liquidity Advance*” has the meaning specified in Section 2.03(a)(i) hereof.

“*Liquidity Drawing*” means a drawing under the Letter of Credit resulting from presentation of a certificate by the Tender Agent to the Bank in the form of Annex E to the Letter of Credit.

“*Liquidity Rate*” means the rate of interest per annum with respect to a Liquidity Advance (i) for any day commencing on the date such Liquidity Advance is made up to and including the ninetieth (90th) day next succeeding the date such Liquidity Advance was made, equal to the Base Rate from time to time in effect, (ii) for any day commencing on the ninety-first (91st) day next succeeding the date such Liquidity Advance was made and at all times thereafter, a per annum rate equal to the highest of (A) nine percent (9.0%), and (B) the Prime Rate *plus* two percent (2.0%); *provided, however*, that immediately and automatically upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuance of such Event of Default, “Liquidity Rate” shall mean the Default Rate; *provided, further*, in no event shall the Liquidity Rate be less than the applicable rate on any Bonds which are not Bank Bonds.

“*Margin Stock*” shall have the meaning assigned to that term in Regulation U promulgated by the Board of Governors of the Federal Reserve System, as now and hereafter from time to time in effect.

“*Master Resolution*” has the meaning set forth in the recitals hereof.

“*Material Adverse Change*” or “*Material Adverse Effect*” means, as to the City, (A) any material adverse change in or effect on (i) the business, operations, assets, liabilities, condition (financial or otherwise) or results of operations of the City or the Water System, (ii) the ability of the City to consummate the transactions contemplated by this Agreement or any of the Related Documents to which it is or will be a party, or (iii) the ability of the City to perform any of its obligations under this Agreement or any of the Related Documents to which it is or will be a party or (B) any material adverse change in or effect on the assets, liabilities or results of operations of the Water System taken as a whole.

“*Maximum Lawful Rate*” means the “Maximum Bank Bond Interest Rate” as defined in the Eighth Supplemental Resolution as of the date hereof.

“*Moody’s*” means Moody’s Investors Service, Inc. and any successor thereto.

“*Net Operating Revenues*” has the meaning specified in the Master Resolution.

“*Notice of Extension*” has the meaning specified in Section 2.12(d) hereof.

“*NYFRB*” means the Federal Reserve Bank of New York.

“*Obligations*” means the Reimbursement Obligations (which includes obligations of the City to repay Drawings and Liquidity Advances), the debt service on the Bank Bonds, the obligations of the City to pay all fees and expenses specified in this Agreement and the Fee Letter and other obligations of the City to the Bank arising under or in relation to this Agreement.

“*Offering Document*” means the Remarketing Statement dated [\_\_\_\_\_, 2022], relating to the Bonds, together with any documents incorporated therein by reference.

“*Original Stated Amount*” means \$[\_\_\_\_\_].

“*Other Taxes*” has the meaning set forth in Section 3.01(a) hereof.

“*Overnight Bank Funding Rate*” means, for any day, the rate comprised of both overnight federal funds and overnight Eurocurrency borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB, as set forth on its public website from time to time, and as published on the next succeeding Business Day as the overnight bank funding rate by the NYFRB (or by such other recognized electronic source (such as Bloomberg) selected by the Bank for the purpose of displaying such rate); *provided* that, if such day is not a Business Day, the Overnight Bank Funding Rate for such day shall be such rate on the immediately preceding Business Day; *provided, further*, that if such rate shall at any time, for any reason, no longer exist, a comparable replacement rate reasonably determined by the Bank at such time (which determination shall be conclusive absent manifest error). If the Overnight Bank Funding Rate determined as above would be less than zero, then such rate shall be deemed to be zero. The rate of interest charged shall be adjusted as of each Business Day based on changes in the Overnight Bank Funding Rate without notice to the City.

“*Parity Debt*” means Debt of the City having an equal lien and charge upon the Net Operating Revenues and payable on a parity with the Bonds and the Obligations, including the Obligations and all “Bonds” (as the term is defined in the Master Resolution) and all “Parity Debt” (as the term is defined in the Master Resolution) issued under the Master Resolution.

“*Participant*” has the meaning set forth in Section 9.06(b) hereof.

“*Patriot Act*” has the meaning set forth in Section 9.16 hereof.

“*Payment Documents*” has the meaning set forth in the Letter of Credit.

“*Payment Office*” means PNC Bank, National Association, at ABA #[\_\_\_\_\_] , for credit to Account Number: [\_\_\_\_\_] , Reference: Irrevocable Letter of Credit No. [\_\_\_\_\_] , or such other office as the Bank may designate from time to time.

“*Person*” means any individual, a corporation, a partnership, an association, a limited liability company, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

“*Plan*” means 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.

“*Prime Rate*” means on any day, the rate of interest in effect for such day as publicly announced from time to time by the Bank as its “prime rate.” The “*prime rate*” is a rate set by the Bank based upon various factors including the Bank’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by the Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

“*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.

“*Purchaser*” has the meaning set forth in Section 2.14(b)(i) hereof.

“*QFC*” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“*Quarterly Principal Payments*” has the meaning set forth in Section 2.03(a) hereof.

“*Redemption Drawing*” means a drawing under the Letter of Credit resulting from the presentation of a certificate by the Tender Agent to the Bank in the form of Annex D to the Letter of Credit to pay the principal amount of and accrued interest on the Bonds in respect of any redemption of the Bonds.

“*Reduction Fee*” has the meaning specified in the Fee Letter.

“*Reimbursement Obligations*” means any and all obligations of the City to reimburse the Bank for any Drawings under the Letter of Credit and all obligations to repay the Bank for any Liquidity Advance, including in each instance all interest accrued thereon.

“*Related Documents*” means this Reimbursement Agreement, the Fee Letter, the Letter of Credit, the Bonds (the Bank Bonds), the Master Resolution, the Eighth Supplemental Resolution, the Custody Agreement, and any other agreement or instrument relating thereto.

“*Related Parties*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person’s Affiliates.

“*Remarketing Agent*” means RBC Capital Markets, LLC, as successor Remarketing Agent under the Resolution, and its respective successors and assigns and any other entity appointed as a remarketing agent for the Bonds in accordance with the Resolution and this Agreement.

“*Remarketing Agreement*” means the Remarketing Agreement, dated as of [\_\_\_\_\_, 2022], between the City and the Remarketing Agent, as amended and supplemented from time to time, in accordance with the terms hereof and thereof.

“*Resolution*” has the meaning set forth in the recitals hereof.

“*Risk-Based Capital Guidelines*” means (a) the risk-based capital guidelines in effect in the United States, including transition rules, and (b) the corresponding capital regulations promulgated by regulatory authorities outside the United States including transition rules, and any amendment to such regulations.

“*S&P*” means Standard & Poor’s Ratings Services, a business of Standard & Poor’s Financial Services LLC and any successor thereto.

“*Sale Price*” has the meaning set forth in Section 2.14(b)(i) hereof.

“*State*” means the State of California.

“*Stated Amount*” has the meaning set forth in the Letter of Credit.

“*Stated Expiration Date*” means the date set forth in the Letter of Credit as the date on which the Letter of Credit is stated to expire (*i.e.*, initially, November [\_\_\_], 2025), unless terminated in accordance with the terms of the Letter of Credit or as extended from time to time pursuant to the terms of the Letter of Credit and this Agreement.

“*Stated Maturity Drawing*” means a drawing under the Letter of Credit resulting from the presentation of a certificate by the Tender Agent to the Bank in the form of Annex F to the Letter of Credit to pay the principal amount of the Bonds.

“*Substitution Date*” means the date on which the Letter of Credit is replaced by an Alternate Credit Support Instrument pursuant to the terms of the Resolution.

“*Swap Contract*” means (a) any and all rate swap transactions, basis swaps, total return swaps, credit derivative transactions, forward rate transactions, 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, cap transactions, floor transactions, collar transactions, 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*” has the meaning specified in Section 3.01(a) hereof.

“*Tender Agent*” means U.S. Bank Trust Company, National Association and its successor and assigns.

“*Termination Date*” has the meaning specified in the Letter of Credit.

“*Termination Fee*” has the meaning specified in the Fee Letter.

“*United States*” and “*US.*” mean the United States of America.

“*Water System*” has the meaning specified in the Master Resolution.

“*Weekly Interest Rate*” has the meaning set forth in the Eighth Supplemental Resolution.

“*Weekly Interest Rate Period*” has the meaning set forth in the Eighth Supplemental Resolution.

Section 1.02. *Other Interpretive Provisions.* With reference to this Agreement and each other Related Document, unless otherwise specified herein or in such other Related Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Related Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “herein,” “hereof” and “hereunder,” and words of similar import shall be construed to refer to this Agreement in its entirety and not to any particular provision of this Agreement, (iv) all references in this Agreement to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Related Document.



Section 1.03. *Accounting Terms.* All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, as in effect from time to time, applied in a manner consistent with that used in preparing the financial statements, except as otherwise specifically prescribed herein.

Section 1.04. *Rounding.* Any financial ratios required to be maintained by the City pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05. *Times of Day.* Unless otherwise specified, all references herein to times of day shall be references to New York time (daylight or standard, as applicable).

Section 1.06. *Letter of Credit Amounts.* Unless otherwise specified herein, the amount of the Letter of Credit at any time shall be deemed to be the maximum amount available to be drawn under the Letter of Credit, whether or not such maximum stated amount is in effect at such time. Without limiting the foregoing, the determination of such maximum amount shall assume compliance with all conditions for drawing and no reduction for (a) any amount drawn by any drawing referred to in the Letter of Credit, the amount of which, in whole or in part, is subject to reinstatement (unless such amount is not reinstated under the Letter of Credit), or (b) any amount not available to be drawn because Bonds are held by or for the account of the City or are Bank Bonds or are otherwise Ineligible Bonds.

Section 1.07. *Incorporated Agreement Provisions.* Any covenants and agreements of the City herein and in the Related Documents to which the City is a party and which are incorporated by reference herein (including all such covenants and agreements specified in the exhibits, schedules and defined terms referred to in the Related Document) shall survive any termination, cancellation, discharge or replacement of such Related Document.

## **ARTICLE II**

### **LETTER OF CREDIT**

Section 2.01. *Issuance of Letter of Credit.* Upon the terms, subject to the conditions and relying upon the representations and warranties set forth in this Agreement or incorporated herein by reference, the Bank agrees to issue the Letter of Credit. The Letter of Credit shall be in the Original Stated Amount, which is the sum of (i) the outstanding principal amount of the Bonds as of the Effective Date, plus (ii) interest thereon at an assumed rate of twelve percent (12%) per annum for a period of [57] days on the basis of a 365 day year.

Section 2.02. *Letter of Credit Drawings.* (i) The Tender Agent is authorized to make Drawings under the Letter of Credit in accordance with its terms. No Drawing under the Letter of Credit shall be made for the payment of principal of, or interest on, Ineligible Bonds. The City hereby directs the Bank to make payments under the Letter of Credit in the manner therein

provided. The City hereby irrevocably approves reductions and reinstatements of the Available Amount with respect to the Letter of Credit as provided in the Letter of Credit.

Section 2.03. *Reimbursement of Certain Drawings under the Letter of Credit; Mandatory Prepayment; Interest.* (a) (i) If the conditions precedent contained in Section 4.02 hereof are satisfied at the time of payment by the Bank of a Liquidity Drawing, such Liquidity Drawing shall constitute an advance (each a “*Liquidity Advance*”) to the City. The City promises to repay to the Bank each Liquidity Advance on the earliest of (A) the Substitution Date, (B) the date on which any Bonds purchased with funds disbursed under the Letter of Credit in connection with such Liquidity Drawing are redeemed, prepaid or canceled pursuant to the Resolution, (C) the date on which any Bonds purchased with funds disbursed under the Letter of Credit in connection with such Liquidity Advance are remarketed pursuant to the Resolution, (D) the Conversion Date and (E) the date the events set forth in clauses (i) or (iii) of the definition of the Amortization End Date occur, in all cases, subject to the provisions of Section 2.03(a)(iii); *provided* that the interest component, if any, included in the related Liquidity Drawing shall be due and payable on the earlier of (y) the interest payment date for the Bonds under the Resolution next following the date of the Liquidity Drawing or (z) the date on which the Bank Bond securing the related Liquidity Drawing is remarketed or otherwise paid in full.

(ii) The City’s obligations to repay each Liquidity Drawing and each Liquidity Advance and to pay interest thereon as hereinafter provided shall be evidenced and secured by the related Bank Bonds. The City also promises to repay to the Bank interest on the unpaid principal amount of each Liquidity Advance from the date such Liquidity Advance is made up to, but not including, the date it is paid in full as provided herein, at a rate per annum equal to the Liquidity Rate from time to time in effect, which shall be payable monthly in arrears on the first Business Day of each month for the immediately preceding calendar month (commencing on the first such date to occur after the making of the related Liquidity Advance), on the date such Liquidity Advance is repaid, and on the date that the final principal installment of such Liquidity Advance is payable as herein provided.

(iii) Unless otherwise paid in full on the date provided above and so long as no Default or Event of Default shall have occurred and be continuing, from and after the related Amortization Commencement Date, each Liquidity Advance shall be payable by the City in quarterly installments (“*Quarterly Principal Payments*”) on each Amortization Payment Date, with the final installment in an amount equal to the entire then outstanding principal amount of such Liquidity Advance due and payable on the Amortization End Date (the period commencing on the Amortization Commencement Date and ending on the Amortization End Date is herein referred to as the “*Amortization Period*”). Each Quarterly Principal Payment shall be that amount of principal which will result in equal (as nearly as possible) aggregate Quarterly Principal Payments over the applicable Amortization Period.

Bank Bonds shall bear interest at the Liquidity Rate from time to time in effect and shall be redeemed on each Amortization Payment Date and in the principal amounts equal to each Quarterly Principal Payment payable by the City under this Section 2.03(a), and each such payment made to redeem Bank Bonds which is received by the Bank shall be deemed to satisfy, on a dollar for dollar basis, the aggregate Quarterly Principal Payment due on the date of such payment.

(b) Any Liquidity Advance may be prepaid in whole or in part on the day such Liquidity Advance is made. Any Liquidity Advance created pursuant to Section 2.03(a) hereof may be prepaid in whole or in part without premium or penalty on any other Business Day upon two (2) Business Days' prior written notice (or such shorter period as agreed to by the Bank).

(c) Upon the Bank's receipt of any payment or prepayment of any Liquidity Advance, the outstanding amount of such Liquidity Advance shall be reduced by the amount of such payment or prepayment. Any such payment or prepayment to be applied to principal of Liquidity Advances hereunder shall be applied to the prepayment of Liquidity Advances in chronological order of their issuance hereunder, and within each Liquidity Advance in inverse order of the principal installments payable thereon.

(d) Upon honoring any Liquidity Drawing, the Bank shall be deemed to have purchased the Bank Bonds in respect of which such Liquidity Drawing is made, and the City shall cause the Tender Agent to hold such Bank Bonds for the benefit of the Bank, and register such Bank Bonds in the name of the Bank, or its nominee, or to otherwise deliver such Bank Bonds as directed by the Bank pursuant to the Resolution and the Custody Agreement. During such time as the Bank is the owner of any Bonds, the Bank shall have all of the rights granted to a Bondholder under the Resolution and such additional rights as may be granted to the Bank hereunder. To the extent that the Bank actually receives payment with respect to principal of or interest on any Bank Bond held by the Bank, the Liquidity Advance made in connection with the purchase of such Bank Bond shall be deemed to have been reduced *pro tanto*, with the Bank crediting any payment on such Bank Bond received by the Bank, first to the payment of any outstanding interest accrued on the related Liquidity Advance, and second to the payment of the principal of such Liquidity Advance.

(e) Following the occurrence of an Event of Default, any payments received by the Bank hereunder shall be applied by the Bank to the payment of the Obligations in such order as the Bank shall determine.

Section 2.04. *Reimbursement of Drawings under the Letter of Credit and Certain Liquidity Drawings.* The City agrees to reimburse the Bank for the full amount of all Drawings (other than (a) the principal component of any Liquidity Drawing for which the applicable conditions precedent contained in Section 4.02 hereof are satisfied on the date such Liquidity Drawing is made and (b) the interest component of any Liquidity Drawing which is payable pursuant to Section 2.03(a)(i)) under the Letter of Credit immediately upon payment by the Bank of each such Drawing and on the date of each such payment.

Section 2.05. *Fees.* The City hereby agrees to pay to the Bank a Facility Fee determined and payable in accordance with the provisions of the Fee Letter (which shall be fully earned when due and non-refundable when paid) with respect to the commitment of the Bank hereunder as well as the other fees set forth in the Fee Letter. The terms of the Fee Letter shall be deemed incorporated by reference into this Agreement and all references herein to this "Agreement" shall be deemed to include the Fee Letter.

