

## OFFERING MEMORANDUM DATED JANUARY 25, 2017

*In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the City and the Authority, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Commercial Paper Notes is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Commercial Paper Notes is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed on such corporations. In addition, in the opinion of Bond Counsel to the City and the Authority, under existing statutes, interest on the Commercial Paper Notes is exempt from State of California personal income tax. See “TAX MATTERS.”*

**\$250,000,000**  
**PUBLIC FACILITIES FINANCING AUTHORITY**  
**OF THE CITY OF SAN DIEGO**  
**SUBORDINATED WATER REVENUE COMMERCIAL PAPER NOTES**  
**(Payable Solely from Subordinated Installment Payments**  
**Secured by Net System Revenues of the Water Utility Fund)**  
**consisting of**  
**\$75,000,000 Series A                      \$175,000,000 Series B**

The Subordinated Water Revenue Commercial Paper Notes, Series A (Payable Solely from Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “Series A Commercial Paper Notes”) and the Subordinated Water Revenue Commercial Paper Notes, Series B (Payable Solely from Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “Series B Commercial Paper Notes”) and, together with the Series A Commercial Paper Notes, the “Commercial Paper Notes”) of the Public Facilities Financing Authority of the City of San Diego (the “Authority”) will be issued from time to time in accordance with the terms and provisions of a resolution adopted by the City Council of the City of San Diego (the “City”), a resolution adopted by the Board of Commissioners of the Authority, the Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009 (as heretofore amended and supplemented, the “Agreement”), including as supplemented by the 2017 Commercial Paper Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2017 (the “2017 Commercial Paper Supplement”), by and between the City and the San Diego Facilities and Equipment Leasing Corporation (the “Corporation”), the Indenture, dated as of January 1, 2009 (as heretofore amended and supplemented, the “Indenture”), including as supplemented by the Fifth Supplemental Indenture, dated as of January 1, 2017 (the “Fifth Supplement”), by and between the Authority and U.S. Bank National Association, as trustee (the “Trustee”), and the Issuing and Paying Agency Agreement, dated as of January 1, 2017 (the “Issuing and Paying Agency Agreement”), by and between the Authority and U.S. Bank National Association, as the issuing and paying agent (the “Issuing and Paying Agent”). Under the circumstances described herein, the Commercial Paper Notes are subject to acceleration.

The principal of and interest on the Series A Commercial Paper Notes at maturity or upon acceleration (or face amount at maturity or accreted value upon acceleration of discount Series A Commercial Paper Notes) will be payable from draws made under an irrevocable direct-pay letter of credit (the “BotW Letter of Credit”) to be issued by Bank of the West (the “BotW”) and the principal of and interest on the Series B Commercial Paper Notes at maturity or upon acceleration (or face amount at maturity or accreted value upon acceleration of discount Series B Commercial Paper Notes) will be payable from draws made under an irrevocable direct-pay letter of credit (the “BofA Letter of Credit” and, together with the BotW Letter of Credit, the “Letters of Credit”) to be issued by Bank of America, N.A. (“BofA”) and, together with BotW, the “Subordinated Credit Providers”). The BotW Letter of Credit will expire on January 31, 2020 and the BofA Letter of Credit will expire on January 31, 2019. Each Letter of Credit may be drawn upon solely to pay principal of and interest on the respective Series of Commercial Paper Notes. See “SECURITY AND SOURCES OF PAYMENT OF THE COMMERCIAL PAPER NOTES” and “THE SUBORDINATED CREDIT PROVIDERS” herein. **The investment decision to purchase a Series of Commercial Paper Notes should be made solely on the basis of the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit from which will be paid all such principal of and interest on such Series of Commercial Paper Notes, rather than the City. Prospective investors should not rely on any source other than proceeds of drawings under the applicable Letter of Credit to pay such principal of and interest on such Series of Commercial Paper Notes.** The ratings assigned to each Series of Commercial Paper Notes are based on the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit. See “RATINGS” and “CERTAIN RISK FACTORS” herein.

**Bank of the West**  
**Series A Commercial Paper Notes**  
**Credit Provider**

**Bank of America, N.A.**  
**Series B Commercial Paper Notes**  
**Credit Provider**

The Commercial Paper Notes will be issued only as fully registered notes in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof. When issued, the Commercial Paper Notes will be registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”). DTC will act as securities depository for the Commercial Paper Notes. Ownership interests in the Commercial Paper Notes may be purchased in book-entry form only. So long as DTC or its nominee is the Holder of the Commercial Paper Notes, the principal and interest on the Commercial Paper Notes will be made as described in Appendix C – “THE BOOK-ENTRY ONLY SYSTEM.”

The Commercial Paper Notes are special limited obligations of the Authority payable solely from and secured by, draws made under the applicable Letter of Credit, proceeds from the sale of Commercial Paper Notes and Commercial Paper Notes Subordinated Installment Payments (herein defined) under the Agreement. The Commercial Paper Notes are payable from draws made under the applicable Letter of Credit, to the extent the draws under the applicable Letter of Credit are insufficient, from proceeds from the sale of Commercial Paper Notes and to the extent the draws under the applicable Letter of Credit and the proceeds of sale of Commercial Paper Notes are insufficient, from Commercial Paper Notes Subordinated Installment Payments under the Agreement. The Commercial Paper Notes Subordinated Installment Payments shall be on parity in right of payment to the Subordinated Installment Payments under the Agreement. No Holder of the Obligations shall have any right to take any action or enforce any right that has a materially adverse effect on the interests of the Holders of the Installment Payment Obligations. The Commercial Paper Notes do not constitute a debt, liability or obligation of the City, the State of California (the “State”) or any of its political subdivisions, and neither the faith and credit of the City nor the State are pledged to the payment of the principal of or interest on the Commercial Paper Notes. The Authority has no taxing power. The Commercial Paper Notes do not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction with respect to the City or any other political subdivision or governmental entity.