Section 2.06. *Method of Payment; Etc.* All payments to be made by the City under this Agreement shall be made without condition or deduction for any counterclaim, defense,

recoupment or setoff and shall be made at the Payment Office of the Bank not later than 4:00 p.m. on the date when due and shall be made in lawful money of the United States of America in freely transferable and immediately available funds. All payments received by the Bank after 4:00 p.m. shall be deemed to have been received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

Section 2.07. *Termination of Letter of Credit; Substitute Letter of Credit; Reduction of Letter of Credit.* (a) Notwithstanding any provisions of this Agreement to the contrary, the City agrees not to terminate or cause the termination of the Letter of Credit, in whole or in part, prior to the Stated Expiration Date, unless (a) the City shall pay to the Bank the Termination Fee or Reduction Fee, if any, in the amount set forth in the Fee Letter (b) the City shall pay to the Bank all then known and accrued Obligations payable hereunder, (c) the City shall have provided the Bank with thirty (30) days prior written notice of its intent to terminate the Letter of Credit and (d) the City shall have provided the Bank evidence that the City has or will have sufficient funds to reimburse the Bank for any Drawings required in connection with the termination of the Letter of Credit; *provided* that all payments to the Bank referred to in clauses (a) and (b) above shall be made in immediately available funds; *provided, however*, that any such termination of the Letter of Credit shall be in compliance with the terms and conditions of the Resolution and this Agreement. The City agrees that any termination of the Letter of Credit as a result of the provision of any Alternate Credit Support Instrument will require, as a condition thereto, that the City (including, but not limited to, from the proceeds of refunding bonds or remarketing proceeds) will provide funds on the date of such termination or provision, which funds will be sufficient to pay in full at the time of termination of the Letter of Credit all Obligations due and owing to the Bank hereunder.

(b) Upon any redemption, repayment, defeasance or other payment or deemed payment of all or any portion of the principal amount of the Bonds the aggregate Stated Amount and Available Amount shall, upon receipt by the Bank of written notice of such occurrence from the City, be reduced by the principal amount of the Bonds so redeemed, repaid, defeased or otherwise paid or deemed paid, as specified in such written notice.

Section 2.08. *Computation of Interest and Fees.* Fees payable hereunder shall be calculated on the basis of a year of 360 days and the actual number of days elapsed. Interest shall accrue during each period during which interest is computed from and including the first day thereof to but excluding the last day thereof and shall be calculated on the basis of a year of 365 days and the actual number of days elapsed.

Section 2.09. *Payment Due on Non-Business Day to Be Made on Next Business Day.* If any sum becomes payable pursuant to this Agreement on a day which is not a Business Day, the date for payment thereof shall be extended, without penalty, to the next succeeding Business Day, and such extended time shall be included in the computation of interest and fees.

Section 2.10. *Late Payments.* If any Obligation is not paid when due, such Obligation shall bear interest until paid in full at a rate per annum equal to the Default Rate, payable on demand.

Section 2.11. *Source of Funds.* All payments made by the Bank pursuant to the Letter of Credit shall be made from funds of the Bank, and not from the funds of any other Person.

Section 2.12. *Extension of Stated Expiration Date.* (a) The City may by written notice to the Bank, not earlier than one hundred eighty (180) days prior to the then current Stated Expiration Date in effect hereunder (such current Stated Expiration Date without regard to such requested extension, the “*Existing Expiration Date*”), request that the Bank consent to the extension of the Existing Expiration Date. The Bank will make reasonable efforts to respond to such request within thirty (30) days after receipt of all information necessary, in the Bank’s reasonable judgment, to permit the Bank to make an informed credit decision. In the event the Bank fails to definitively respond to such request within such period of time, the Bank shall be deemed to have refused to grant the extension requested. The Bank may, in its sole and absolute discretion, decide to accept or reject any such proposed extension. The consent of the Bank, if granted, shall be conditioned upon the preparation, execution and delivery of documentation in form and substance reasonably satisfactory to the Bank and consistent with this Agreement (including the term, commitment and other fees, interest rates and other provisions) as shall be mutually acceptable to the Bank and the City. If such an extension request is accepted by the Bank in its absolute discretion, the then current Stated Expiration Date for the Letter of Credit shall be extended to the date agreed to by the City and the Bank. If the Stated Expiration Date is extended, the City shall, except as otherwise agreed to in writing by the Bank, be deemed to have made the representations and warranties contained herein on and as of the date on which the Stated Expiration Date is so extended and shall be deemed to have acknowledged and agreed that the terms of Section 2.07.

(b) As a condition precedent to the effectiveness of such consent to the extension of the Existing Expiration Date, the City shall deliver to the Bank a Certificate of the City dated as of the date of the Notice of Extension signed by a City representative, certifying that, before and after giving effect to such extension, (1) the representations and warranties contained in Article V and the other Related Documents are true and correct in all material respects on and as of the date of the Notice of Extension, except, in each case, to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and (2) no Default or Event of Default exists or would result from the extension of the Stated Expiration Date.

(c) Any such extension of the Existing Expiration Date shall be subject to such additional terms, including payment of extension fees to the Bank, as shall be agreed with the City. The terms of such extension of the Stated Expiration Date shall be determined by the mutual agreement of the City and the Bank.

(d) Upon the effectiveness of any such consent to the extension of the Existing Expiration Date, the Bank shall deliver to the Tender Agent a written notice of such extension (a “*Notice of Extension*”) designating the date to which the Existing Expiration Date is being extended. Such extension of the Existing Expiration Date shall be effective on the date of issue of such Notice of Extension, and thereafter all references in this Agreement to the Existing Expiration Date shall be deemed to be references to the date designated as such in the most recent Notice of Extension delivered to the Tender Agent.

Section 2.13. *Security.* (a) Notwithstanding any other provision of this Agreement or any other Related Documents to the contrary, the City hereby acknowledges and agrees that payment of all Obligations is secured by and payable from Net Operating Revenues on a parity with the lien thereon of any Parity Debt.

(b) In order to secure the timely payment of all Obligations (including the payment of the principal of, interest on and redemption price of Bank Bonds) and to secure the performance and observance of all of the covenants, agreements and conditions contained in this Agreement and the Related Documents, the City hereby irrevocably grants a lien on and a security interest in, and pledges, the Net Operating Revenues and the other funds, assets and security described in the Resolution (“*Trust Assets*”) to the Bank (for the benefit of the Bank and any Affiliate of the Bank to whom any Obligation is at any time owed), which lien on, security interest in and pledge of the Net Operating Revenues and Trust Assets is on a parity with the pledge of Net Operating Revenues and Trust Assets set forth in the Master Resolution. This lien on and security interest in and pledge of the Net Operating Revenues and Trust Assets shall constitute a valid pledge of and charge and lien upon the Net Operating Revenues and Trust Assets, shall immediately attach and be effective, binding, and enforceable against the City, its successors, purchasers of any of the Net Operating Revenues and Trust Assets, creditors, and all others asserting rights therein to the extent set forth in, and in accordance with, the Resolution, irrespective of whether those parties have notice of the lien on, security interest in and pledge of the Net Operating Revenues and Trust Assets and without the need for any physical delivery, recordation, filing or further act.

Section 2.14. *Bank Bonds.*

(a) Right to Sell Bank Bonds. The Bank expressly reserves the right to sell, at any time, Bank Bonds subject, however, to the express terms of this Agreement. The Bank agrees that such sales (other than sales made pursuant to Section 2.14(b)) will be made only to institutional investors or other entities or individuals that customarily purchase commercial paper or tax-exempt securities in large denominations. The Bank agrees to notify in writing the City, the Fiscal Agent and the Remarketing Agent promptly of any such sale (other than a sale made pursuant to Section 2.14(b)) and to notify the transferee in writing that such Bond is no longer eligible to be tendered or deemed tendered for purchase pursuant to the Resolution so long as it remains a Bank Bond and that there shall not be a short-term investment rating assigned to such Bond so long as it remains a Bank Bond. Prior to selling a Bank Bond to Bank Bondholder pursuant to this Section 2.14(a), the Bank shall obtain a written acknowledgment from such purchaser stating that such purchaser has no right to tender the Bank Bond.

(b) Sales by Remarketing Agent.

(i) The Bank and each other Bank Bondholder, by the acceptance by each of a Bank Bond, hereby authorize the Remarketing Agent to remarket and sell Bank Bonds purchased pursuant to Section 2.03(d) on behalf of the Bank or such Bank Bondholder pursuant to the Resolution and in accordance with applicable securities law at a price equal to the principal amount thereof plus unpaid accrued interest thereon to the date such Bank Bonds are to be sold. Prior to 11:00 a.m. on any Business Day on which any Bank Bondholder holds Bank Bonds, the Remarketing Agent may deliver a notice (a “*Purchase Notice*”) to such Bank Bondholder as

registered on the bond register maintained by the Tender Agent or DTC and to the Bank, stating that it has located a purchaser (each, a “*Purchaser*”) for some or all of such Bank Bonds and that such Purchaser desires to purchase such Bank Bonds on a Business Day (a “*Sale Date*”) which shall be at least two (2) Business Days after the date on which the Purchase Notice is received by the Bank Bondholder (unless the Bank Bondholder agrees in writing to a shorter period). The Bank Bonds to be purchased shall be in an authorized denomination and at a price equal to the principal amount thereof plus unpaid accrued interest thereon to the Sale Date at the interest rate applicable to Bonds that are not Bank Bonds (or for any period of time during which all Bonds are Bank Bonds, at the Bank Rate) (the “*Sale Price*”). If less than all Bank Bonds are remarketed on any date, the Bank Bonds having the highest aggregate amount of Excess Interest payable shall be deemed to be remarketed first. Any sale of a Bank Bond pursuant to this Section 2.14(b) shall be without recourse to the seller and without representation or warranty of any kind by the Bank or any Bank Bondholder. The Bank agrees to deliver and, by its acceptance of a Bank Bond, each other Bank Bondholder agrees to deliver (but only upon receipt by the Bank or such other Bank Bondholder of Dollars in the amount of the Sale Price) to the Tender Agent each certificate representing a Bank Bond sold by it pursuant to this Section 2.14(b), including without limitation certificates representing Bank Bonds which are deemed to have been delivered in accordance with the provisions of the Resolution.

(ii) After any sale of Bank Bonds by the Remarketing Agent pursuant to this Section 2.14(b) and payment to the applicable Bank Bondholder of the outstanding principal and interest accrued on the Bank Bonds so sold, such Bank Bonds so sold shall from such sale date cease to be Bank Bonds for purposes of this Agreement and the Resolution, shall cease to bear interest at the Liquidity Rate (or if applicable, the Default Rate) and shall bear interest at the rate for Bonds other than Bank Bonds (and the Available Amount shall be increased in the same amount of the Bank Bonds so sold).

(c) Payment of Differential Interest Amount and Excess Interest Fee Amount. Following any sale of Bank Bonds, pursuant to Section 2.14(b) or otherwise, the Bank shall retain the right to receive payment from the City of any accrued Differential Interest Amount and, to the extent permitted by law, any Excess Interest and interest thereon as provided herein and in the Resolution. Any Differential Interest Amount and, to the extent permitted by law, any Excess Interest payable on Bank Bonds sold by the Remarketing Agent shall be payable by the City to the Bank on the earlier of (i) the occurrence of an Event of Default and (ii) the applicable Sale Date.

(d) Rights of Bank Bondholder. Upon purchasing Bank Bonds, a Bank Bondholder shall be entitled to and, where necessary, shall be deemed assigned all rights, privileges and security accorded Bondholders as provided in the Bonds and the Resolution, other than the right to tender such Bond for purchase pursuant to the Resolution and have such Bond purchased with amounts drawn under the Letter of Credit. Upon purchasing Bank Bonds and registration of such Bank Bonds in the name of or at the direction of the Bank Bondholder, as provided herein, Bank Bondholders shall be recognized by the City, the Fiscal Agent and the Tender Agent as the true and lawful owners of the Bank Bonds, free from any claims, liens, security interests, equitable interests and other interests of the City or the Tender Agent, except as otherwise provided herein and except as such interests might exist under the terms of the Bonds with respect to all holders thereof.

## ARTICLE III

### TAXES AND YIELD PROTECTION

#### Section 3.01. *Net of Taxes, Etc.*

(a) *Taxes.* Any and all payments to the Bank by the City hereunder and under the Fee Letter shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges, withholdings or liabilities imposed thereon, excluding, however, taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein solely as a result of a connection between the Bank and such jurisdiction or political subdivision (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as “*Taxes*”). If the City shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder or under the Fee Letter to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01), the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the City shall make such deductions and (iii) the City shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If the City shall make any payment under this Section 3.01 to or for the benefit of the Bank with respect to Taxes and if the Bank shall claim any credit or deduction for such Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States then the Bank shall pay to the City an amount equal to the amount by which such other taxes are actually reduced; *provided* that the aggregate amount payable by the Bank pursuant to this sentence shall not exceed the aggregate amount previously paid by the City with respect to such Taxes. In addition, the City agrees to pay any present or future stamp, recording or documentary taxes and any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America, the State of California or any other taxing jurisdiction from any payment made hereunder or under the Fee Letter or from the execution or delivery or otherwise with respect to this Agreement (hereinafter referred to as “*Other Taxes*”). The Bank shall provide to the City, within a reasonable time, a copy of any written notification it receives with respect to Taxes or Other Taxes owing by the City to the Bank hereunder; *provided* that the Bank’s failure to send such notice shall not relieve the City of its obligation to pay such amounts hereunder. The City may conduct a reasonable contest of any such Taxes with the prior written consent of the Bank, which consent shall not be unreasonably withheld.

(b) *Indemnity.* The City shall, to the fullest extent permitted by law and subject to the provisions hereof, indemnify the Bank for the full amount of Taxes and Other Taxes including any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 3.01 paid by the Bank or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted; *provided* that the City shall not be obligated to indemnify the Bank for any penalties, interest or expenses relating to Taxes or Other Taxes arising from the Bank’s gross negligence or willful misconduct. The Bank agrees to give notice to the City of the assertion of any claim against the Bank relating to such Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; *provided* that the Bank’s failure to notify the City promptly



of such assertion shall not relieve the City of its obligation under this Section 3.01. Payments by the City pursuant to this indemnification shall be made within sixty (60) days from the date the Bank makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. The Bank agrees to repay to the City any refund (including that portion of any interest that was included as part of such refund) with respect to Taxes or Other Taxes paid by the City pursuant to this Section 3.01 received by the Bank for Taxes or Other Taxes that were paid by the City pursuant to this Section 3.01 and to contest, with the cooperation and at the expense of the City, any such Taxes or Other Taxes which the Bank or the City reasonably believes not to have been properly assessed.

(c) *Notice.* Within thirty (30) days after the date of any payment of Taxes or Other Taxes the City, the City shall furnish to the Bank, the original or a certified copy of a receipt evidencing payment thereof.

(d) *Survival of Obligations.* The Obligations of the City under this Section 3.01 shall survive the termination of this Agreement.

Section 3.02. *Increased Costs.* (a) If, after the Effective Date, the Bank or any Participant shall have determined that any Change in Law shall:

(i) change the basis of taxation of payments to the Bank or such Participant of any amounts payable hereunder or under the Fee Letter (except for taxes on the overall net income of the Bank or such Participant); or

(ii) impose, modify or deem applicable any reserve, liquidity ratio, special deposit, compulsory loan, insurance premium, fee, financial charge, monetary burden or similar requirement against funding any Drawing under the Letter of Credit or maintaining the Letter of Credit, or complying with any term of this Agreement, or against assets held by, or deposits with or for the account of, the Bank or such Participant; or

(iii) impose on the Bank or such Participant, or the Bank's or such Participant's parent or holding company, if any, any other condition, expense or cost regarding this Agreement or the Letter of Credit, and the result of any event referred to in clause (i) or (ii) above shall be to increase the cost to the Bank or such Participant, or the Bank's or such Participant's parent or holding company, if any, of funding any Drawing under the Letter of Credit or maintaining the Letter of Credit or complying with any term of this Agreement or the Letter of Credit or to reduce the amount of any sum received or receivable by the Bank or such Participant, or the Bank's or such Participant's parent or holding company, if any, or under the Fee Letter (each such instance, referred to individually herein as a "*Reduction in Amount*" and, collectively as "*Reductions in Amount*"), then the City shall pay to the Bank at such time and in such amount as is set forth in paragraph (c) of this Section 3.02, such additional amount or amounts as will compensate the Bank or such Participant, or the Bank's or such Participant's parent or holding company for such increased costs or Reductions in Amount.

The Bank or Participant shall use its best efforts to provide to the City written notice of the expected occurrence of any event referred to in clause (i), (ii) or (iii) above for which it has actual knowledge, setting forth in reasonable detail the anticipated additional amount or amounts that the

Bank or Participant expects to demand from the City as additional compensation for such increased costs or Reductions in Amount (the “*Yield Protection Demand Notice*”) and the anticipated date upon which the Bank or Participant would make such demand upon the City, and, if, all Obligations due and owing under this Agreement and the Fee Letter are paid in full prior to the date on which any increased cost or Reduction in Amount related to any event referred to in clause (i), (ii) or (iii) above are imposed upon the Bank or Participant, then the City will not be obligated to pay the additional amounts set forth in the Yield Protection Demand Notice; *provided, however*, that if all Obligations due and owing under this Agreement and the Fee Letter are not paid prior to the date on which any increased cost or Reduction in Amount are imposed on the Bank or Participant, the City shall become liable for the additional amount for such increased cost or Reduction in Amount set forth in the Yield Protection Demand Notice on the date on which such increased cost or Reduction in Amount related to any event referred to in clause (i), (ii) or (iii) above are imposed on the Bank or Participant. Such amounts will be payable as set forth in Section 3.02(c) hereof.

Notwithstanding the foregoing, a failure by the Bank or any Participant to deliver to the City a Yield Protection Demand Notice shall in no event relieve the obligation of the City of any obligation under this Section 3.02(a). Additionally, nothing set forth in this Section 3.02(a) shall limit the obligation of the City to pay to the Bank any increased cost imposed upon the Bank related to any event referred to in clause (i), (ii) or (iii) above.

(b) If, after the Effective Date, the Bank or any Participant shall have determined that any Change in Law shall impose, modify or deem applicable any capital (including but not limited to contingent capital) adequacy, reserve, insurance, liquidity ratio or similar requirement (including, without limitation, a request or requirement that affects the manner in which the Bank or any Participant allocates capital or liquidity resources or reserves to its commitments) that either:

(i) affects or would affect the amount of capital or liquidity or reserves to be maintained by the Bank or such Participant, or the Bank’s such Participant’s parent or holding company, if any, or

(ii) reduces or would reduce the rate of return on the Bank’s or such Participant’s capital, liquidity or reserves or, without duplication, the capital, liquidity or reserves of the Bank’s or such Participant’s parent or holding company, if any, to a level below that which the Bank or such Participant, or the Bank’s or such Participant’s parent or holding company, if any, could have achieved but for such circumstances (taking into consideration the policies of the Bank, such Participant, the Bank’s parent or holding company, or such Participant’s parent or holding company, as applicable, with respect to capital adequacy and liquidity or the maintenance of reserves) then,

the Bank or Participant shall use its best efforts to provide the City written notice of the expected occurrence of any event referred to in clause (i) or (ii) above for which it has actual knowledge, setting forth in reasonable detail the anticipated additional amount or amounts that the Bank or Participant expects to demand from the City as additional compensation for such increased cost related to any event referred to in clause (i) or (ii) above (the “*Adequacy Demand Notice*”) and

the anticipated date upon which the Bank or Participant would make such demand upon the City, and, if all Obligations due and owing to the Bank and any Participant are paid in full prior to the date on which any increased cost related to any event referred to in clause (i) or (ii) above are imposed on the Bank, such Participant or the Bank's or such Participant's parent or holding company, as applicable, then the City will not be obligated to pay the additional amounts set forth in the Adequacy Demand Notice; *provided, however*, that if all Obligations due and owing to the Bank and any Participant are not paid prior to the date on which any increased cost related to any event referred to in clause (i) or (ii) above are imposed upon the Bank or such Participant or the Bank's or such Participant's parent or holding company, as applicable, the City shall become liable for the additional amount set forth in the Adequacy Demand Notice on the date on which such increased cost related to any event referred to in clause (i) or (ii) above are imposed on the Bank, such Participant or the Bank's or such Participant's parent or holding company, as applicable. Such amounts will be payable as set forth in Section 3.02(c) hereof.

(c) All payments of amounts referred to in this Section 3.02 shall be paid by the City, subject to Section 2.10 hereof, to the Bank, for its own account, or to the Participant for the account of such Participant, as applicable, within sixty (60) days of the date the Bank or Participant makes demand on the City. The amounts demanded in the respective Yield Protection Demand Notice or Adequacy Demand Notice or any other written notice from the Bank to the City making a demand on the City for the payment of increased costs or Reductions in Amount pursuant to this Section 3.02, as applicable, are intended to compensate the Bank or Participant, as applicable, for such increased costs or Reductions in Amount incurred by the Bank or such Participant as a result of any event referred to in subsections (a) or (b) above. Any Yield Protection Demand Notice or Adequacy Demand Notice or any other written notice from the Bank to the City making a demand on the City for the payment of increased costs or Reductions in Amount pursuant to this Section 3.02 submitted by the Bank or any Participant to the City shall be conclusive as to the amount thereof absent manifest error.

The City shall not be required to compensate the Bank or any Participant pursuant to this Section 3.02 in respect of a period occurring more than six (6) months prior to the date the above-described written demand is given to the City with respect thereto (the "*Cut-Off Date*"), except where (i) the Bank or Participant, as applicable, had no actual knowledge of the action resulting in such increased costs, increased capital or Reduction in Amount, as applicable, as of the Cut-Off Date or (ii) such increased costs, increased capital or Reduction in Amount apply to the Bank or Participant retroactively to a date prior to the Cut-Off Date.

In making the determinations contemplated by any Yield Protection Demand Notice or Adequacy Demand Notice or any other written notice from the Bank to the City making a demand on the City for the payment of increased costs or Reductions in Amount pursuant to this Section 3.02, the Bank or Participant may make and shall include in such notice such reasonable estimates, assumptions, allocations and the like that the Bank or Participant in good faith determines to be appropriate. For purposes of this Section 3.02, the term "Bank" or "Participant" as applicable, shall also include any entity controlling the Bank or Participant or the holding company thereof. For purposes of the immediately preceding sentence, "controlling" means the power to direct the management and policies of the Bank, directly or indirectly, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract or otherwise. The obligations of the City under this Section 3.02 shall survive the

termination of this Agreement, the Letter of Credit and repayment of all Obligations hereunder and under the Fee Letter.

Notwithstanding anything in this Section 3.02 to the contrary, any amounts owed to a Participant are subject to the limitations set forth in Section 9.06(b) hereof.

Section 3.03. *Maximum Lawful Rate; Payment of Fee.* If the rate of interest payable hereunder or under the Fee Letter shall exceed the Maximum Lawful Rate for any period for which interest is payable, then (i) interest at the Maximum Lawful Rate shall be due and payable with respect to such interest period and (ii) interest at the rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof without regard to the Maximum Lawful Rate and (B) the Maximum Lawful Rate (the “*Excess Interest*”), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof or the Fee Letter, if applicable, ceases to exceed the Maximum Lawful Rate, at which time the City shall pay to the Bank, with respect to amounts then payable to the Bank that are required to accrue interest hereunder or under the Fee Letter, as applicable, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Bank to equal the Maximum Lawful Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder and under the Fee Letter, as applicable, until all Excess Interest is fully paid to the Bank. Upon the termination of the Letter of Credit, in consideration for the limitation of the rate of interest otherwise payable hereunder, the City shall pay to the Bank a fee equal to the amount of all unpaid Excess Interest.

## ARTICLE IV

### CONDITIONS PRECEDENT

Section 4.01. *Conditions Precedent to Issuance of the Letter of Credit.* As conditions precedent to the obligation of the Bank to issue the Letter of Credit, the City shall provide to the Bank on the Effective Date, each in form and substance satisfactory to the Bank and Bank Counsel:

(i) *Approvals.* The Bank shall have received a counterpart of this Agreement and the Fee Letter duly executed by the City and the Bank and copies of all action taken by the City approving the execution and delivery by the City of this Agreement and the other Related Documents to which it is a party, in each case certified by an authorized official of the City as complete and correct as of the date hereof.

(ii) *Incumbency of City Officials.* The Bank shall have received an incumbency certificate of the City in respect of each official who is authorized to (i) sign this Agreement and the Fee Letter on behalf of the City and (ii) take actions for the City under this Agreement and the Fee Letter.

(iii) *Opinion of Bond Counsel.* The Bank shall have received a written opinion of Bond Counsel, addressed to the Bank (or upon which the Bank may rely), dated the Effective Date in form and substance satisfactory to the Bank and Bank Counsel.

(iv) *Opinion of City Attorney.* The Bank shall have received a written opinion of the City Attorney, addressed to the Bank, dated the Effective Date in the form and substance satisfactory to the Bank and Bank Counsel.

(v) *Governmental Approvals.* The Bank shall have received true and correct copies of all Governmental Approvals, if any, necessary for the City to execute, deliver and perform the Related Documents to which it is a party and to authorize the City to induce the issuance of the Letter of Credit.

(vi) *Bond Opinions.* Copies of the legal opinions rendered in connection with the issuance of the Bonds and the delivery of the Related Documents.

(vii) *Tender Agent; Remarketing Agent.* The Remarketing Agent and the Tender Agent have been appointed. The Bank shall have received copies of the Remarketing Agreement, duly executed by the parties thereto, which agreements shall be in full force and effect.

(viii) *Related Documents.* The Bank shall have received a certified copy of the Charter, a certified copy of the Master Resolution and all amendments thereto, the Eighth Supplemental Resolution, the Remarketing Agreement and the Bonds, all certified by a City Representative of the City as being in full force and effect. The Bank shall have received an executed original or copy of this Agreement, the Custody Agreement and the Fee Letter.

(ix) *No Default, Etc.* (i) No Default or Event of Default shall have occurred and be continuing as of the date hereof under this Agreement or the other Related Documents or will result from the execution, delivery, and performance by the City of this Agreement or any other Related Document to which the City is a party, (ii) the representations and warranties made by the City in Article V hereof shall be true and correct in all material respects on and as of the Effective Date, as if made on and as of such date, (iii) all conditions precedent to the issuance of the Letter of Credit set forth in this Section 4.01 have been satisfied and (iv) the Bank shall have received a certificate, given and made as of the Effective Date, from the City to the foregoing effect.

(x) *Financial Information.* The Bank shall have received copies of the Audited Financial Statements for the Water System of the City for the Fiscal Year ended June 30, 2021, acceptable to the Bank and any other financial information, budgets or projections as reasonably requested by the Bank.

(xi) *Legality; Material Adverse Change.* A Certificate of the City shall have been delivered to the Bank, in form and substance satisfactory to the Bank, dated the Effective Date, to the effect that (i) neither the making of any Liquidity Advances or Drawings nor the consummation of any of the transactions contemplated by the Master Resolution, the Eighth Supplemental Resolution, the Bonds or this Agreement will violate any law, rule, guideline or regulation (or their interpretation) applicable to the City or this Agreement and (ii) no material adverse change in the ratings, financial condition, business, assets, liabilities, operations or prospects of the Water System of the City shall have occurred since June 30, 2021 except as disclosed in writing to the Bank prior to the Effective Date or as disclosed in the Offering Document, which would be reasonably likely to result in a Material Adverse Effect.

(xii) *Fees, Etc.* The Bank shall have received payment of the fees, costs and expenses set forth in Section 2.05 of this Agreement that are payable on the Effective Date.

(xiii) *Ratings.* The Bank shall have received satisfactory evidence that the Bonds shall have been assigned long and short-term ratings of “[ ]” and “[ ],” respectively, by S&P, “[ ]” and “[ ],” respectively, by Fitch and “[ ]” and “[ ],” respectively, by Moody’s after giving effect to the Letter of Credit, and that S&P, Fitch and Moody’s shall have assigned an underlying rating of at least “AA+,” “AA+” and “Aa2” respectively, on the long-term, unenhanced indebtedness of the City secured by the Net Operating Revenues.

(xiv) *CUSIP and Bank Bond Rating.* The Bank shall have received written evidence satisfactory to the Bank that (a) a CUSIP number has been obtained and received from Standard & Poor’s CUSIP Service for the Bank Bonds and (b) the Bank Bonds (and their related CUSIP Numbers) shall have been assigned a long term rating of at least “BBB-” from Fitch or S&P.

(xv) *Other Documents.* The Bank shall have received such other documents, certificates, and opinions as the Bank and Bank Counsel shall have reasonably requested.

(xvi) *Eighth Supplemental Resolution.* The Bank shall have received evidence of the satisfaction of all conditions set forth in Section 2.04(a) and 2.04(c) of the Eighth Supplemental Resolution with respect to the conversion of the Bonds to a Daily Interest Rate Period or a Weekly Interest Rate Period.

(xvii) *Legal Requirements.* All legal requirements provided herein incident to the execution, delivery and performance of the Related Documents and the transactions contemplated thereby, shall be reasonably satisfactory to the Bank and Bank Counsel.

(xviii) *Closing Certificate.* A Certificate of the City, dated the Effective Date, stating that: (1) the representations and warranties of the City herein are true and correct on and as of the Effective Date; (2) no Event of Default has occurred and is continuing under this Agreement or the Related Documents or would result from the execution, delivery and performance of this Agreement or the Related Documents; (3) the City is in compliance with all covenants set forth herein on and as of the Effective Date; and (4) all conditions precedent to the issuance of the Bonds, the remarketing and conversion of the Bonds to a Daily Interest Rate Period or a Weekly Interest Rate Period on the Effective Date and to the execution and delivery of this Agreement and the other Related Documents to which it is a party have been satisfied.

(xix) *Favorable Opinion of Bond Counsel.* The Bank shall have received a Favorable Opinion of Bond Counsel with respect to the conversion of the Bonds on the Effective Date to a Daily Interest Rate Period or a Weekly Interest Rate Period in satisfaction of Section 2.04(C)(3) of the Eighth Supplemental Resolution.

Section 4.02. *Conditions Precedent to Liquidity Advances.* Following any payment by the Bank under the Letter of Credit pursuant to a Liquidity Drawing, a Liquidity Advance shall be made available to the City *only if* on the date of payment of such Liquidity Drawing (i) the representations and warranties contained in Article V of this Agreement are true and correct in all

material respects as of such date, except, to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date and (ii) no event has occurred and is continuing, or would result from such payment, which constitutes a Default or Event of Default.

Unless the City shall have previously advised the Bank in writing that the above statement is no longer true, the City shall be deemed to have represented and warranted on the date of such payment that the above statement is true and correct.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES**

The City hereby represents and warrants to the Bank as of the Effective Date and as of the effective date of any extension of the Stated Expiration Date (which representations and warranties shall survive the execution and delivery of this Agreement and the making of any Drawings or Liquidity Advances, if any) as follows:

Section 5.01. *Organization, Powers, Etc.* The City is a municipal corporation and chartered city duly organized and existing under and by virtue of the laws of the State of California and the Charter, and is possessed of full powers to own and lease real and personal property, to own and operate the Water System, to conduct its other business as presently conducted and to enter into contracts such as this Agreement and the other Related Documents, which powers have been validly exercised in connection with the transactions effected by this Agreement and the other Related Documents and to perform and observe all of the terms and provisions of the Related Documents to which the City is a party.

Section 5.02. *Authorized, Absence of Conflicts, Etc.* The execution, delivery and performance of each Related Document (i) were and have been duly authorized by all necessary action on the part of the City; (ii) did not and do not conflict with, or result in a violation of, any provision of law, including the Charter, or any order, writ, rule or regulation of any court or governmental agency or instrumentality binding upon or applicable to the City; and (iii) did not and do not conflict with, result in a violation of, or constitute a default or create a Lien under any other resolution, agreement or instrument to which the City was or is a party or by which the City or any of its property was or is bound; and no further approvals, authorizations or consents are required by law or otherwise.

Section 5.03. *Binding Obligation.* Each Related Document to which the City is a party was and is a valid and binding obligation of the City in accordance with their respective terms, and this Agreement is the legal, valid and binding obligation of the City enforceable in accordance with its terms.

Section 5.04. *Security.* (a) The Obligations of the City under this Agreement, the Fee Letter and the Bank Bonds are payable from and secured by a Lien on the Net Operating Revenues and Trust Assets on a parity with all other Parity Debt.

(b) The City hereby designates the Obligations as Parity Debt. The Resolution creates a valid security interest in the funds and accounts created under the Resolution and the

moneys, including, without limitation, the Net Operating Revenues on deposit therein and the Trust Assets, as security for the punctual payment of the interest and principal due with respect to the Bonds and all Parity Debt (including the Obligations). All action necessary to create a lien on such funds and accounts and on moneys on deposit therein, including the Net Operating Revenues, have been duly and validly taken. The City's obligation to pay the Obligations is *pari passu* with its obligation to pay the Bonds and all other Parity Debt. The Parity Debt outstanding on the Effective Date is the City's: Water Revenue/Refunding Bonds, Issue of 2009B (Federally Taxable-Build America Bonds), Variable Rate Refunding Water Revenue Bonds, Issue of 2011A (Index Interest Rate Period) and the Water Revenue/Refunding Bonds, Issue of 2019A. The Subordinate Obligations outstanding on the Effective Date are: the obligations of the City pursuant to a variable-to-fixed interest rate swap agreement with JPMorgan Chase Bank, N.A., originally entered into in connection with the City's Water Refunding/Revenue Bonds, Issue of 2005, and the obligations of the City pursuant to a revolving credit agreement, dated as of February 1, 2022, between the City and U.S. Bank Trust Company, National Association.

(c) No further consent, approval, permit, authorization or order of, or registration or filing with, any court or governmental agency, authority or instrumentality, or recording or filing of any Related Documents, any financing statement or any other certificate, resolution, instrument or agreement, was, is or will be necessary to create or perfect the liens, pledges and security interests of the Bank in the Net Operating Revenues and Trust Assets.