This cover page contains certain information for general reference only. It is not intended to be a summary of the security or terms of the Commercial Paper Notes. Investors are advised to read the entire Offering Memorandum, including any portion hereof included by reference, to obtain information essential to the making of an informed decision.

No dealer, broker, salesperson or other person has been authorized by the Authority, the City or the Dealers to give any information or to make any representation, other than the information and representations contained in this Offering Memorandum, in connection with the offering of the Commercial Paper Notes, and, if given or made, such information or representations must not be relied upon as having been authorized by the Authority, the City or the Dealers. This Offering Memorandum does not constitute an offer to sell or solicitation of an offer to buy any of the Commercial Paper Notes in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

The information set forth herein has been furnished by the Authority and the City and includes information obtained from other sources, all of which are believed to be reliable. The information and expressions of opinion contained herein are subject to change without notice and neither the delivery of this Offering Memorandum nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Authority, the City or the Subordinated Credit Providers since the date hereof. Such information and expressions of opinion are made for the purpose of providing information to prospective investors and are not to be used for any other purpose or relied on by any other party. All summaries of documents and laws are made subject to the provisions thereof and do not purport to be complete statements of any or all such documents and laws.

The information under "THE SUBORDINATED CREDIT PROVIDERS" relates to and has been furnished by the respective Subordinated Credit Provider for inclusion herein. None of the City, the Authority, the Corporation, or any other party has independently verified or assumes any responsibility for such information. The City, the Authority, the Corporation and the Dealers cannot and do not make any representation as to the accuracy or completeness of such information or the absence of material changes in such information subsequent to the date hereof.

This Offering Memorandum contains statements which, to the extent they are not recitations of historical fact, constitute "forward-looking statements." In this respect, the words "estimate", "project", "anticipate", "expect", "intend", "believe" and similar expressions are intended to identify forward-looking statements. A number of important factors affecting the Authority's and the City's business and financial results could cause actual results to differ materially from those stated in the forward-looking statements. Statements contained in this Offering Memorandum which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as a representation of facts.

The Dealers have provided the following sentence for inclusion in this Offering Memorandum: The Dealers have reviewed the information in this Offering Memorandum in accordance with, and as part of, their respective responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Dealers do not guarantee the accuracy or completeness of such information.

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**\$250,000,000**  
**PUBLIC FACILITIES FINANCING AUTHORITY**  
**OF THE CITY OF SAN DIEGO**  
**SUBORDINATED WATER REVENUE COMMERCIAL**  
**PAPER NOTES**  
**(Payable Solely from Subordinated Installment Payments**  
**Secured by Net System Revenues of the Water Utility Fund)**  
**consisting of**  
**\$75,000,000 Series A                      \$175,000,000 Series B**

**INTRODUCTION**

*This Commercial Paper Offering Memorandum (this “Offering Memorandum”), which includes the cover page and appendices, provides general information in connection with the issuance and sale, from time to time, by the Public Facilities Financing Authority of the City of San Diego (the “Authority”) of its Subordinated Water Revenue Commercial Paper Notes, Series A (Payable Solely from Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “Series A Commercial Paper Notes”) and Subordinated Water Revenue Commercial Paper Notes, Series B (Payable Solely from Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “Series B Commercial Paper Notes” and, together with the Series A Commercial Paper Notes, the “Commercial Paper Notes”). All references to documents and other materials herein are qualified in their entirety by reference to the complete provisions of those documents and other materials. The information and expressions of opinion in this Offering Memorandum are subject to change without notice after January 25, 2017, and future use of this Offering Memorandum will not otherwise create any implication that there has been no change in the matters referred to in this Offering Memorandum since January 25, 2017.*

The Authority will issue Commercial Paper Notes from time to time in accordance with the terms and provisions of a resolution adopted by the City Council of the City of San Diego (the “City”) on December 16, 2016 (the “City Resolution”), a resolution adopted by the Board of Commissioners of the Authority on December 6, 2016 (the “Authority Resolution”), the Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009 (as heretofore amended and supplemented, the “Agreement”), including as supplemented by the 2017 Commercial Paper Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2017 (the “2017 Commercial Paper Supplement”), by and between the City and the San Diego Facilities and Equipment Leasing Corporation (the “Corporation”), the Indenture, dated as of January 1, 2009 (as heretofore amended and supplemented, the “Indenture”), including as supplemented by the Fifth Supplemental Indenture, dated as of January 1, 2017 (the “Fifth Supplement”), by and between the Authority and U.S. Bank National Association, as trustee (the “Trustee”), and the Issuing and Paying Agency Agreement, dated as of January 1, 2017 (the “Issuing and Paying Agency Agreement”), by and between the Authority and U.S. Bank National Association, as the issuing and paying agent (the “Issuing and Paying Agent”).