Section 5.05. *Governmental Consent or Approval.* (i) No consent, approval, permit, authorization or order of, or registration or filing with, any court or governmental agency, authority or other instrumentality not already obtained, given or made was or is required on the part of the City for the execution, delivery and performance of the Related Documents.

(ii) All consents, approvals, permits, authorizations and orders of, and registrations and filings with, any court or governmental or public agency, authority or other instrumentality required for the issuance, sale, execution, delivery and performance of each Bond have been or will be obtained prior to the delivery thereof.

Section 5.06. *Litigation.* There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, arbitrator, governmental or other board, body or official, pending or, to the best knowledge of the City, threatened against or affecting the City, that draws into question the validity of the Charter or any proceeding taken or to be taken by the City in connection with the execution, delivery and performance of any Related Document, nor, to the best knowledge of the City, is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect (i) the validity of the Charter, (ii) the validity or enforceability of, or the authority or ability of the City to perform its obligations under, any Related Document, (iii) the ability of the City to carry out its purposes in the manner now conducted or as proposed to be conducted, or (iv) the exclusion of interest on any Bond from gross income for Federal income tax purposes or the exemption of any Bond or the interest thereon from personal income taxation by the State or any political subdivision thereof. In addition to the foregoing, there are no actions, suits or proceedings at law or in equity (including any Environmental Claims) pending or, to the knowledge of the City, threatened against or affecting it or the Water System before any court or arbitrator or any governmental or nongovernmental body, agency or official in which an adverse decision could produce a Material Adverse Effect.



Section 5.07. *No Defaults.* No Default or Event of Default has occurred and is continuing. The City is not in default under (i) any order, writ, injunction or decree of any court or governmental body, agency or other instrumentality applicable to the City, or (ii) any constitutional provision or law or regulation, or (iii) any Debt of the City relating to the Water System, or (iv) any contract, agreement or instrument to which the City is a party or by which it or any of its properties is bound, in each case, which default could (A) adversely affect the validity or enforceability of, or the authority or ability of the City to perform its obligations under, this Agreement or the other Related Documents, or (B) result in a Material Adverse Effect; and no event has occurred which with the giving of notice or the passage of time or both would constitute such a default.

Section 5.08. *Immunity.* The City is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject in any proceedings in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to it or its revenues or assets.

Section 5.09. *Environmental Compliance.* The City has not received notice to the effect that its operations are not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which noncompliance or remedial action could have a Material Adverse Effect.

Section 5.10. *Financial Condition.* On the date of execution and delivery of this Agreement (i) the balance sheet of the City's Water System for each of the three (3) Fiscal Years immediately preceding the date hereof, and the related statements of revenues, expenses and changes in retained earnings and financial position, present fairly the City's Water System financial position as of the end of such Fiscal Year and the results of its operations and its income, fund balances and changes in fund equity and financial position for the end of such Fiscal Year, in conformity with generally accepted accounting principles applied on a consistent basis and (ii) no Material Adverse Effect has occurred relating to such balance sheet and related statements of revenues, expenses and changes.

Section 5.11. *Disclosures.* As of the date hereof, no information, exhibit or report, including, without limitation, the Offering Document and the financial statements furnished by or on behalf of the City's Water System to the Bank, contains any untrue statement of a material fact or omits any statement of a material fact necessary to make the statements contained herein, in light of the circumstances under which they were made, not misleading, and there are no facts that the City has not disclosed in writing to the Bank that, individually or in the aggregate, materially adversely affect the Related Documents or the ability of the City to perform its obligations hereunder, or, so far as the City can now foresee, will have a Material Adverse Effect.

Section 5.12. *No Limitation on Interest Rate.* As of the Effective Date, the laws of the State, including the Charter, impose no limitation on the rate of interest payable by the City hereunder or under the Bank Bonds.

Section 5.13. *No Proposed Legal Changes.* As of the date hereof and except as disclosed in the Offering Document, there is no amendment, or to the knowledge of the City, proposed amendment certified for placement on any ballot in the State, or any legislation that has passed either house of the State's legislature or the United States Congress, or any published judicial decision interpreting any of the foregoing, the effect of which is to materially adversely affect the Bonds or any owner thereof in his capacity as such, or the ability of the City to execute, deliver and perform its obligations under this Agreement and the other Related Documents.

Section 5.14. *ERISA.* The City does not maintain or contribute to, and has not maintained or contributed to and is not required to maintain or contribute to, any Plan that is subject to Title IV of ERISA.

Section 5.15. *Reserved.*

Section 5.16. *Margin Regulations; Investment Company Act.* (a) The City is not engaged in the business of extending credit for the purpose of purchasing or carrying any Margin Stock as defined in Regulation U of the Board of Governors of the Federal Reserve System, and the City will not use the proceeds of any draws under the Letter of Credit so as to violate Regulation T, U or X of the Board of Governors of the Federal Reserve System, as the same may be amended or interpreted from time to time.

(b) The City does not intend to use any part of the proceeds of the Bonds or the funds advanced hereunder and has not incurred any indebtedness to be reduced, retired or purchased by the City out of such proceeds, for the purpose of purchasing or carrying any Margin Stock, and the City does not own and has no intention of acquiring any such Margin Stock.

(c) The City is not required to be registered as an "investment company" under the Investment Company Act of 1940.

Section 5.17. *Compliance with Laws.* Except as disclosed in writing to the Bank or as disclosed in the Offering Document, the City is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

Section 5.18. *Bank Bonds.* The Bonds purchased pursuant to Article II hereof will be transferred to or held for the benefit of the Bank, free and clear of all liens, security interests or claims of any Person other than the Bank, except for consensual liens or other security interests as may be created by the Bank.

Section 5.19. *Usury.* As of the Effective Date, the terms of this Agreement and the Related Documents regarding the calculation and payment of interest and fees related to amounts due to the Bank do not violate any applicable usury laws of the State of California.

Section 5.20. *The Tender Agent and Remarketing Agent.* The Tender Agent is the duly appointed and acting tender agent under the Resolution. The Remarketing Agent is the duly appointed and acting remarketing agent with respect to the Bonds.

Section 5.21. *Insurance.* The City is in compliance with the insurance requirements set forth in the Resolution.

Section 5.22. *Taxes.* The City has filed all Federal, state and other material tax returns and reports required to be filed, if any, and has paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon it or its properties, income or assets otherwise due and payable, if any, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the City that would, if made, have a Material Adverse Effect.

Section 5.23. *Reserved.*

Section 5.24. *Patriot Act Representations.*

(a) Neither the City nor any of its Affiliates is in violation of any laws relating to terrorism or money laundering (“*Anti-Terrorism Laws*”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “*Executive Order*”), and the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “*Patriot Act*”).

(b) Neither the City nor any of its Affiliates is any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, 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 Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(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.

(c) Neither the City nor any of its Affiliates (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (b)(ii) above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

## **ARTICLE VI**

### **AFFIRMATIVE COVENANTS**

Section 6.01. *Affirmative Covenants of the City.* The City covenants and agrees that it will do the following unless and until the Letter of Credit shall have terminated and all Obligations shall have been paid in full, unless the Bank shall otherwise consent in writing:

(a) *Performance of This and Other Agreements.* Punctually pay or cause to be paid all amounts payable under this Agreement, the Bonds and the other Related Documents and observe and perform all of the conditions, covenants and requirements set forth in this Agreement, the Bonds and the other Related Documents.

(b) *Further Assurances.* Execute, acknowledge where appropriate, and deliver, and cause to be executed, acknowledged where appropriate, and delivered, from time to time promptly at the request of the Bank all such instruments and documents as in the reasonable judgment of the Bank are necessary or advisable to carry out the intent and purpose of this Agreement, the Bonds and the other Related Documents.

(c) *Books and Records; Inspection Rights.* Keep adequate records and books of account, in which complete entries will be made, reflecting all financial transactions of the City's Water System; and at any reasonable time and from time to time, permit the Bank or any agents or representatives thereof to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, the City's Water System and to discuss the affairs, finances and accounts of the City's Water System with any of the City's officers, trustees and independent auditors (and by this provision, the City authorizes said auditors to discuss with the Bank or its agents or representatives, the affairs, finances and accounts of the Water System).

(d) *Reporting Requirements.* Furnish to the Bank either electronically (which may be a notice with a link to the City's website) or by hard copy:

(i) as soon as available and in any event within two hundred and seventy (270) days after the end of each Fiscal Year, the comprehensive annual audited financial report of the City's Water System;

(ii) concurrently with each delivery of the comprehensive annual financial report referred to in clause (i) above, a Certificate of the City stating that (i) under his/her supervision the City has made a review of its activities during the preceding annual period for the purpose of determining whether or not the City has complied with all of the terms, provisions and conditions of this Agreement and the other Related Documents and (ii) to the best of his/her

knowledge no Default or Event of Default has occurred with respect to the City in the performance or observance of any of the terms, covenants, provisions or conditions of this Agreement or any of the other Related Documents, or if a Default or Event of Default shall have occurred with respect to the City, such certificate shall specify each such Default or Event of Default, the nature and status thereof and any remedial steps taken or proposed to correct each such Default or Event of Default, as applicable;

(iii) within sixty (60) days of adoption thereof, copies of the City's authorized budget for the Water System;

(iv) promptly after an official of the City has actual knowledge thereof, notice of any action, suit, proceeding, inquiry or investigation before or by any court, public authority or body pending or threatened wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or the other Related Documents, or which would adversely affect the validity or enforceability of, or the authority or ability of the City to perform its obligations under, this Agreement or the other Related Documents to which it is a party;

(v) promptly after the occurrence of each Event of Default or Default under this Agreement, continuing on the date of such statement, a Statement of a City representative setting forth details of such Event of Default or Default and the action which the City is taking or proposes to take with respect thereto;

(vi) promptly after the receipt or giving thereof, copies of all notices of resignation by or removal of the Tender Agent and/or a Remarketing Agent which are received and/or given by the City;

(vii) upon request of the Bank, the City shall confirm, or cause to be confirmed to the Bank, the amount of funds and securities on deposit in any fund or account established under the Eighth Supplemental Resolution;

(viii) within ten (10) days after the filing of a material event notice, provide the Bank with a copy of such notice; and

(ix) with reasonable promptness, such other information and data with respect to the business, properties, condition (financial or other), operations or prospects of the Water System as from time to time may be reasonably requested by the Bank.

(e) *Compliance with Laws, Documents, Etc.* Comply with all applicable documents, laws, rules, regulations, guidelines and orders of any governmental authority having jurisdiction over the City (including, without limitation, compliance with Environmental Laws and ERISA, where applicable), except that this sub-section (e) shall not apply if non-compliance with the foregoing would not, singly or in the aggregate, have a Material Adverse Effect on the City or the ability of the City to perform its obligations hereunder or under any of the other Related Documents.

(f) *Tender Agent and Remarketing Agent.* Appoint a Tender Agent and a Remarketing Agent with respect to the Bonds pursuant to the Master Resolution and the Eighth

Supplemental Resolution, which such Remarketing Agent shall be acceptable to the Bank. A remarketing agreement with a successor Remarketing Agent shall provide that (a) such remarketing agent may resign upon not less than forty-five (45) days prior written notice to the Tender Agent, the Bank and the City, and (b) such remarketing agent shall use its best efforts to remarket the Bonds without regard to the Liquidity Rate (*i.e.*, whether or not the rate to be borne by the Bonds is less than the Liquidity Rate).

(g) *Alternate Credit Support Instrument.* (1) Use all commercially reasonable efforts to obtain an Alternate Credit Support Instrument to replace this Agreement or to convert the interest rate on the Bonds to a mode other than the Weekly Interest Rate or the Daily Interest Rate in the event that (A) the Bank shall decide not to extend the Stated Expiration Date pursuant to Section 2.12 hereof, (B) the City terminates this Agreement pursuant to Section 2.07 hereof, or (C) the Bank directs the Tender Agent to cause a mandatory tender of the Bonds following the occurrence of an Event of Default.

(2) The City shall not permit an Alternate Credit Support Instrument to become effective with respect to less than all of the Bonds without the prior written consent of the Bank.

(h) *Incorporation by Reference.* Perform and comply with each and every covenant and agreement to be performed or observed by it in each of the Related Documents to which it is a party and each such covenant, together with the related definitions of terms contained therein, is hereby incorporated by reference herein with the same effect as if it were set forth herein in its entirety, it being understood that no amendment or waiver with respect to such covenants and agreements or defined terms shall be effective as to this Agreement unless and until specifically agreed to in writing by the Bank with reference to this Agreement.

(i) *Bond Ratings; Bank Bond Rating.* Cause to be maintained (i) an unenhanced, long-term rating on the Bonds by at least Fitch, S&P and Moody's and (ii) a rating on the Bank Bonds of at least "BBB-" (or its equivalent) by S&P, "BBB-" (or its equivalent) by Fitch or "Baa3" (or its equivalent) in the case of Moody's.

(j) *ERISA.* Comply and require all Related Persons to comply in all material respects with Title IV of ERISA, if or to the extent applicable.

(k) *Right to Accelerate.* In the event that the City shall, directly or indirectly, enter into or otherwise consent to any Bank Agreement, which such Bank Agreement includes the right to accelerate the payment of the principal of or interest on any series of bonds secured by the Net Operating Revenues upon the occurrence of an event of default under terms more favorable than those provided herein, the Bank shall be deemed to have the right to accelerate the payment of the principal of and interest on any Bank Bonds (and all other obligations due and owing hereunder) under the same terms and conditions set forth under any such Bank Agreement. If requested by the Bank, the City shall promptly, upon the occurrence of the City entering into an agreement (or amendment thereto) which provides for the right to accelerate any bonds secured by Net Operating Revenues, enter into an amendment to this Agreement to include such provision, *provided* that the Bank shall maintain the benefit of such provision even if the City fails to provide such amendment. The release, termination or other discharge of such other documentation which provides for acceleration of any such bonds shall be effective to amend, release, terminate or

discharge (as applicable) such provision as incorporated by reference herein without the consent of the Bank.

(l) *Book Entry Eligibility.* At all times from and including the Effective Date until and including the date of maturity of the Bonds, use commercially reasonable efforts to cause the Bonds to be eligible for, and to be registered with, DTC's book-entry delivery services and that such registration with DTC shall not be discontinued without the Bank's prior written consent.

(m) *Sovereign Immunity.* Not claim any immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all such immunity. The City hereby waives any rights and will not assert any claims, in each case with respect to any immunity it may have from setoff or legal proceeding it may hereafter acquire under any applicable laws and will not invoke any defense of immunity in respect of its obligations arising under or related to this Agreement, the Fee Letter and the other Related Documents.

(n) *Rates and Charges.* Comply with the provisions of Section 6.10 of the Master Resolution.

## **ARTICLE VII**

### **NEGATIVE COVENANTS**

Section 7.01. *Negative Covenants of the City.* Unless and until the Letter of Credit shall have terminated and all Obligations shall have been paid in full, the City shall not, directly or indirectly, unless the Bank shall otherwise consent in writing:

(a) *No Adverse Effect.* Take any action or omit to take any action that adversely affects (i) the rights or security of the Bank under this Agreement, the Bank Bonds or under any other Related Document (including, without limitation, the right to receive timely and sufficient payment hereunder or thereunder), (ii) the Lien, pledge and security interest in favor of the Bank in and to the Net Operating Revenues or (iii) the rights of the holders of the Bonds (including, without limitation, the right to receive timely and sufficient payment thereunder).

(b) *Reference to the Bank.* Other than the information contained in the Offering Document under the caption "APPENDIX G – PNC BANK, NATIONAL ASSOCIATION" include, or permit to be included, any material or reference relating to the Bank in any offering memorandum or any other document (other than the audit of the City) or any tombstone, unless such material or reference is approved in writing by the Bank prior to its inclusion therein.

(c) *Alternate Credit Support Instrument.* Provide or permit to be provided a letter of credit or other credit enhancement or liquidity support for the Bonds other than the Letter of Credit unless (i) such letter of credit or other credit enhancement constitutes an Alternate Credit Support Instrument which, after the effective date thereof, and pursuant to the terms of the Eighth

Supplemental Resolution, precludes the Tender Agent from drawing under this Agreement and the Letter of Credit, and (ii) on or prior to the date of the provision or substitution of such Alternate Credit Support Instrument, all amounts payable by the City under this Agreement are paid in full.

(d) *Transfer of Water System.* Transfer, sell, lease or dispose of all or substantially all of the properties and facilities constituting the Water System, except as permitted under the Master Resolution.

(e) *Amendments.* (i) Modify, amend or supplement any of the Related Documents or (ii) give any consent to any modification, amendment or supplement of any of the Related Documents or (iii) make any waiver with respect to any of the Related Documents, without the prior written consent of the Bank; *provided, however*, that amendments, modifications, supplements and waivers of any Related Document (other than this Agreement) shall be effective without the prior written consent of the Bank, to the extent, and only to the extent, that (i) such amendments, modifications, supplements and waivers would not have any adverse effect on the Related Documents, the Net Operating Revenues, the rights, security interests, duties and obligations of the Bank hereunder or the Lien in respect of the Net Operating Revenues or under any other Related Document or the ability of the City to meet its obligations hereunder or any other Related Document and (ii) such amendments, modifications, supplements and waivers would not have a Material Adverse Effect. In addition, the City promptly will supply the Bank with one fully executed copy of any modification, amendment, supplement or waiver of any Related Document.

(f) *Exempt Status.* Take any action, omit to take any action or cause or permit another Person to take any action or omit to take any action, which, if taken or omitted, would adversely affect the excludability of interest on the Bonds from the gross income of the holders thereof for purposes of Federal income taxation.

(g) *Additional Liens.* (i) Except as permitted under the Master Resolution, create, incur, assume or suffer to exist any Lien on the Net Operating Revenues on a parity with the Lien of the Master Resolution and (ii) create, incur, assume or suffer to exist any Lien on the Net Operating Revenues senior to the Lien of the Master Resolution.

(h) *Additional Debt.* (i) Issue or incur any Debt payable from or secured by the Net Operating Revenues on a parity with, or junior and subordinate to, the Bonds and the Obligations unless the applicable conditions contained in Article III and Section 6.12 of the Master Resolution have been satisfied, and (ii) in no event issue or incur any Debt payable from or secured by a lien on the Net Operating Revenues which is senior to the Bonds or the Obligations.

(i) *Other Agreements.* Enter into any agreement containing any provision which would be violated or breached by the performance of its obligations hereunder or under the other Related Documents.

(j) *Consolidation, Merger, etc.* Dissolve or otherwise dispose of all or substantially all of the assets of the Water System or the City or consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into the City.

(k) *Tender Agent and Remarketing Agent.* Without the prior written consent of the Bank, which such consent shall not be unreasonably withheld, appoint or consent to the



appointment of any successor Tender Agent or Remarketing Agent; *provided* that any successor Tender Agent, or Remarketing Agent (or its parent entity) shall have minimum capital of \$500,000,000. The City shall at all times maintain a Tender Agent and a Remarketing Agent under the Resolution.

(l) *Use of Proceeds.* Use the proceeds of any credit extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case in violation of, or for a purpose which violates, or would be inconsistent with, Regulation T, U or X of the Board of Governors of the Federal Reserve System.

(m) *Tax Status of Bonds.* Take any action or suffer any action to be taken by others that will impair the tax-exempt status of the Bonds.

(n) *Immunity.* Assert any immunity it may have from lawsuits with respect to the enforcement of any of the obligations of the City under this Agreement or the other Related Documents.

(o) *Voluntary Redemption or Conversion.* (i) Request or consent to an optional redemption of the Bonds without, prior to sending the notice of redemption, (A) depositing with the Tender Agent or Fiscal Agent (from funds other than amounts derived under the Letter of Credit) an amount equal to the principal amount of Bonds to be redeemed (the “*Redemption Amount*”), or (B) obtaining the Bank’s written consent; *provided* that the consent of the Bank shall not be required if (I) the notice of redemption is a conditional notice of redemption conditioned on the deposit by the City with the Fiscal Agent of the Redemption Amount and (II) the City shall agree in such notice that the notice of redemption will be deemed rescinded if the Redemption Amount shall not have been deposited with the Fiscal Agent (from funds other than amounts derived under the Letter of Credit) on or prior to the second (2nd) Business Day prior to the proposed redemption date; *provided, further*, that the City shall not be required to deposit the Redemption Amount with the Fiscal Agent on or prior to the second (2nd) Business Day prior to the proposed redemption date if the City shall have provided to the Bank evidence satisfactory to the Bank that (y) refunding bonds have been issued and the proceeds of such refunding bonds will be delivered on or prior to the proposed redemption date of the Bonds to redeem the Bonds and (z) that irrevocable instructions have been given to deposit the proceeds of such refunding bonds with the Fiscal Agent for the purpose of redeeming the Bonds or reimbursing the Bank for any draw under the Letter of Credit.

(ii) Voluntarily redeem any Bonds pursuant to the Resolution prior to redeeming Bank Bonds in full or if, after giving effect to such redemption, there would be any unpaid Excess Interest owing under this Agreement or any other amount in respect of such Bank Bonds which shall not have been paid in full.

(iii) Convert any Bonds to a rate other than the Weekly Interest Rate or the Daily Interest Rate pursuant to the Resolution if, after giving effect to such conversion, there

would be any unpaid amounts owing under this Agreement or any other amount in respect of such Bank Bonds which shall not have been paid in full.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

Section 8.01. *Events of Default and Remedies.* If any of the following events shall occur, each such event shall be an “*Event of Default*”:

- (a) the City shall fail to pay, or cause to be paid, as and when due any Obligation; or
- (b) the City shall fail to pay, or cause to be paid, when due any Parity Debt; or
- (c) any representation or warranty made by or on behalf of the City to the Bank in this Agreement, a Related Document or in any certificate or statement delivered hereunder shall be incorrect or untrue in any material respect when made or deemed to have been made; or
- (d) any “*event of default*” under any Related Document which is not cured within any applicable cure period shall occur; or
- (e) default in the due observance or performance of any covenant set forth in Sections 6.01(d)(iv), 6.01(e), 6.01(f), 6.01(g), 6.01(i), 6.01(j), 6.01(m), 6.01(n) or 7.01 hereof; or
- (f) default in the due observance or performance of any other term, covenant or agreement set forth in this Agreement or any other Related Document and the continuance of such default for thirty (30) days after knowledge by the City or notice from the Bank; or
- (g) any provision of this Agreement or any material provision of the Related Documents shall cease to be valid and binding, or a senior officer of the City or the City shall contest any such provision, or a senior officer of the City, or any agent or trustee on its behalf shall (A) deny that it has any or further liability (y) under this Agreement or any of the Related Documents to which it is a party or (z) with respect to its obligations to pay any Parity Debt, or (B) claim that any of the Related Documents are invalid; or
- (h) an Event of Insolvency shall have occurred with respect to the City; or
- (i) dissolution or termination of the existence of the City; or
- (j) the City or any governmental agency or authority with jurisdiction over the City shall initiate any legal proceedings to seek an adjudication that this Agreement, the Bonds, or any Related Document or its obligation to pay any Parity Debt is not valid or not binding on the City; or
- (k) any court of competent jurisdiction or other governmental entity with jurisdiction to rule on the validity of this Agreement, the Bonds or any of the Related Documents,

shall announce, find or rule that this Agreement, the Bonds or any of the Related Documents is not valid or not binding on City; or

(l) the City shall (i) default in any payment of any Debt payable from Net Operating Revenues which, individually or in the aggregate, exceeds \$10,000,000 (“*Material Debt*”) beyond the period of grace (not to exceed 30 days), if any, provided in the instrument or agreement under which such Material Debt was created, or (ii) default in the observance or performance of any agreement or condition relating to any Material Debt contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of any Material Debt (or a Tender Agent or agent on behalf of such holder or holders) to cause, with the giving of notice if required, such Material Debt to become due prior to its stated maturity; or (iii) any Material Debt shall be declared to be due and payable, or required to be prepaid other than by a regularly scheduled required prepayment, prior to the stated maturity thereof; or

(m) (i) the withdrawal or suspension for credit-related reasons by any Rating Agency that is at the time rating any long-term unenhanced Debt of the City payable from Net Operating Revenues that is senior in right of payment to, or on a parity with, the Bonds of its long-term rating with respect to such Debt; or (ii) the downgrade by any such Rating Agency of its long-term rating with respect to any such Debt to a level below “BBB-” (or its equivalent) in the case of Fitch, “BBB-” (or its equivalent) in the case of S&P or “Baa3” (or its equivalent) in the case of Moody’s; or

(n) there shall be appointed or designated with respect to the City or the Water System, an entity such as an organization, board, commission, authority, agency or body to monitor or declare a financial emergency or similar state of financial distress with respect to it or there shall be declared by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it; or

(o) a ruling, assessment, notice of deficiency or technical advice by the Internal Revenue Service shall be rendered to the effect that interest on the Bonds is includable in the gross income of the holder(s) or owner(s) of such Bonds and either (i) the City, after it has been notified by the Internal Revenue Service, shall not challenge such ruling, assessment, notice or advice in a court of law during the period within which such challenge is permitted or (ii) the City shall challenge such ruling, assessment, notice or advice and a court of law shall make a determination, not subject to appeal or review by another court of law, that such ruling, assessment, notice or advice is correctly rendered; or

(p) (i) default under any mortgage, agreement or other instrument under or pursuant to which Parity Debt is incurred or issued, and continuance of such default beyond the period of grace, if any, allowed with respect thereto, or (ii) the City shall fail to perform any other agreement, term or condition contained in any agreement under which any such obligation is created or secured which results in such Parity Debt becoming, or being capable of becoming, immediately due and payable, or, with respect to any Parity Debt that is a Swap Contract, which results in such Swap Contract being terminated early or being capable of being terminated early; or

(q) any of the funds or accounts established pursuant to the Resolution or any funds or accounts on deposit, or otherwise to the credit of, such funds or accounts shall become subject to any stay, writ, judgment, warrant of attachment, execution or similar process by any of the creditors of the City and such stay, writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or stayed within fifteen (15) days after its issue or levy; or

(r) any pledge or security interest created by this Agreement or any Related Document to secure any amount due by the City under this Agreement or with respect to the Bonds shall fail to be fully enforceable with the priority required hereunder or thereunder; or

(s) a judgment or order for the payment of money in excess of \$10,000,000 and for which insurance proceeds shall not be available shall be rendered against the City and such judgment or order shall continue unstayed, unbonded or unsatisfied for a period of 60 days.

Section 8.02. *Remedies.* Upon the occurrence of any Event of Default, all Obligations shall bear interest at the Default Rate, and the Bank may exercise any one or more of the following rights and remedies in addition to any other remedies herein or by law provided:

(a) by notice to the City declare all Obligations to be due and such amounts shall thereupon become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the City; and/or

(b) give written notice to the Tender Agent with a copy to the City specifying that an Event of Default has occurred and is continuing, and that the Tender Agent is to give notice of mandatory tender of the Bonds thereby causing the Letter of Credit to expire fifteen (15) days thereafter, whereupon all amounts drawn under the Letter of Credit, all Liquidity Advances, all interest thereon and all other amounts payable hereunder or in respect hereof shall automatically be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the City; and/or

(c) exercise any and all other rights and remedies provided herein or under the Related Documents; and/or

(d) pursue any other action available at law or in equity.

## **ARTICLE IX**

### **MISCELLANEOUS**

Section 9.01. *Amendments, Etc.* No amendment or waiver of any provision or term of this Agreement or the Letter of Credit, and no consent to any departure by the City or any other party therefrom, shall be effective unless in writing and signed by the Bank and the City and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided, however*, that no amendment to or waiver of any term or provision of any Related Document incorporated herein by reference shall have the effect of amending or otherwise modifying any corresponding term or provision incorporated into this Agreement unless the Bank has consented to such amendment or waiver, as applicable, in writing.

Section 9.02. *Notices; Effectiveness; Electronic Communication.*

(a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier to the address, telecopier number or telephone number specified for such Person in Section 9.02 and confirmed by telephone, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, for such Person set forth below. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent and confirmed by telephone (except that, if not given during normal business hours for the recipient, such notices and communications shall be deemed to have been given at the opening of business on the next business day for the recipient).

If to the City, to it at:

City of Riverside  
3900 Main Street  
Riverside, CA 92522  
Attention: [\_\_\_\_\_]   
Email: [\_\_\_\_\_]

If to the Tender Agent or the Tender Agent, to it at:

U.S. Bank Trust Company, National Association  
Global Corporate Trust Services  
111 Fillmore Avenue E  
St. Paul, Minnesota 55107  
Email: [\_\_\_\_\_]

If to the Remarketing Agent, to it at:

RBC Capital Markets, LLC  
[\_\_\_\_\_]   
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_]

If to the Bank, to:

PNC Bank, National Association  
801 S. Figueroa Street, Suite 1100  
Los Angeles, California 90017  
Telephone: (717) 341-5876  
Attention: An C. Tran  
Email: [an.tran@pnc.com](mailto:an.tran@pnc.com)

With a copy to:

[\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_]

(b) *Change of Address, Etc.* The City or the Bank may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto.

(c) *Reliance by Bank.* The Bank shall be entitled to rely and act upon any notices (including telephonic notices) purportedly given by or on behalf of the City even if such notices were not made in a manner specified herein, or were not preceded or followed by any other form of notice specified herein. The City shall indemnify the Bank and the Related Parties of the Bank from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the City. All telephonic notices to and other telephonic communications with the Bank may be recorded by the Bank, and the City hereby consents to such recording.

Section 9.03. *No Waiver; Cumulative Remedies; Enforcement; Conflict.* No failure by the Bank to exercise, and no delay by the Bank in exercising, any right, remedy, power or privilege hereunder or under any other Related Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided and provided under each other Related Document are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

To the extent of any conflict between this Agreement, the Letter of Credit, the Resolution and any other Related Documents, this Agreement shall control solely as between the City and the Bank.

Section 9.04. *Liability of the Bank; Indemnification.*

(a) *Liability of Bank.* With respect to the Bank, the City assumes all risks of the acts or omissions of each of the Tender Agent and the Remarketing Agent and their agents in respect of their use of this Agreement, the Letter of Credit or any amounts made available by the Bank thereunder. Neither the Bank nor any of its officers or directors shall be liable or responsible for: (i) the use which may be made of this Agreement or the Letter of Credit or any amounts made available by the Bank thereunder or for any acts or omissions of the Tender Agent or the Remarketing Agent or their agents in connection therewith; (ii) the validity, sufficiency or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged; or (iii) any other circumstances whatsoever in making or failing to make payment under the Letter of Credit, except only that the City shall have a claim against the Bank, and the Bank shall be liable to the City to the extent, but only to the extent, of any direct, as opposed to consequential, indirect or punitive,

damages (the right to receive consequential, indirect or punitive damages being hereby waived) suffered by the City by reason of any statement contained in the information regarding the Bank which has been provided by the Bank and is included in the Offering Document, or which are determined by a final and nonappealable judgment of a court of competent jurisdiction to be caused by the Bank's gross negligence or willful failure to make payment under the Letter of Credit in accordance with the terms hereof. In furtherance and not in limitation of the foregoing, the Bank may accept documents that the Bank in good faith determines appear on their face to be in order, without responsibility for further investigation. The City assumes all risks associated with the acceptance by the Bank of documents received by telecommunication, it being agreed that the use of telecommunication devices is for the benefit of the City and that the Bank assumes no liabilities or risks with respect thereto.

(b) *Indemnification by the City.* To the extent permitted by law, the City agrees to indemnify and hold harmless the Bank, its officers, directors, employees and agents (each an "Indemnified Party") from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever which an Indemnified Party may incur (or which may be claimed against an Indemnified Party by any Person) by reason of or in connection with the execution and delivery of and consummation of the transactions contemplated under the Letter of Credit and this Agreement and the other Related Documents, including, without limitation, (i) the offering, sale, remarketing or resale of Bonds (including, without limitation, by reason of any untrue statement or alleged untrue statement contained or incorporated by reference in any official statement, or in any supplement or amendment thereof, prepared with respect to the Bonds, or the omission or alleged omission to state therein a material fact necessary to make such statements, in the light of the circumstances under which they are or were made, not misleading or the failure to deliver an official statement to any offeree or purchaser of Bonds) and (ii) the execution and delivery of, or payment or failure to pay by any Person under, this Agreement or the Letter of Credit; *provided, however,* that the City shall not be required to indemnify the Bank for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, determined by a final and nonappealable judgment of a court of competent jurisdiction to be caused by (A) the willful misconduct or gross negligence of the Bank or (B) the material inaccuracy of any information included in the Official Document or any supplement thereto concerning the Bank which was furnished in writing by the Bank expressly for inclusion therein. Nothing in this Section 9.04 is intended to limit the obligations of the City under the Bonds or of the City to pay its obligations hereunder and under the Related Documents.

(c) *Waiver of Consequential Damages, Etc.* The City shall not assert, and hereby waives, any claim against any Indemnified Party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Related Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, or the Letter of Credit or the use of the proceeds thereof. No Indemnified Party referred to in subsection (b) above shall be liable to the City for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnified Party through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Related Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross

negligence or willful misconduct of such Indemnified Party as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(d) *Payments.* All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

(e) *Survival.* The agreements in this Section shall survive the termination of the Letter of Credit, this Agreement and the repayment, satisfaction or discharge of all the other Obligations.

Section 9.05. *Payments Set Aside.* To the extent that any payment by or on behalf of the City is made to the Bank, or the Bank exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Bank in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

Section 9.06. *Successors and Assigns.*

(a) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the City and the Bank and their respective successors and assigns, except that City may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Bank. Except as provided subsection (b) below, the Bank may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the City.