The aggregate principal amount of Commercial Paper Notes Outstanding (herein defined) under the Indenture at any time may not exceed \$250,000,000. Under the circumstances described in Appendix A hereto, the Commercial Paper Notes are subject to acceleration. The principal of and interest on the Series A Commercial Paper Notes at maturity or upon acceleration (or face amount at maturity or accreted value upon acceleration of discount Series A Commercial Paper Notes) will be payable from draws made under an irrevocable direct-pay letter of credit (the “BotW Letter of Credit”) to be issued by Bank of the West (the “BotW”) and the principal of and interest on the Series B Commercial Paper Notes at maturity or upon acceleration (or face amount at maturity or accreted value upon acceleration of discount Series B Commercial Paper Notes) will be payable from draws made under an irrevocable

direct-pay letter of credit (the “BofA Letter of Credit” and, together with the BotW Letter of Credit, the “Letters of Credit”) to be issued by Bank of America, N.A. (“BofA” and, together with BotW, the “Subordinated Credit Providers”). The BotW Letter of Credit will expire on January 31, 2020 and the BofA Letter of Credit will expire on January 31, 2019. Each Letter of Credit may be drawn upon solely to pay principal of and interest on the respective Series of Commercial Paper Notes. See “SECURITY AND SOURCES OF PAYMENT OF THE COMMERCIAL PAPER NOTES” and “THE SUBORDINATED CREDIT PROVIDERS” herein. **The investment decision to purchase a Series of Commercial Paper Notes should be made solely on the basis of the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit from which will be paid all such principal of and interest on such Series of Commercial Paper Notes, rather than the City. Prospective investors should not rely on any source other than proceeds of drawings under the applicable Letter of Credit to pay such principal of and interest on such Series of Commercial Paper Notes.** The ratings assigned to each Series of Commercial Paper Notes are based on the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit. See “RATINGS” and “CERTAIN RISK FACTORS” herein.

Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and RBC Capital Markets, LLC will serve as the dealers in connection with the offering and sale of the Commercial Paper Notes. See “COMMERCIAL PAPER NOTES – Dealers.”

Unless otherwise indicated, capitalized terms used and note defined in this Offering Memorandum shall have the meanings ascribed thereto in the Indenture and the Agreement.

## **THE COMMERCIAL PAPER NOTES**

### **Authority; Purpose for Issuance**

The Authority is authorized to issue Commercial Paper Notes from time to time under and pursuant to the City Resolution, the Authority Resolution, the Agreement, the Indenture and the Issuing and Paying Agency Agreement in a maximum aggregate principal amount of \$250,000,000 Outstanding under the Indenture at any time. The Series A Commercial Paper Notes may be issued in a maximum aggregate principal amount of \$75,000,000 and the Series B Commercial Paper Notes may be issued in a maximum aggregate principal amount of \$175,000,000. The term “Outstanding,” when used as of any particular time with reference to Bonds (which term includes the Commercial Paper Notes), means (subject to the provisions of the Indenture) all Bonds theretofore or thereupon executed by the Authority and authenticated and delivered by the Trustee pursuant to the terms of the Indenture, except: (1) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation; (2) Bonds paid or deemed to have been paid within the meaning of the Indenture; (3) Bonds beneficially owned by the City or the Authority; and (4) Bonds in lieu of or in substitution for which other Bonds shall have been executed by the Authority and authenticated and delivered pursuant to the terms of the Indenture. The term “Bond” or “Bonds” means any of the bonds issued under the Indenture by the Authority, including any Additional Bonds. The Commercial Paper Notes are issued as Subordinated Bonds under the Indenture.

The Commercial Paper Notes may be issued from time to time to provide short-term financing for the costs of design, acquisition, construction, installation, and improvement of components of the City’s water system (the “Water System”), reimburse the City for certain eligible expenditures relating to the Water System, and pay costs of issuance of the Commercial Paper Notes.

## **Description of Commercial Paper Notes**

The Commercial Paper Notes will be issued only as fully registered notes in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof and will be dated the date of their delivery from time to time under the Indenture. The Commercial Paper Notes will mature on such dates and will bear interest from their date of issuance at such rates as shall be determined by an Authorized City Representative at the date of issuance; provided that (a) the term of any Commercial Paper Note (1) will not exceed 270 days from the date of its issuance, and (2) will not extend beyond a date which is two Commercial Paper Notes Business Days prior to the Termination Date of the “Subordinated Credit Support Instrument” (being, with respect to a series or subseries of the Commercial Paper Notes, a credit facility supporting such Commercial Paper Notes), if any, relating to such Commercial Paper Notes in effect at the time that such Commercial Paper Note is issued, and (b) no Commercial Paper Note will bear interest at a rate in excess of the lesser of eleven percent (11%) or the maximum rate per annum permitted by law. In addition, the Commercial Paper Notes will not be subject to redemption prior to maturity. The term “Commercial Paper Notes Business Day,” with respect to any Commercial Paper Note, shall have the meaning given to such term in the related Subordinated Credit Support Instrument.