(b) The Bank may at any time assign to one or more banks or other institutions (each an “*Assignee*”) all, or a proportionate part of all, of its rights (but not its obligations) under this Agreement, any Letter of Credit and the Custodian Agreement. The Bank may at any time grant to one or more banks or other institutions (each a “*Participant*”) participating interests in the Drawings under a Letter of Credit and the reimbursement obligations and Liquidity Advances arising therefrom. In the event of any such grant by the Bank of a participating interest to a Participant, whether or not upon notice to the City, the Bank shall remain responsible for the performance of its obligations hereunder and under each Letter of Credit, and the City shall continue to deal solely and directly with the Bank in connection with the Bank’s rights and obligations under this Agreement and the Letters of Credit. Any agreement pursuant to which the Bank may grant such a participating interest shall provide that the Bank shall retain the sole right and responsibility to enforce the obligations of the City hereunder and under the Related Documents, including, without limitation, the right to approve any amendment, modification or waiver of any provision of this Agreement or any Related Document; *provided* that such participation agreement may provide that, without first obtaining the consent of the Participant thereunder, the Bank will not agree to any modification, amendment or waiver of this Agreement or the Resolution which (i) increases or decreases the stated amount of the Letter of Credit in which such Participant holds a participation interest, (ii) reduces the principal of or interest on any unreimbursed Drawing or Liquidity Advance owing to the Bank in respect of the Letter of Credit



in which such Participant holds a participation interest, (iii) postpones or changes the date fixed for any payment of principal of or interest on any unreimbursed Drawing or Liquidity Advance or fees owing to the Bank in respect of the Letter of Credit in which such Participant holds a participation interest, (iv) decreases the formula by which the fees for the Letter of Credit in which such Participant holds a participation interest are calculated or (v) releases the Lien of the Tender Agent over the Trust Estate. The City agrees that each Participant shall be entitled to the benefits of [this Agreement] with respect to its participating interest, *provided* that no Participant or other transferee of any Bank's rights shall be entitled to receive any greater payment than the Bank would have been entitled to receive with respect to the rights participated or transferred.

Section 9.07. *QFC Provisions.* To the extent that the Related Documents provide support, through a guarantee or otherwise, for any agreement or instrument that is a QFC (such support, "*QFC Credit Support*", and each such QFC, a "*Supported QFC*"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "*U.S. Special Resolution Regimes*") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Related Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) *Acknowledgment Regarding Supported QFCs.* (a) In the event a Covered Entity that is party to a Supported QFC (each, a "*Covered Party*") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Related Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Related Documents were governed by the laws of the United States or a state of the United States.

(b) *Limitation on the Exercise of Certain Rights Related to Affiliate Insolvency Proceedings with Respect to Any Supported QFCs.* Notwithstanding anything to the contrary in the Related Documents or any other agreement, but without prejudice to the requirements of the preceding paragraph (a), Default Rights under the Related Documents that might otherwise apply to a Supported QFC or any QFC Credit Support may not be exercised against a Covered Party if such Default Rights are related, directly or indirectly, to a BHC Act Affiliate of such Covered Party becoming subject to Insolvency Proceedings, except to the extent such exercise would be permitted under 12 C.F.R. § 252.84, 12 C.F.R. § 47.5, or 12 C.F.R. § 382.4, as applicable. After a BHC Act Affiliate of a Covered Party has become subject to Insolvency Proceedings, if any party to the Related Documents, any Supported QFC or any QFC Credit Support seeks to exercise any

Default Right against such Covered Party with respect to such Supported QFC or such QFC Credit Support, the party seeking to exercise such Default Right shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted hereunder.

Section 9.08. *Right of Setoff.* If an Event of Default shall have occurred and be continuing, the Bank and its Affiliates are hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by the Bank or any such Affiliate to or for the credit or the account of the City or any other party against any and all of the obligations of the City or such party now or hereafter existing under this Agreement to the Bank, irrespective of whether or not the Bank shall have made any demand under this Agreement and although such obligations of the City or such party may be contingent or unmatured or are owed to a branch or office of the Bank different from the branch or office holding such deposit or obligated on such indebtedness. The rights of the Bank and its Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that the Bank or its Affiliates may have. The Bank agrees to notify the City promptly after any such setoff and application, *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

Section 9.09. *Counterparts; Integration; Effectiveness.* This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Related Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.10. *Survival of Representations and Warranties.* All representations and warranties made hereunder and in any other Related Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof Such representations and warranties have been or will be relied upon by the Bank, regardless of any investigation made by the Bank or on its behalf and notwithstanding that the Bank may have had notice or knowledge of any Default at the time of any payment under the Letter of Credit, and shall continue in full force and effect as long as any Obligation hereunder shall remain unpaid or unsatisfied or the Letter of Credit shall remain outstanding.

Section 9.11. *Severability.* If any provision of this Agreement or the other Related Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Related Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 9.12. *Governing Law.* THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA AND APPLICABLE FEDERAL LAW WITHOUT REGARD TO CHOICE OF LAW RULES.

Section 9.13. *Waiver of Jury Trial.*

(a) TO THE FULL EXTENT PERMITTED BY LAW, THE CITY AND THE BANK EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY FOR ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE LETTER OF CREDIT AND/OR THE CUSTODIAN AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY OR IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR ANY BANK-RELATED PERSON, PARTICIPANT OR ASSIGNEE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. EACH OF THE CITY AND THE BANK FURTHER AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT JURY. WITHOUT LIMITING THE FOREGOING, TO THE EXTENT PERMITTED BY LAW, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT, THE LETTER OF CREDIT AND/OR THE CUSTODIAN AGREEMENT OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, THE LETTER OF CREDIT AND/OR THE CUSTODIAN AGREEMENT.

(b) In the event the waiver of jury trial as set forth in subsection (a) of this Section shall be declared void or unenforceable, each of the City and the Bank agrees to refer the dispute to a judicial referee in accordance with the provisions of Section 638 *et seq.* of the California Code of Civil Procedure.

Section 9.14. *No Advisory or Fiduciary Responsibility.* In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the City acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) the services regarding this Agreement provided by the Bank and any Affiliate thereof are arm's-length commercial transactions between the City, on the one hand, and the Bank and its Affiliates, on the other hand, (ii) the City has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the City is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Related Documents; (b) (i) the Bank and its Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the City, or any other Person and (ii) neither the Bank nor any of its Affiliates has any obligation to the City with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Related Documents; and (c) the

Bank and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the City, and neither the Bank nor any of its Affiliates has any obligation to disclose any of such interests to the City. To the fullest extent permitted by law, the City, hereby waives and releases any claims that it may have against the Bank or any of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

Section 9.15. *Electronic Execution of Assignments and Certain Other Documents.* The words “execution,” “signed,” “signature,” and words of like import in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law.

Section 9.16. *Government Regulations.* The Bank hereby notifies the City that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “*Patriot Act*”), it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Bank to identify the City in accordance with the Patriot Act. The City shall, promptly following a request by the Bank, provide all documentation and other information that the Bank reasonably requests in order to comply with its ongoing obligations under applicable law or regulation, including, without limitation, “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, and shall comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act laws and regulations, as amended.

Section 9.17. *Assignment to Federal Reserve Bank.* The Bank may at any time assign or pledge a security interest in all or any portion of its rights under this Agreement to secure obligations of the Bank, including any pledge or assignment to secure obligations to a Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank, *provided* that any payment in respect of such assigned Obligations made by the City to the Bank in accordance with the terms of this Agreement shall satisfy the City’s Obligations hereunder in respect of such assigned Obligation to the extent of such payment. No such assignment shall release the Bank from its obligations hereunder.

Section 9.18. *Unconditional Obligations.* The obligations of the City, under this Agreement shall be absolute, unconditional, irrevocable and payable strictly in accordance with the terms of the Master Resolution, the Eighth Supplemental Resolution and this Agreement, under all circumstances whatsoever, including, without limitation, the following:

(a) any lack of validity or enforceability of this Agreement, the Letter of Credit, the Bonds, the Master Resolution, the Eighth Supplemental Resolution or any other Related Document;

(b) any amendment or waiver of or any consent to departure from the terms of the Master Resolution, the Eighth Supplemental Resolution or all or any of the Related Documents to which the Bank has not consented in writing;

(c) the existence of any claim, counterclaim, set-off, recoupment, defense, or other right which any Person may have at any time against the Bank, the City, the Tender Agent, the Remarketing Agent, or any other Person, whether in connection with this Agreement, the Master Resolution, the Eighth Supplemental Resolution, the Related Documents, or any other transaction related thereto;

(d) any statement or any other document presented pursuant hereto or pursuant to the Letter of Credit which the Bank in good faith determines to be valid, sufficient or genuine and which subsequently proves to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever;

(e) payment by the Bank of a Drawing or a Liquidity Advance against presentation of a request which the Bank in good faith determines to be valid, sufficient or genuine and which subsequently is found not to comply with the terms of this Agreement;

(f) the Bank or any of its branches or affiliates being the beneficiary of the Letter of Credit;

(g) the Bank or any correspondent honoring a drawing up to the Available Amount of the Letter of Credit even if such Payment Document claims an amount in excess of the Available Amount of the Letter of Credit;

(h) except as otherwise provided in this Agreement, the Bank or any correspondent having previously paid against fraudulently signed or presented Payment Documents (whether or not the City shall have reimbursed the Bank for such Drawing); and

(i) any other circumstances or happening whatsoever whether or not similar to any of the foregoing.

Section 9.19. *Expenses and Taxes.* The City will promptly pay (i) the reasonable fees and expenses of Bank Counsel incurred in connection with the preparation, execution, delivery, and administration of this Agreement and the other Related Documents as set forth in the Fee Letter, (ii) the reasonable out-of-pocket expenses of the Bank incurred in connection with the preparation, execution, delivery, and administration of this Agreement and the other Related Documents, (iii) the reasonable fees and disbursements of counsel to the Bank with respect to advising the Bank as to the rights and responsibilities under this Agreement, and (iv) all reasonable costs and expenses, if any, in connection with any amendment or the enforcement of this Agreement and any other documents which may be delivered in connection herewith or therewith, including in each case the fees and disbursements of counsel to the Bank. In addition, the City shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of this Agreement and the security contemplated by the Related Documents and any Related Documents and agrees to hold the Bank harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees. In addition, the City agrees to pay, after the occurrence of an Event of

Default, all costs and expenses (including attorneys' fees and costs of settlement) incurred by the Bank in enforcing any obligations or in collecting any payments due from the City hereunder by reason of such Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "workout" or of any insolvency or bankruptcy proceedings. The obligations of the City under this Section 9.19 shall survive the termination of this Agreement.

Section 9.20. *Dealing with the City, the Fiscal Agent the Tender Agent, and/or the Remarketing Agent.* The Bank and its affiliates may accept deposits from, extend credit to and generally engage in any kind of banking, trust or other business with the City, the Fiscal Agent, the Tender Agent, and/or the Remarketing Agent regardless of the capacity of the Bank hereunder.

Section 9.21. *Table of Contents; Headings.* The table of contents and the section and subsection headings used herein have been inserted for convenience of reference only and do not constitute matters to be considered in interpreting this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF RIVERSIDE

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

APPROVED AS TO FORM:

Phaedra Norton, City Attorney

Date: December 1, 2022

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

PNC BANK, NATIONAL ASSOCIATION

\_\_\_\_\_  
Name: An C. Tran  
Title: Managing Director, Senior Vice President

**Exhibit A**  
**Form of Letter of Credit**

**IRREVOCABLE TRANSFERABLE DIRECT-PAY LETTER OF CREDIT**

**PNC BANK, NATIONAL ASSOCIATION**

\*\*U.S. \$ \_\_\_\_\_  
No. \_\_\_\_\_

U.S. Bank Trust Company, National Association  
Global Corporate Trust Services  
111 Fillmore Avenue E  
St. Paul, Minnesota 55107

Ladies and Gentlemen:

We hereby establish in your favor as Tender Agent under that certain Resolution No. 17664 adopted by the City Council of the City of Riverside on January 8, 1991 (the “*Master Resolution*”), as amended and supplemented to date and as further supplemented by Resolution No. 22203 (the “*Eighth Supplemental Resolution*” and, together with the Eighth Supplemental Resolution and the Master Resolution, referred to collectively herein as the “*Resolution*”), adopted by the City Council of the City on April 26, 2011, for the benefit of the holders of the Bonds (as hereinafter defined), our irrevocable transferable Letter of Credit No. [\_\_\_\_\_] for the account of the City of Riverside (the “*City*”), whereby we hereby irrevocably authorize you to draw on us from time to time, from and after the date hereof to and including the earliest to occur of our close of business on: (i) November [\_\_\_], 2025 (as extended from time to time, the “*Stated Expiration Date*”), (ii) the earlier of (A) the date which is five (5) days following the date on which all of the Bonds bear interest at a rate other than the Weekly Interest Rate or the Daily Interest Rate, as such date is specified in a certificate in the form of Annex A hereto (the “*Conversion Date*”) hereto or (B) the date on which the Bank honors a drawing under the Letter of Credit on or after the Conversion Date, (iii) the date of receipt from you of a certificate in the form set forth as Annex B hereto, (iv) the date on which a Stated Maturity Drawing is honored by us and (v) the date which is fifteen (15) days following receipt by you of a written notice from us specifying the occurrence of an Event of Default under the Reimbursement Agreement dated as of December 1, 2022 (as amended and supplemented hereafter, the “*Reimbursement Agreement*”), between the City and PNC Bank, National Association (the “*Bank*”) directing you to cause a mandatory tender of the Bonds (the earliest of the foregoing dates herein referred to as the “*Termination Date*”), a maximum aggregate amount not exceeding \$[\_\_\_\_\_] (the “*Stated Amount*”) to pay principal of, premium, if any, and accrued interest on, or the purchase price of, the City of Riverside Variable Rate Refunding Water Revenue Bonds Issue of 2011A (the “*Bonds*”), in accordance with the terms hereof (said \$[\_\_\_\_\_] having been calculated to be equal to (A) [\_\_\_\_\_] the outstanding aggregate principal amount of the Bonds on the date hereof, plus (B) [\_\_\_\_\_] which is at least [57 days’] accrued interest on said principal amount of the Bonds at a rate of 12% per annum (the “*Cap Interest Rate*”) and assuming



a year of 365 days). This credit is available to you against presentation of the following documents (the “*Payment Documents*”) presented to the Bank:

A certificate (with all blanks appropriately completed) (i) in the form attached as Annex C hereto to pay accrued interest on the Bonds (an “*Interest Drawing*”), (ii) in the form attached as Annex D hereto to pay the principal amount of and accrued interest on the Bonds in respect of any redemption of the Bonds under Sections 2.11(A)(1)(a) (with the prior written consent of the Bank, if required by the Reimbursement Agreement) or 2.11(B) of the Eighth Supplemental Resolution (a “*Redemption Drawing*”), (iii) in the form attached as Annex E hereto (a “*Liquidity Drawing*”); and (iv) in the form attached as Annex F hereto to pay the principal amount of Bonds maturing on October 1, 2035 (a “*Stated Maturity Drawing*” and collectively, with an Interest Drawing, a Redemption Drawing, and a Liquidity Drawing, “*Drawings*” and individually each a “*Drawing*”), each certificate to state therein that it is given by your duly authorized officer and dated the date such certificate is presented hereunder. No Drawings shall be made under this Letter of Credit for (i) Bonds bearing interest at a rate other than the Weekly Interest Rate or the Daily Interest Rate (“*Converted Bonds*”), (ii) Bonds purchased with the proceeds of a Liquidity Drawing and registered in the name of the Bank or its nominee (the “*Bank Bonds*”), (iii) Bonds owned by or on behalf of the City (“*City Bonds*”), together with the Converted Bonds and the Bank Bonds, collectively referred to herein as the “*Ineligible Bonds*”).

THIS LETTER OF CREDIT MAY NOT BE DRAWN UPON TO PAY (A) ANY RESALE DISCOUNT ON ANY BONDS BEING REMARKETED BY THE REMARKETING AGENT (AS DEFINED IN THE REIMBURSEMENT AGREEMENT), OR (B) ANY REDEMPTION PREMIUM PAYABLE IN CONNECTION WITH ANY REDEMPTION OF THE BONDS.

All drawing shall be made by presentation of each Payment Document which shall be made by facsimile to PNC Bank, National Association, by facsimile (at facsimile number (412) 762-6118), Attention: International Trade Product Delivery, or at any other number or numbers which may be designated by the Bank by written notice delivered to you, without further need of documentation, including the original of this Letter of Credit, it being understood that each Payment Document so submitted is to be the sole operative instrument of drawing. You shall use your best efforts to give telephonic notice of a drawing to the Bank at (800) 682-4689 on the Business Day preceding the day of such drawing (but such notice shall not be a condition to drawing hereunder and you shall have no liability for not doing so). Unless otherwise notified in writing, all notices required to be made to the Tender Agent pursuant to this Letter of Credit shall be made and deemed received when sent at U.S. Bank Trust Company, National Association, 111 Fillmore Avenue E, St. Paul, Minnesota 55107 Attention: Global Corporate Trust Services, Email: [\_\_\_\_\_].

We agree to honor and pay the amount of any Interest, Redemption, Liquidity, Stated Maturity Drawing if presented in compliance with all of the terms of this Letter of Credit. If any such drawing, other than a Liquidity Drawing, is presented prior to or at 4:00 P.M., New York time, on a Business Day, payment shall be made, in immediately available funds, by 1:00 P.M., New York time, on the following Business Day. If any such Drawing, other than a Liquidity Drawing, is presented after 4:00 P.M., New York time, on a Business Day, payment shall be made, in immediately available funds, by 1:00 P.M., New York time, on the second following Business Day. If a Liquidity Drawing is presented prior to 12:40 P.M., New York time, on a Business Day, payment shall be made, in immediately available funds, by 2:30 P.M., New York time, on the same Business Day. If a Liquidity Drawing is presented at or after 12:40 P.M., New York time, on any Business Day, payment shall be made, in immediately available funds, by 2:30 P.M., New York time, on the following Business Day. Payments made hereunder shall be made by wire transfer to you or by deposit into your account with us in accordance with the instructions specified by the Tender Agent in the in the drawing certificate relating to a particular Drawing hereunder. “*Business Day*” shall mean a day other than (i) a Saturday or Sunday, (ii) a day on which banks located (A) in the city in which the corporate trust office of the Fiscal Agent under the Resolution is located, (B) in the city in which drawings under this Letter of Credit are to be honored is located, (C) in the city in which the corporate trust office of the Tender Agent is located or (D) in the city in which the principal office of the Remarketing Agent is located, are authorized or required to remain closed, or (iii) a day on which the New York Stock Exchange is closed.

The Available Amount (as hereinafter defined) of this Letter of Credit will be reduced automatically by the amount of any drawing hereunder; *provided, however*, that the amount of any Interest Drawing hereunder shall be automatically reinstated effective at 9:00 A.M., New York time, seven (7) calendar days from the date such drawing is honored by us unless you receive notice from us in the form of Annex K attached hereto by facsimile (or other communication) by 5:00 P.M., New York time, on or before the sixth (6th) calendar day after such date that the Bank has not been reimbursed in full for any such drawing or any other Event of Default has occurred and as a consequence thereof the Letter of Credit will not be so reinstated. After payment by the Bank of a Liquidity Drawing, the obligation of the Bank to honor drawings under this Letter of Credit will be automatically reduced by an amount equal to the amount set forth in the certificate in the form of Annex E relating to such Liquidity Drawing. In addition, in the event of the remarketing of the Bonds (or portions thereof) previously purchased with the proceeds of a Liquidity Drawing, the Bank’s obligation to honor drawings hereunder will be automatically reinstated in the amount indicated in a certificate in the form of Annex J attached hereto concurrently upon receipt by the Bank of such certificate and our receipt of funds.

Upon our honoring a certificate of the Tender Agent in the form of Annex D or Annex F hereto, the amount available to be drawn hereunder will automatically and permanently reduce by the amount specified in such certificate and the interest component of [57] days computed at the Cap Interest Rate on the said principal portion. Upon delivery by the Tender Agent to the Bank of a reduction certificate in the form of Annex G, the Stated Amount will automatically and permanently reduce by the amount specified in such certificate.

The “*Available Amount*” shall mean the Stated Amount (i) less the amount of all prior reductions pursuant to Interest Drawings, Redemption Drawings, Stated Maturity Drawings or Liquidity Drawings, (ii) less the amount of any prior reduction thereof pursuant to a reduction

certificate in the form of Annex G hereto, (iii) plus the amount of all reinstatements as above provided.

Prior to the Termination Date, we may extend the Stated Expiration Date from time to time at the request of the City by delivering to you an amendment to this Letter of Credit in the form of Annex I hereto designating the date to which the Stated Expiration Date is being extended, and thereafter all references in this Letter of Credit to the Stated Expiration Date shall be deemed to be references to the date designated as such in such notice. Any date to which the Stated Expiration Date has been extended as herein provided may be extended in a like manner.

Upon the Termination Date this Letter of Credit shall automatically terminate.

This Letter of Credit is transferable in whole only to your successor as Tender Agent. Any such transfer (including any successive transfer) shall be effected by the presentation to us of this Letter of Credit accompanied by a request designating your successor in the form of Annex H, attached hereto, with the signature of the appropriate officer signing on your behalf, authenticated by means of your authenticated MT799 SWIFT message addressed to us at PNC Bank, National Association, 500 First Avenue, Second Floor, Mail Stop: P7-PFSC-02-T, Pittsburgh, Pennsylvania 15219, Telecopy: (412) 762-6118. Upon presentation we shall forthwith effect a transfer of this Letter of Credit to your designated transferee. Transfers to designated foreign nationals specially designated nationals are not permitted as being contrary to the U.S. Treasury Department or Foreign Assets Control Regulations. Upon our endorsement of such transfer, the transferee instead of the transferor shall, without necessity of further action, be entitled to all the benefits of and rights under this Letter of Credit in the transferor's place.

Other than the provisions for communication by facsimile copy, communications with respect to this Letter of Credit shall be addressed to us at PNC Bank, National Association, 500 First Avenue, Second Floor, Mail Stop: P7-PFSC-02-T, Pittsburgh, Pennsylvania 15219, , Telephone: (800) 682-4689 , Attention: International Trade Product Delivery, Email:internationalclientcare@pnc.com.

To the extent not inconsistent with the express terms hereof, this Letter of Credit shall be governed by, and construed in accordance with, the terms of the International Standby Practices 1998, International Chamber of Commerce-Publication No. 590 ("*ISP98*"). As to matters not governed by the *ISP98*, this Letter of Credit shall be governed by and construed in accordance with the law of the State of California.

All payments made by us hereunder shall be made from our funds and not with the funds of any other person.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified or amended by reference to any other document whatsoever.

PNC BANK, NATIONAL ASSOCIATION

---

Name:

Title:

**ANNEX A  
TO**

---

**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**NOTICE OF CONVERSION DATE**

[Date]

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the "*Letter of Credit*"), which has been established by you for the account of the City of Riverside, in favor of the Tender Agent.

The undersigned hereby certifies and confirms that on [insert date] the interest rate on all the Bonds has been converted to a rate other than the Weekly Interest Rate or the Daily Interest Rate, and, accordingly, said Letter of Credit shall terminate on \_\_\_\_\_, 20\_\_\_\_, which is 5 days after such Conversion Date in accordance with its terms.

[No payment will be demanded of you in connection with this conversion] [We will be making a Drawing pursuant to Annex E on the Conversion Date or within five (5) days after the Conversion Date]\*

All defined terms used herein which are not otherwise defined herein shall have the same meaning as in the Letter of Credit.

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Title of Authorized Representative]

---

\* Insert appropriate request.

**ANNEX B  
TO**

**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**NOTICE OF TERMINATION**

[Date]

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the "*Letter of Credit*"), which has been established by you for the account of the City of Riverside in favor of the Tender Agent.

The undersigned hereby certifies and confirms that on [(i) no Bonds (as defined in the Letter of Credit) remain Outstanding within the meaning of the Resolution, (ii) all Drawings required to be made under the Eighth Supplemental Resolution and available under the Letter of Credit have been made and honored or (iii) an Alternate Letter of Credit (as defined in the Resolution) has been issued to replace the Letter of Credit pursuant to Resolution] and, accordingly, the Letter of Credit shall be terminated in accordance with its terms.

All defined terms used herein which are not otherwise defined shall have the same meaning as in the Letter of Credit.

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Title of Authorized Representative]

**ANNEX C  
TO**

**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**INTEREST DRAWING CERTIFICATE**

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Ladies and Gentlemen:

The undersigned individual, a duly authorized representative of \_\_\_\_\_ (the "*Beneficiary*"), hereby certifies on behalf of the Beneficiary as follows with respect to (i) that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the "*Letter of Credit*"), issued by PNC Bank, National Association (the "*Bank*") in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Resolution (as defined in the Letter of Credit):

1. The Beneficiary is the Tender Agent (as defined in the Letter of Credit) under the Resolution.

2. The Beneficiary is entitled to make this Drawing in the amount of \$\_\_\_\_\_ under the Letter of Credit pursuant to the Resolution with respect to the payment of interest due on all Bonds Outstanding on the Interest Payment Date (as defined in the Resolution) occurring on [insert applicable date], other than Ineligible Bonds (as defined in the Letter of Credit).

3. The amount of the drawing is equal to the amount required to be drawn by the Tender Agent pursuant to Section 2.17 of the Eighth Supplemental Resolution.

4. The amount of the drawing made by this Certificate was computed in compliance with the terms of the Eighth Supplemental Resolution and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).

5. Payment by the Bank pursuant to this drawing shall be made to \_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_, Re: \_\_\_\_\_.

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Title of Authorized Representative]



**ANNEX D  
TO**

**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**REDEMPTION DRAWING AND REDUCTION CERTIFICATE**

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Ladies and Gentlemen:

The undersigned individual, a duly authorized representative of \_\_\_\_\_ (the “*Beneficiary*”), hereby certifies on behalf of the Beneficiary as follows with respect to (i) that certain Irrevocable Transferable Letter of Credit No.[\_\_\_\_\_] dated December 1, 2022 (the “*Letter of Credit*”), issued by PNC Bank, National Association (the “*Bank*”) in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Resolution (as defined in the Letter of Credit):

1. The Beneficiary is the Tender Agent (as defined in the Letter of Credit) under the Resolution.

2. The Beneficiary is entitled to make this drawing in the amount of \$\_\_\_\_\_ under the Letter of Credit pursuant to Section 2.17 of the Eighth Supplemental Resolution.

3. (a) The amount of this drawing is equal to (i) the principal amount of Bonds to be redeemed by the City (as defined in the Letter of Credit) pursuant to Section 2.11 of the Eighth Supplemental Resolution on [insert applicable date] (the “*Redemption Date*”) other than Ineligible Bonds (as defined in the Letter of Credit), *plus* (ii) interest on such Bonds accrued from the immediately preceding Interest Payment Date (as defined in the Resolution) to the Redemption Date, provided that in the event the Redemption Date coincides with an Interest Payment Date this drawing does not include any accrued interest on such Bonds.

(b) Of the amount stated in paragraph 2 above:

(i) \$\_\_\_\_\_ is demanded in respect of the principal amount of the Bonds referred to in subparagraph (a) above; and

(ii) \$\_\_\_\_\_ is demanded in respect of accrued interest on such Bonds.

4. Payment by the Bank pursuant to this drawing shall be made to ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_ Re: \_\_\_\_\_.

5. The amount of the drawing made by this Certificate was computed in compliance with the terms and conditions of the Eighth Supplemental Resolution and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).

6. Upon payment of the amount drawn hereunder, the Bank is hereby directed to permanently reduce the Available Amount by \$[insert amount of reduction] and the Available Amount shall thereupon equal \$[insert new Available Amount]. The Available Amount has been reduced by an amount equal to the principal of Bonds paid with this drawing and an amount equal to 57 days' interest thereon at a rate of interest equal to 12% per annum.

7. Of the amount of the reduction stated in paragraph 6 above:

- (i) \$\_\_\_\_\_ is attributable to the principal amount of Bonds redeemed; and
- (ii) \$\_\_\_\_\_ is attributable to interest on such Bonds (*i.e.*, 57 days' interest thereon at a rate of interest equal to 12% per annum).

8. The amount of the reduction in the Available Amount has been computed in accordance with the provisions of the Letter of Credit.

9. Following the reduction, the Available Amount shall be at least equal to the aggregate principal amount of the Bonds Outstanding (to the extent such Bonds are not Ineligible Bonds (as defined in the Letter of Credit)), plus 7 days' interest thereon at a rate of interest equal to 12% per annum.

10. [In the case of a redemption pursuant to Section 2.11(A)(1)(a) of the Resolution, the Tender Agent, prior to giving notice of redemption to the owners of the Bonds, received written evidence from the Bank that the Bank has consented to such redemption.]

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Title of Authorized Representative]

**ANNEX E  
TO**

**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**LIQUIDITY DRAWING CERTIFICATE**

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Ladies and Gentlemen:

The undersigned individual, a duly authorized representative of \_\_\_\_\_ (the “*Beneficiary*”) hereby certifies as follows with respect to (i) that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the “*Letter of Credit*”), issued by PNC Bank, National Association (the “*Bank*”) in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Resolution (as defined in the Letter of credit):

1. The Beneficiary is the Tender Agent under the Resolution.
2. The Beneficiary is entitled to make this drawing under the Letter of Credit in the amount of \$\_\_\_\_\_ with respect to the payment of the purchase price of Bonds tendered for purchase in accordance with Section [2.16(A), 2.16(B), 2.16(D), 2.16(E)] of the Resolution and to be purchased on [insert applicable date] (the “*Purchase Date*”) which Bonds have not been remarketed as provided in the Resolution or the purchase price of which has not been received by the Tender Agent (as defined in the Letter of Credit) by [11:00 a.m., with respect to Bonds bearing interest at the Daily Interest Rate] [by 12:00 noon with respect to Bonds bearing interest at the Weekly Interest Rate], New York time, on said Purchase Date.
3. (a) The amount of the drawing is equal to (i) the principal amount of Bonds to be purchased pursuant to the Resolution on the Purchase Date other than Ineligible Bonds (as defined in the Letter of Credit), *plus* (ii) interest on such Bonds accrued from the immediately preceding Interest Payment Date, (as defined in the Eighth Supplemental Resolution) (or if none, the date of issuance of the Bonds) to the Purchase Date, provided that in the event the Purchase Date coincides with an Interest Payment Date this drawing does not include any accrued interest on such Bonds.  
  
(b) Of the amount stated in paragraph (2) above:  
  
(i) \$\_\_\_\_\_ is demanded in respect of the principal portion of the purchase price of the Bonds referred to in subparagraph (2) above; and

(ii) \$\_\_\_\_\_ is demanded in respect of payment of the interest portion of the purchase price of such Bonds.

4. **The Bonds to be purchased bear interest at the [Weekly Interest Rate] [the Daily Interest Rate]. If this Certificate is (i) presented to the Bank prior to 12:40 P.M., New York time, on a Business Day, payment shall be made in immediately available funds, by 2:30 P.M., New York time, on the same Business Day and (ii) presented to the Bank at or after 12:40 P.M., New York time, on a Business Day, payment shall be made in immediately available funds, by 2:30 P.M., New York time, on the following Business Day.**

5. The amount of the drawing made by this Certificate as computed in compliance with the terms and conditions of the Resolution and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).

6. Upon payment of the amount drawn hereunder, the Bank is hereby directed to reduce the Available Amount of the Letter of Credit by \$[insert amount of reduction] and the Available Amount shall, after giving effect to such reduction, equal \$[insert new Available Amount].

7. Of the Amount of reduction stated in paragraph 5 above:

(i) \$\_\_\_\_\_ is attributable to the principal amount of Bonds tendered;

and

(ii) \$\_\_\_\_\_ is attributable to interest on such Bonds (*i.e.*, 57 days' interest of the Cap Interest Rate).

8. The Beneficiary will register or cause to be registered in the name of the Bank (or the City at the written direction of the Bank), upon payment of the amount drawn hereunder, Bonds in the principal amount of the Bonds being purchased with the amounts drawn hereunder and will deliver such Bonds to the Tender Agent in accordance with the Resolution.

9. Payment by the Bank pursuant to this drawing shall be made to \_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_, Re: \_\_\_\_\_.

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Title of Authorized Representative]

**ANNEX F  
TO**

**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**STATED MATURITY DRAWING CERTIFICATE**

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Ladies and Gentlemen:

The undersigned individual, a duly authorized representative of \_\_\_\_\_ (the "*Beneficiary*") hereby certifies on behalf of the Beneficiary as follows with respect to (i) that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the "*Letter of Credit*"), issued by PNC Bank, National Association (the "*Bank*") in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Resolution (as defined in the Letter of Credit):

1. The Beneficiary is the Tender Agent under the Resolution.
2. The Beneficiary is entitled to make this drawing in the amount of \$\_\_\_\_\_ under the Letter of Credit pursuant to Section \_\_\_\_\_ of the Resolution.
3. (a) The amount of this drawing is equal to the principal amount of Bonds Outstanding on October 1, 2035, the maturity date thereof as specified in the Closing Certificate (as defined in the Resolution) related to the Bonds as authorized by Section 5.03 of the Resolution, other than Ineligible Bonds (a defined in the Letter of Credit).  
  
(b) Of the amount stated in paragraph (2) above:
  - (i) \$\_\_\_\_\_ is demanded in respect of the principal portion of the Bonds referred to in subparagraph (2) above; and
  - (iii) \$\_\_\_\_\_ is demanded in respect of payment of the interest portion of such Bonds.
4. The amount of this Drawing made by this Certificate was computed in compliance with the terms and conditions of the Resolution and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).