Commercial Paper Notes may be issued as interest-bearing notes or at a discount and at such price as determined by an Authorized City Representative. The Authority shall not issue, or authorize the issuance of, Commercial Paper Notes supported by a Subordinated Credit Support Instrument, to the extent that the aggregate principal amount of all Outstanding Commercial Paper Notes supported by such Subordinated Credit Support Instrument (after giving effect to such issuance and the application of the proceeds thereof) would exceed the amount that may be drawn thereunder in respect of principal of Commercial Paper Notes supported by such Subordinated Credit Support Instrument or the sum of the aggregate amount of interest payable (including any portion thereof not yet accrued) in respect of such Commercial Paper Notes supported by such Subordinated Credit Support Instrument would exceed the amount that may be drawn under such Subordinated Credit Support Instrument in respect of interest thereon. See “THE LETTERS OF CREDIT AND THE REIMBURSEMENT AGREEMENTS.”

Both principal and interest on Commercial Paper Notes shall be payable in any coin or currency of the United States of America which shall then be legal tender for the payment of public and private debts. Except in the case of book-entry-only Commercial Paper Notes, principal of and interest on Commercial Paper Notes shall be payable upon presentation and surrender thereof at the principal office of the Issuing and Paying Agent in New York, New York. Interest on Commercial Paper Notes shall be calculated on the basis of a 365/366-day year for the actual number of days elapsed to the dates on which such Commercial Paper Notes mature.

## **DTC and the Book-Entry Only System**

The Commercial Paper Notes will be registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”). DTC will act as securities depository for the Commercial Paper Notes. Ownership interests in the Commercial Paper Notes may be purchased in book-entry form only. So long as DTC or its nominee is the Holder of the Commercial Paper Notes, the principal and interest on the Commercial Paper Notes will be made as described in Appendix C – “THE BOOK-ENTRY ONLY SYSTEM.”

## **Dealers**

Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and RBC Capital Markets, LLC will serve as the dealers in connection with the offering and sale of the Commercial Paper Notes (each a “Dealer”) pursuant to separate Dealer Agreements, each dated as of January 1, 2017

(the “Dealer Agreements”), between the Authority and the related Dealer. Under the respective Dealer Agreements, the Dealers have no commitment to purchase any of the Commercial Paper Notes, but are obligated only to use their best efforts as agents of the Authority to solicit and arrange sales of the Commercial Paper Notes on behalf of the Authority. A Dealer may resign or be discharged of the duties and obligations set forth under the Fifth Supplement in accordance with the applicable Dealer Agreement.

The Dealers and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. In the various course of their various business activities, the Dealers and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of the City and the Authority (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the City, the Corporation or the Authority. The Dealers and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

## **THE CITY**

The City, with a total population of approximately 1.4 million as of January 1, 2016 and a land area of approximately 342 square miles, is the eighth largest city in the nation by population, and the second largest city by population (and land area) in California. The City is the county seat for the County of San Diego. Major components of the City’s diversified economy include defense, tourism, biotechnology/biosciences, financial and business services, software and telecommunications. The City’s economic base is also anchored by higher education and major scientific research institutions, including the University of California, San Diego, San Diego State University, Scripps Research Institute, the Salk Institute for Biological Studies, and the San Diego Supercomputer Center.

The City was incorporated in 1850. The City operates under and is governed by the laws of the State of California (the “State”) and the City Charter, as periodically amended since its adoption by the electorate in 1931. The City has been operating under a “Strong Mayor” form of government since January 1, 2006. Under the Strong Mayor form of government, the Mayor is the Chief Executive Officer of the City and has direct oversight over all City functions and services except for the City Council, Personnel, City Clerk, Independent Budget Analyst, Ethics Commission, City Attorney and City Auditor’s departments.

The City owns the Water System and operates the Water System through the Public Utilities Department. The City has expanded the Water System from time to time to provide safe, reliable water in an efficient, cost-effective, and environmentally responsible manner. The water service rendered by the City includes the collection, conservation, production, storage, treatment, transmission, furnishing, and distribution services made available or provided by the City’s Water System (collectively, “Water Service”). See “SECURITY AND SOURCES OF PAYMENT FOR THE COMMERCIAL PAPER NOTES – Commercial Paper Notes Subordinated Installment Payments – *Installment Payments and Pledge of Net System Revenues.*”



## **THE CORPORATION**

The Corporation is a nonprofit charitable corporation duly organized and existing under and by virtue of the laws of the State. The Corporation was organized to acquire, lease, and/or sell to the City real and personal property to be used in the municipal operations of the City. The Corporation was formed at the request of the City to assist in financings such as the installment purchase financing described herein and is governed by its own Board of Directors. The Corporation is prohibited from engaging in any business or activities other than those incidental to its sole purpose, and no part of its net earnings may accrue to the benefit of any person or entity other than the City.

The Corporation has no liability to the Holders or Holders of any Commercial Paper Notes, and has pledged none of its moneys, funds or assets to any “Installment Payments” (defined in the Agreement as the installment payments scheduled to be paid by the City under and pursuant to the Agreement and any supplement thereto) including, without limitation, the “Commercial Paper Notes Subordinated Installment Payments” (defined in the Agreement as the Installment for payment of the purchase price of the Commercial Paper Notes components in accordance with the Agreement) or any payments under the Commercial Paper Notes. Pursuant to the Assignment Agreement, dated as of January 1, 2017, by and between the Corporation and the Authority, the Corporation has assigned its right to receive the Commercial Paper Notes Subordinated Installment Payments to the Authority.