5. Payment by the Bank pursuant to this drawing shall be made to \_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_, Re: \_\_\_\_\_.

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Title of Authorized Representative]

**ANNEX G  
TO**

**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**REDUCTION CERTIFICATE**

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Ladies and Gentlemen:

The undersigned hereby certifies with respect to (i) that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the "*Letter of Credit*"), issued by PNC Bank, National Association (the "*Bank*") in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Resolution (as defined in the Letter of Credit):

1. The Beneficiary is the Tender Agent under the Resolution.
2. Upon receipt by the Bank of this Certificate, the Available Amount (as defined in the Letter of Credit) shall be permanently reduced by \$\_\_\_\_\_ and the Available Amount shall thereupon equal \$\_\_\_\_\_. \$\_\_\_\_\_ of the new Available Amount is attributable to interest and \$\_\_\_\_\_ of the new Available Amount is attributable to principal.
3. The amount of the reduction in the Available Amount has been computed in accordance with the provisions of the Letter of Credit.
4. Following the reduction, the Available Amount shall be at least equal to the aggregate principal amount of the Bonds Outstanding (other than Ineligible Bonds (as defined in the Letter of Credit); plus \$\_\_\_\_\_ which is at least 57 days' accrued interest on said principal amount of the Bonds at the Cap Interest Rate and assuming a year of 365 days.

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.



[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Title of Authorized Representative]

**ANNEX H  
TO**

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**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**TRANSFER REQUEST**

PNC Bank, National Association  
500 First Avenue, Second Floor  
Mail Stop: P7-PFSC-02-T  
Pittsburgh, Pennsylvania 15219  
Telecopy: (412) 762-6118  
Attention: International Trade Product Delivery

Date:

Re: Irrevocable Transferable Letter of Credit No.[\_\_\_\_\_] dated December 1, 2022.

We, the undersigned "Beneficiary", hereby irrevocably transfer all of our rights to draw under the above referenced Letter of Credit (the "*Letter of Credit*") in its entirety to:

NAME OF TRANSFEREE

---

(Print Name and complete address of the Transferee), the "*Transferee*"

---

ADDRESS OF TRANSFEREE

---

CITY, STATE/COUNTRY ZIP

---

(the "*Transferee*") all rights of the Beneficiary with respect to the above-referenced Letter of Credit, including the right to draw under said Letter of Credit in the amount of the full unutilized balance thereof. Said Transferee has succeeded the Beneficiary as Tender Agent under that certain Resolution (as define in the Letter of Credit) with respect to the Variable Rate Refunding Water Revenue Bonds, Series 2011A issued by City.

By virtue of this transfer, the Transferee shall have the sole rights as beneficiary of said Letter of Credit, including sole rights relating to any past or future amendments thereof, whether increases or extensions or otherwise. All amendments are to be advised directly to the Transferee without necessity of any consent of or notice to the Beneficiary.

The Letter of Credit is returned herewith, and we ask you to endorse the transfer on the reverse thereof and to forward it directly to the Transferee with your customary notice of transfer.

Very truly yours,

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

By: \_\_\_\_\_  
[Insert name and title of authorized officer]

Acknowledged by:

[INSERT NAME OF TRANSFEREE]  
as transferee and successor Tender Agent

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

**ANNEX I  
TO**

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**LETTER OF CREDIT**

**No. \_\_\_\_\_**

**NOTICE OF EXTENSION**

[TENDER AGENT]

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

Attention: \_\_\_\_\_

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the “*Letter of Credit*”), established by us in your favor as Beneficiary. We hereby notify you that, in accordance with the terms of the Letter of Credit, the Stated Expiration Date, as defined in the Letter of Credit, has been extended to \_\_\_\_\_.

This letter should be attached to the Letter of Credit and made a part thereof.

PNC BANK, NATIONAL ASSOCIATION

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

**ANNEX J  
TO**

**LETTER OF CREDIT  
No. \_\_\_\_\_**

**NOTICE OF REMARKETING**

Ladies and Gentlemen:

The undersigned, a duly authorized officer of \_\_\_\_\_ [insert name of Tender Agent] (the "*Tender Agent*"); hereby notifies PNC Bank, National Association (the "*Bank*"), with reference to that certain Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] dated December 1, 2022 (the "*Letter of Credit*"; terms defined therein and not otherwise defined herein shall have the meanings set forth in the Letter of Credit) issued by the Bank in favor of the Tender Agent as follows:

1. \_\_\_\_\_ is the Remarketing Agent under the Resolution for the holders of the Bonds.
2. The Tender Agent has paid the amount of \$\_\_\_\_\_ to the Bank today on behalf of the City, which is a payment made to reimburse the Bank, pursuant to the Reimbursement Agreement, for amounts drawn under the Letter of Credit pursuant to a Liquidity Drawing.
3. Of the amount referred to in paragraph 2, \$\_\_\_\_\_ represents the aggregate principal amount of Bank Bonds resold or to be resold on behalf of the City.
4. Of the amount referred to in paragraph 2, \$\_\_\_\_\_ represents accrued and unpaid interest on such Bank Bonds.

IN WITNESS WHEREOF, the Tender Agent has executed and delivered this Certificate as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[INSERT NAME OF TENDER AGENT],  
as Tender Agent

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

**ANNEX K  
TO**

**LETTER OF CREDIT**

No. \_\_\_\_\_

**NOTICE OF DEFAULT AND MANDATORY TENDER**

[Date]

[TENDER AGENT]

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

Attention: \_\_\_\_\_

Ladies and Gentlemen:

The undersigned, a duly authorized officer of PNC Bank, National Association hereby advises you, with reference to Irrevocable Transferable Letter of Credit No. [\_\_\_\_\_] (the “*Letter of Credit*”; any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in your favor, that:

**[Insert one of the following paragraphs as appropriate]**

**[an “*Event of Default*” as defined in Section 8.01 of the Reimbursement Agreement, dated as of December 1, 2022, between the City of Riverside and the Bank has occurred and the Bank hereby directs you to cause a mandatory tender of the Bonds, whereby, the Letter of Credit will terminate fifteen (15) days following the receipt by you of this Notice of Default and Mandatory Tender.**

**the Bank has not been reimbursed for an Interest Drawing under the Letter of Credit or an “*Event of Default*” as occurred under Section 8.01 of the Reimbursement Agreement, dated as of December 1, 2022, between the City of Riverside and the Bank, and, as a result thereof, the amount of such unreimbursed Interest Drawing will not be reinstated and the Bank hereby directs you to cause a mandatory tender of the Bonds, whereby, the Letter of Credit will terminate fifteen (15) days following the receipt by you of this Notice of Default and Mandatory Tender.]**

IN WITNESS WHEREOF, the undersigned, on behalf of the Bank, has executed and delivered this Notice of Default and Mandatory Tender as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PNC BANK, NATIONAL ASSOCIATION  
as Bank

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

**[TO COME]**

**Exhibit B**  
**Form of Custody Agreement**

**CUSTODY AGREEMENT**

This **CUSTODY AGREEMENT** (together with all exhibits, schedules, attachments and appendices hereto, as amended from time to time, this “*Custody Agreement*”), dated December 1, 2022, is entered into by and among **CITY OF RIVERSIDE** (the “*City*”), **PNC BANK, NATIONAL ASSOCIATION**, a national banking association (together with its successors and assigns, the “*Bank*”), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, as Custodian and Tender Agent (the “*Custodian*”), pursuant to the Reimbursement Agreement, dated as of the date hereof between the City and the Bank (hereinafter, together with all exhibits, schedules, attachments and appendices thereto, as from time to time amended or supplemented, the “*Reimbursement Agreement*”).

**RECITALS:**

A. The City issued its Variable Rate Refunding Water Revenue Bonds Issue of 2011A in the original aggregate principal amount of \$59,000,000 of which \$24,050,000 remain outstanding (the “*Bonds*”).

B. The Bonds were issued under and are secured by Resolution No. 17664 adopted by the City Council on January 8, 1991 (the “*Master Resolution*”), as amended and supplemented to date and as further supplemented by Resolution No. 22203 adopted by the City Council of the City on April 26, 2011 (the “*Eighth Supplemental Resolution*” and, together with the Master Resolution, referred to collectively herein as the “*Resolution*”).

C. U.S. Bank Trust Company, National Association (together with its successors as fiscal agent and tender agent, the “*Tender Agent*”) is the fiscal agent and tender agent under the Resolution.

D. The Resolution requires that the Bonds be purchased under certain circumstances from the owners thereof in accordance with the terms and conditions of the Resolution, and RBC Capital Markets, LLC (including any successors or assigns, the “*Remarketing Agent*”), or a successor remarketing agent, as remarketing agent under the Remarketing Agreement dated as of December 1, 2022 (together with all exhibits, schedules, attachments and appendices hereto, as amended, supplemented or restated from time to time, the “*Remarketing Agreement*”) between the Remarketing Agent and the City, has agreed to remarket the Bonds under specified terms and conditions as provided in the Remarketing Agreement.

E. The City has agreed to enter into the Reimbursement Agreement in order to cause the Bank to issue the Letter of Credit (as that term is defined in the Reimbursement Agreement) which may be used to pay, among other things, the purchase price of Bonds (as defined in the Bond Indenture) in accordance with the Resolution (the “*Bank Bonds*”).

F. It is a condition precedent to the obligation of the Bank to enter into the Reimbursement Agreement that the City shall enter into this Custody Agreement with the Bank.



G. The Custodian has agreed to act as custodian and agent for the Bank as herein provided.

NOW, THEREFORE, in consideration of the premises and in order to induce the Bank to enter into the Reimbursement Agreement and issue the Letter of Credit thereunder and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Capitalized terms used herein and not defined herein shall have the meanings ascribed to such terms in the Reimbursement Agreement.

2. So long as the Bonds are issued in book entry form and held by the Tender Agent as custodian as part of DTC's fast automated transfer program ("*FAST Eligible Bonds*"), concurrently with the Tender Agent's receipt of the purchase price for each purchase of Bonds by the Bank, the Tender Agent, as a participant of DTC (or any other successor securities depository) or an eligible transfer agent, shall make a direct registration electronic book entry (A) crediting the DTC account designated by the Bank as its account in which to hold Bank Bonds purchased by it (the "*Bank Book Entry Account*") with the principal amount of the Bonds purchased by the Bank using the Bank Bond CUSIP number for such Bonds set forth below and (B) debiting the book entry account of DTC for the Bonds by the principal amount of the Bonds purchased under the Reimbursement Agreement by the Bank (thereby reducing the principal balance of the global certificate representing the Bonds) (the "*DTC Book Entry Account*"). The CUSIP number for Bonds that are Bank Bonds is [\_\_\_\_\_]. So long as the Bonds are FAST Eligible Bonds, upon a remarketing of Bank Bonds in accordance with the terms of the Remarketing Agreement and the Tender Agent's receipt from the Remarketing Agent and/or the City of the amounts set forth in Section 2.14 of the Reimbursement Agreement, the Tender Agent, as a participant of DTC (or any other successor securities depository) or an eligible transfer agent, shall make a direct registration electronic book entry in its records (A) debiting the Bank Book Entry Account by the principal amount of the Bonds so remarketed and (B) crediting the DTC Book Entry Account with the principal amount of such Bonds so remarketed (thereby increasing the principal balance of the global certificate representing such Bonds). The Tender Agent acknowledges that it is familiar with the procedures and requirements set forth in a notice from The Depository Trust Company, dated April 4, 2008, respecting "Variable Rate Demand Obligations ("*VRDO*") Failed Remarketings and Issuance of Bank Bonds" and agrees that, with respect to any and all Bank Bonds, it will follow the procedures and requirements set forth in such notice, as the same may be amended from time to time. To the extent that, following any amendment of such notice, the procedures and requirements therein should become inconsistent with any aspect of the provisions hereof, the Tender Agent, the City and the Bank shall promptly negotiate in good faith and agree upon amendments so as to eliminate such inconsistency.

3. If the Bonds are no longer FAST Eligible Bonds, concurrently with the receipt of the purchase price for each purchase of Bonds by the Bank under the Reimbursement Agreement, the Tender Agent shall cause each Bank Bond to be registered in the name of the Bank and to be held by the Tender Agent as the agent, bailee and custodian (in such capacity, the "*Custodian*") of the Bank for the exclusive benefit of the

Bank. The Custodian acknowledges and agrees that, when acting as Custodian, it is acting and will act with respect to Bank Bonds at the direction of the Bank for the exclusive benefit of the Bank and is not and will not at any time be subject in any manner or to any extent to the direction or control of the City or any other Person with respect to the Bank Bonds. The Custodian agrees to act in strict accordance with this Custody Agreement and any lawful written instructions delivered to the Custodian from time to time pursuant hereto by the Bank. Under no circumstances shall the Custodian deliver possession of the Bank Bonds to, or cause Bank Bonds to be registered in the name of, the City, the Remarketing Agent or any Person other than the Bank except in accordance with the express terms of this Custody Agreement or otherwise upon the written instructions of the Bank. The Custodian agrees that if, while this Agreement is in effect, the Custodian shall become entitled to receive or shall receive any payment in respect of any Bank Bonds held for the Bank, the Custodian will accept the same as the Bank's agent and hold the same in trust on behalf of the Bank and deliver the same forthwith to the Bank's payment account. Upon the remarketing of any Bank Bonds and the Tender Agent's receipt from the Remarketing Agent and/or the City of the amounts set forth in Section 2.14 of the Reimbursement Agreement, the Custodian shall release Bank Bonds in a principal amount equal to the principal amount so remarketed to the Remarketing Agent in accordance with the terms of the Resolution. Except as provided above, the Custodian agrees that it will not, without the prior written consent of the Bank, sell, assign, transfer, exchange or otherwise dispose of, or grant any option with respect to, Bank Bonds, and will not create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance or take any other action with respect to the Bank Bonds, any interest therein, or any proceeds thereof. The Custodian shall deliver to the Bank, at the Bank's request, such information as may be in the possession of the Custodian with respect to the Bank Bonds. If the Custodian is holding Bank Bonds, the Custodian, at its own expense, shall maintain and keep in full force and effect: fidelity insurance; theft of documents insurance; forgery insurance; and errors and omissions insurance (which may be maintained by self-insurance). All such insurance shall be in amounts, with standard coverage and subject to deductibles that are customary for insurance typically maintained by a bank or other financial institution acting as custodian.

4. This Custody Agreement may not be amended or modified except in a writing signed by the Custodian, the City and the Bank.

5. This Custody Agreement shall inure to the benefit of and shall be binding upon the Custodian, the City and the Bank and their respective successors and assigns.

6. In performing its duties under this Custody Agreement, the Custodian shall not be liable to the Bank except for negligence or willful misconduct in the performance of its obligations hereunder.

7. The City agrees to indemnify the Custodian against any loss, liability or expense, incurred without gross negligence or willful misconduct on the part of the Custodian, arising out of or in connection with any of its duties as Custodian hereunder, including the costs and expenses of defending itself from any claim or liability in

connection herewith. The provisions of this paragraph shall survive the termination of this Custody Agreement.

8. In the event of its resignation or removal of the Tender Agent under the Resolution, the Custodian shall resign or be removed under this Custody Agreement, and the successor tender agent appointed under the Resolution shall be appointed by the Bank as the successor Custodian under this Custody Agreement. Upon the acceptance of any appointment as Custodian hereunder by a successor Custodian, such successor Custodian shall thereupon succeed to and become invested with all the rights, powers, privileges and duties of the retiring Custodian, and the resignation or removal of the retiring Custodian shall be effective as of such date. After the effective date of any retiring Custodian's resignation or removal as Custodian hereunder, the provisions of this Custody Agreement shall remain applicable to it as to any actions taken or omitted to be taken by it while it was Custodian under this Custody Agreement.

9. The Bank shall have the option to terminate this Custody Agreement at any time upon written notice to the Custodian and, upon such termination, the Custodian will release and deliver to the Bank or its designee any Bank Bonds then held by the Custodian hereunder. The Bank may also from time to time request that the Custodian release and deliver to the Bank (or to the Bank's designee or designees or otherwise at the direction of the Bank) all or a portion of the Bank Bonds then held by the Custodian on behalf of the Bank without termination of this Custody Agreement, and upon receipt of any such request in writing, the Custodian will promptly release and deliver such Bank Bonds to the Bank (or to the Bank's designee or designees or otherwise at the direction of the Bank) then held by the Custodian.

10. This Custody Agreement shall be governed by, and construed in accordance with, the law of the State of California.

11. This Custody Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Custody Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

[Remainder of page intentionally left blank]

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

**CITY OF RIVERSIDE**

By: \_\_\_\_\_  
Its:

\_\_\_\_\_

By: \_\_\_\_\_  
Its:

APPROVED AS TO FORM:

Phaedra Norton, City Attorney

Date: December 1, 2022

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

**U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION**  
as Custodian and Tender Agent

By: \_\_\_\_\_  
Its: Authorized Representative

**PNC BANK, NATIONAL ASSOCIATION**  
as Bank

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Name: An C. Tran

Title: Managing Director, Senior Vice President