## **THE AUTHORITY**

The Authority is a California joint exercise of powers authority established pursuant to the Third Amended and Restated Joint Exercise of Powers Agreement, dated as of January 1, 2013, by and among the City, the City solely in its capacity as the designated successor agency (the “Successor Agency”) to the former Redevelopment Agency of the City of San Diego (the “Former RDA”), and the Housing Authority of the City of San Diego (the “Housing Authority”). The Authority is organized, in part, to finance certain public capital improvements of the City, the Successor Agency or the Housing Authority.

Except as provided in the Indenture, the Authority has no liability to the Holders or Holders of any of the Commercial Paper Notes and has pledged none of its moneys, funds or assets toward the payment of any amount due in connection with the Commercial Paper Notes. The Indenture provides that the Authority transfers, conveys and assigns to the Trustee, for the benefit of the Holders, all of the Authority’s rights under the Agreement, including the right to receive the Commercial Paper Notes Subordinated Installment Payments from the City, the right to receive any proceeds of insurance maintained thereunder or any condemnation award rendered with respect to the related Components, and the right to exercise any remedies provided therein in the event of a default by the City under the Agreement.

The Authority is governed by its own Board of Commissioners consisting of the members of the San Diego City Council. The Authority is dependent upon the officers and employees of the City to administer its programs.

## **SECURITY AND SOURCES OF PAYMENT FOR THE COMMERCIAL PAPER NOTES**

### **General**

The Commercial Paper Notes are special limited obligations of the Authority payable solely from and secured by, draws made under the applicable Letter of Credit, proceeds from the sale of Commercial Paper Notes and Commercial Paper Notes Subordinated Installment Payments under the Agreement. The Commercial Paper Notes are payable from draws made under the applicable Letter of Credit, to the extent

the draws under the applicable Letter of Credit are insufficient, from proceeds from the sale of Commercial Paper Notes and to the extent the draws under the applicable Letter of Credit and the proceeds of sale of Commercial Paper Notes are insufficient, from Commercial Paper Notes Subordinated Installment Payments under the Agreement. The Commercial Paper Notes Subordinated Installment Payments shall be Subordinated Obligations under the Agreement and the payment of the Commercial Paper Notes Subordinated Installment Payments shall be on parity in right of payment to the Subordinated Installment Payments under the Agreement. The Commercial Paper Notes Subordinated Installment Payments are payable from Net System Revenues on a basis that is subordinate to the right of payment by the City of its Senior Obligations (defined below and referred to as "Parity Obligations" under the Agreement) then outstanding under the Agreement. The Installment Payments securing the Parity Obligations are not pledged to and do not secure payment of principal of and interest on the Commercial Paper Notes. See "SECURITY AND SOURCES OF PAYMENT FOR THE COMMERCIAL PAPER NOTES – Commercial Paper Notes Subordinated Installment Payments." No Holder of the Obligations shall have any right to take any action or enforce any right that has a materially adverse effect on the interests of the Holders of the Installment Payment Obligations.

The Commercial Paper Notes do not constitute a debt, liability or obligation of the City, the State or any of its political subdivisions, and neither the faith and credit of the City nor the State are pledged to the payment of the principal of or interest on the Commercial Paper Notes. The Authority has no taxing power. The Commercial Paper Notes do not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction with respect to the City or any other political subdivision or governmental entity.

The Authority expects to pay the principal of and interest on the Commercial Paper Notes with the proceeds of draws under the applicable Letter of Credit, and to immediately reimburse the respective Subordinated Credit Provider for such draws with the proceeds of the sale of additional Commercial Paper Notes or Subordinated Installment Payments, or retire such Commercial Paper Notes with moneys either by the issuance of long-term bonds issued under the Indenture and the Agreement or from other available moneys.

**The investment decision to purchase a Series of Commercial Paper Notes should be made solely on the basis of the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit from which will be paid all such principal of and interest on such Series of Commercial Paper Notes, rather than the City. Prospective investors should not rely on any source other than proceeds of drawings under the applicable Letter of Credit to pay such principal of and interest on such Series of Commercial Paper Notes.**

#### **Letters of Credit and Security for the Commercial Paper Notes**

BotW will issue the BotW Letter of Credit to provide credit support for the timely payment of the principal of and interest on the Series A Commercial Paper Notes (or face amount or accreted value of discount Series A Commercial Paper Notes). The BotW Letter of Credit will be issued in the initial stated amount of \$77,712,329, which may be drawn upon from time to time solely in respect of payment of the principal of and interest on the Series A Commercial Paper Notes (or face amount or accreted value of discount Series A Commercial Paper Notes), and will expire on January 31, 2020, unless extended or terminated sooner in accordance with its terms. See "THE LETTERS OF CREDIT AND REIMBURSEMENT AGREEMENTS – Bank of the West."

BofA will issue the BofA Letter of Credit to provide credit support for the timely payment of the principal of and interest on the Series B Commercial Paper Notes (or face amount or accreted value of discount Series B Commercial Paper Notes). The BofA Letter of Credit will be issued in the initial stated

amount of \$181,328,768, which may be drawn upon from time to time solely in respect of payment of the principal of and interest on the Series B Commercial Paper Notes (or face amount or accreted value of discount Series B Commercial Paper Notes), and will expire on January 31, 2019, unless extended or terminated sooner in accordance with its terms. See “THE LETTERS OF CREDIT AND REIMBURSEMENT AGREEMENTS – Bank of America, N.A.”

Each Letter of Credit may be drawn upon solely to pay principal of and interest on the respective Series of Commercial Paper Notes.

All Commercial Paper Notes shall be supported by a Subordinated Credit Support Instrument (herein defined). The initial Subordinated Credit Support Instruments for the Commercial Paper Notes are the BotW Letter of Credit and the BofA Letter of Credit. The Authority agrees and covenants that it shall maintain, or cause the City to maintain, a right under each such Subordinated Credit Support Instrument to, and thereby shall permit the Issuing and Paying Agent to, draw funds under each such Subordinated Credit Support Instrument to pay the principal of and interest on all Commercial Paper Notes supported thereby in an aggregate amount at least equal to (i) the principal amount (or face amount in the case of Commercial Paper Notes issued at a discount) of all related Outstanding Commercial Paper Notes and (ii) the interest accrued and to accrue on all related Outstanding Commercial Paper Notes.

To the extent that a Subordinated Credit Support Instrument is in full force and effect and so provides, the obligations of the City to make payments thereunder shall constitute a Subordinated Credit Provider Reimbursement Obligation and shall constitute a Subordinated Obligation pursuant to the Agreement.

The Authority will not substitute a Subordinated Credit Support Instrument or consent to any assignment by a bank under any reimbursement agreement with respect to any Commercial Paper Notes that such Subordinated Credit Support Instrument supports prior to the payment or defeasance of such Commercial Paper Notes.

### **Commercial Paper Notes Subordinated Installment Payments**

**General.** The Commercial Paper Notes are special limited obligations of the Authority payable solely from and secured by, draws made under the applicable Letter of Credit, proceeds from the sale of Commercial Paper Notes and Commercial Paper Notes Subordinated Installment Payments under the Agreement. The Commercial Paper Notes are payable from draws made under the applicable Letter of Credit, to the extent the draws under the applicable Letter of Credit are insufficient, from proceeds from the sale of Commercial Paper Notes and to the extent the draws under the applicable Letter of Credit and the proceeds of sale of Commercial Paper Notes are insufficient, from Commercial Paper Notes Subordinated Installment Payments under the Agreement. Pursuant to the 2017 Commercial Paper Supplement, in the event that a Subordinated Credit Provider has refused payment for a series of Commercial Paper Notes as provided for in the related Subordinated Credit Support Instrument and the amount in the related Credit Enhanced Note Account and Reimbursement Account (respectively, the accounts by that name established pursuant to the Indenture) established for such series of Commercial Paper Notes is not sufficient to pay the principal of and accrued interest on such Commercial Paper Notes as provided in the Issuing and Paying Agency Agreement and the Indenture, the City will pay solely from Net System Revenues the amount of such insufficiency and the City will transfer moneys from the Water Utility Fund (herein defined) to the related Reimbursement Account in an aggregate amount, together with other moneys held in the related Credit Enhanced Note Account and such Reimbursement Account, sufficient for the payment of principal of and accrued interest on such Commercial Paper Notes due on such Commercial Paper Notes Installment Payment Date. The term “Commercial Paper Notes Installment Payment Date” means (i) any date determined by the City to make a Commercial Paper Notes

Subordinated Installment Payment, (ii) the business day prior to each Interest Payment Date or Principal Payment Date for the Commercial Paper Notes, and (iii) each date on which any Subordinated Credit Provider Reimbursement Obligation is due or transfers with respect thereto are to be made. The term “Interest Payment Date” means each February 1 and August 1, each date on which Commercial Paper Notes are due and payable, and such other date as provided for in a Supplemental Indenture. The term “Principal Payment Date” means each August 1, each date on which Commercial Paper Notes are due and payable, and such other date as provided for in a Supplemental Indenture.

The Commercial Paper Notes Subordinated Installment Payments are payable solely from Net System Revenues, as provided in the Agreement, on each Commercial Paper Notes Installment Payment Date in amounts equal to the principal of and interest accrued on the Commercial Paper Notes and any related Subordinated Credit Provider Reimbursement Obligations as and when due. Pursuant to the 2017 Commercial Paper Supplement, the Commercial Paper Notes Subordinated Installment Payments are Subordinated Obligations under the Agreement and the payment of the Commercial Paper Notes Subordinated Installment Payments shall be on parity in right of payment to the Subordinated Installment Payments under the Agreement. The Commercial Paper Notes Subordinated Installment Payments are payable from Net System Revenues on a basis that is subordinate to the right of payment by the City of its Senior Obligations (defined below and referred to as “Parity Obligations” under the Agreement) then outstanding under the Agreement. No Holder of the Obligations shall have any right to take any action or enforce any right that has a materially adverse effect on the interests of the Holders of the Installment Payment Obligations.

***Payments from the Water Utility Fund.*** The “Water Utility Fund” is the enterprise fund through which the City accounts for its water operations. The Water Utility Fund was established pursuant to an amendment to the City Charter effective February 11, 1963, and is accounted for separately from other funds of the City. The City has agreed and covenanted in the Agreement that all System Revenues shall be received by the City in trust and shall be deposited when and as received in the Water Utility Fund, which fund the City agrees and covenants to maintain so long as any Obligations remain unpaid, and all moneys in the Water Utility Fund shall be so held in trust and applied and used solely as provided in the Agreement. The City further has agreed to pay from the Water Utility Fund: (1) directly or as otherwise required all Maintenance and Operation Costs of the Water System; and (2) to the Trustee, for deposit in the Payment Fund for Senior Obligations, including Reserve Fund Obligations that are Senior Obligations, the amounts specified in any “Issuing Instrument” (defined in the Agreement as any indenture, trust agreement, loan agreement, lease, installment purchase agreement, or the Agreement, including any supplement or other instrument under which Obligations are issued or created), as payments due on account of Senior Obligations (including any Credit Provider Reimbursement Obligations (defined in the Agreement as obligations of the City to repay from Net System Revenues, amounts advanced by a Credit Provider as credit support or liquidity for Parity Obligations, which obligations shall constitute Parity Obligations or Subordinated Obligations, as designated by the City) that are Senior Obligations). In the event there are insufficient Net System Revenues to make all of the payments contemplated by clause (2) of the immediately preceding sentence, then said payments shall be made as nearly as practicable, pro rata, based upon the respective unpaid principal amounts of said Senior Obligations. The State Revolving Fund Loans (the “SRF Loans”) outstanding in the principal amount of \$61,600,208 as of January 1, 2017 are the only Senior Obligations currently Outstanding. Each outstanding SRF Loan includes terms for the funding and reimbursement of a debt service reserve fund established for such SRF Loan. The City may incur additional Senior Obligations from time to time in accordance with the Agreement. See “SECURITY AND SOURCES OF PAYMENT FOR THE COMMERCIAL PAPER NOTES – Issuance of Additional Obligations Under the Agreement – *Issuance of Senior Obligations.*” The City expects to enter into approximately \$72 million principal amount of additional SRF Loans for the Water System in the first half of calendar year 2017.

After the payments described in the preceding paragraph have been made, and in any event not less frequently than January 15 and July 15 of each year, any remaining Net System Revenues shall be used to make up any deficiency in the Reserve Funds for Senior Obligations. In the event there are insufficient Net System Revenues to make up all deficiencies in all Reserve Funds for Senior Obligations, such payments into the Reserve Funds shall be made as nearly as practicable pro rata based on the respective unpaid principal amount of all Senior Obligations. Any amounts thereafter remaining in the Water Utility Fund may from time to time be used to pay the amounts specified in any Issuing Instrument as payments due on account of Subordinated Obligations, including the Subordinated Installment Payments for the 2012A Bonds, 2016A Bonds and 2016B Bonds currently Outstanding and any reserve fund obligations therefor and the Commercial Paper Notes Subordinated Installment Payments, provided the following conditions are met: (a) all Maintenance and Operation Costs of the Water System are being and have been paid and are then current; and (b) all deposits and payments contemplated by clause (b) of the preceding paragraph shall have been made in full and no deficiency in any Reserve Fund for Senior Obligations shall exist, and there shall have been paid, or segregated within the Water Utility Fund, the amounts payable during the current month pursuant to clause (b) of the preceding paragraph.

After deposits described in the preceding paragraphs have been made, any amounts thereafter remaining in the Water Utility Fund may be used for any lawful purpose of the Water System.

Senior Bonds. Pursuant to the Indenture, on or before each Interest Payment Date, the Trustee shall transfer from the “Senior Bonds Payment Fund” and deposit in the “Senior Bonds Interest Account” (respectively, the fund and account by such name established pursuant to the Indenture) that amount of money that, together with any money contained in the Senior Bonds Interest Account, equals the aggregate amount of interest becoming due and payable on all Outstanding Senior Bonds on such Interest Payment Date. No deposit need be made in the Senior Bonds Interest Account if the amount contained in the Senior Bonds Interest Account equals at least the aggregate amount of interest becoming due and payable on all Outstanding Senior Bonds on such Interest Payment Date. All money in the Senior Bonds Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Senior Bonds as it shall become due and payable (including accrued interest on any Senior Bonds redeemed prior to maturity).

On or before each Principal Payment Date, the Trustee shall transfer from the Senior Bonds Payment Fund and deposit in the Senior Bonds Principal Account that amount of money that, together with any money contained in the Senior Bonds Principal Account, equals the aggregate principal becoming due and payable on all Outstanding Senior Bonds. No deposit need be made in the Senior Bonds Principal Account if the amount contained therein is at least equal to the aggregate amount of principal become due and payable on Outstanding Senior Bonds. All money in the Senior Bonds Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Senior Bonds as it shall become due and payable. Within the Senior Bonds Payment Fund, there is established a special account designated the “Senior Bonds Redemption Account.” All money in the Senior Bonds Redemption Account shall be held in trust by the Trustee and shall be applied, used, and withdrawn to redeem Senior Bonds.

Any delinquent Installment Payments pledged to the Senior Bonds shall be applied first to the Senior Bonds Interest Account for the immediate payment of interest payments past due and to the Senior Bonds Principal Account for immediate payment of principal payments past due on any Senior Bond. Any remaining money representing delinquent Installment Payments pledged to Senior Bonds shall be deposited in the Senior Bonds Payment Fund to be applied in the manner provided therein.

Subordinated Bonds. Pursuant to the Indenture, except to the extent that payment is made of interest on the Commercial Paper Notes from the proceeds of Commercial Paper Notes or the proceeds of

a Draw under the related Subordinated Credit Support Instrument, on or before each Interest Payment Date, the Trustee shall transfer from the Subordinated Bonds Payment Fund and deposit in the Subordinated Bonds Interest Account (respectively, the fund and account by that name established pursuant to the Indenture) that amount of money that, together with any money contained in the Subordinated Bonds Interest Account, equals the aggregate amount of interest becoming due and payable on all Outstanding Subordinated Bonds on such Interest Payment Date. No deposit need be made in the Subordinated Bonds Interest Account if the amount contained in the Subordinated Bonds Interest Account equals at least the aggregate amount of interest becoming due and payable on all Outstanding Subordinated Bonds on such Interest Payment Date; provided that the Authority may direct the Trustee to maintain amounts in the Subordinated Bonds Interest Account following payment of all amounts required to be paid under the Indenture to be used for payments on Commercial Paper Notes on future Interest Payment Dates, and in such instance, such additional amount shall not be included as amounts available to pay interest becoming due and payable on Outstanding Subordinated Bonds. All money in the Subordinated Bonds Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Subordinated Bonds as it shall become due and payable (including accrued interest on any Subordinated Bonds redeemed prior to maturity).

Except to the extent that payment is made of the principal of the Commercial Paper Notes from the proceeds of Commercial Paper Notes or the proceeds of a Draw under the related Subordinated Credit Support Instrument, on or before each Principal Payment Date, the Trustee shall transfer from the Subordinated Bonds Payment Fund and deposit in the Subordinated Bonds Principal Account that amount of money that, together with any money contained in the Subordinated Bonds Principal Account, equals the aggregate principal becoming due and payable on all Outstanding Subordinated Bonds. No deposit need be made in the Subordinated Bonds Principal Account if the amount contained therein is at least equal to the aggregate amount of principal become due and payable on Outstanding Subordinated Bonds. All money in the Subordinated Bonds Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Subordinated Bonds as it shall become due and payable.

In addition to the above accounts, the Trustee shall establish and maintain within the Subordinated Bonds Payment Fund a special account designated the "Subordinated Bonds Redemption Account." All money in the Subordinated Bonds Redemption Account shall be held in trust by the Trustee and shall be applied, used, and withdrawn to redeem Subordinated Bonds.

Any delinquent Subordinated Installment Payments pledged to the Subordinated Bonds shall be applied first to the Subordinated Bonds Interest Account for the immediate payment of interest payments past due and to the Subordinated Bonds Principal Account for immediate payment of principal payments past due on any Subordinated Bond. Any remaining money representing delinquent Subordinated Installment Payments pledged to Subordinated Bonds shall be deposited in the Subordinated Bonds Payment Fund to be applied in the manner provided therein.

On or before each date any Commercial Paper Note matures, the Trustee shall transfer from the Subordinated Bonds Payment Fund to the Issuing and Paying Agent for deposit in the applicable Reimbursement Account that amount of money that equals the aggregate amount of interest or principal becoming due and payable on the Commercial Paper Notes to the extent that payment of such interest on or principal of the Commercial Paper Notes is not made from the proceeds of Commercial Paper Notes but is made from the proceeds of a Draw under the related Subordinated Credit Support Instrument. On or before each date any related Subordinated Credit Provider Reimbursement Obligations become due and payable, the Trustee shall transfer from the Subordinated Bonds Payment Fund and deposit in the applicable Reimbursement Account that amount of money that, together with any amounts transferred

pursuant to the preceding sentence, equals the amount of any such Subordinated Credit Provider Reimbursement Obligations when due.

***Installment Payments and Pledge of Net System Revenues.*** The Agreement provides for the payment by the City of Senior Obligations and Subordinated Obligations in amounts sufficient to make payments of the principal of and interest on Bonds of the Authority and SRF Loans of the City. Pursuant to the Agreement, the City agrees to make Installment Payments (including the Commercial Paper Notes Subordinated Installment Payments) solely from Net System Revenues. The City agrees to make Installment Payments solely from Net System Revenues until such time as the Purchase Price for any Components (including Commercial Paper Notes Components) has been paid in full (or provision for the payment thereof has been made pursuant to the Agreement).

The City will not discontinue or suspend any Installment Payments (including the Commercial Paper Notes Subordinated Installment Payments) required to be made by the City under the Agreement, whether or not the project relating thereto (the “Project”) or any part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced, curtailed, or terminated, in whole or in part, and such Installment Payments (including the Commercial Paper Notes Subordinated Installment Payments) shall not be subject to reduction, whether by offset or otherwise, and will not be conditioned upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

The term “Net System Revenues” is defined in the Agreement as, for any “Fiscal Year” (the period beginning on July 1 of each year and ending on June 30 of the following year), the System Revenues for such Fiscal Year, less the Maintenance and Operation Costs of the Water System for such Fiscal Year.

The term “System Revenues” is defined in the Agreement as all income, rents, rates, fees, charges, and other moneys derived from the Ownership or operation of the Water System, including, without limiting the generality of the foregoing: (a) all income, rents, rates, fees, charges, or other moneys derived by the City from the water services or facilities, and commodities or byproducts, including hydroelectric power, sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the Water System, and including, without limitation, investment earnings on the operating reserves to the extent that the use of such earnings is limited to the Water System by or pursuant to law, and earnings on any Reserve Fund for Obligations, but only to the extent that such earnings may be utilized under the indenture, trust agreement, loan agreement, lease, or installment purchase agreement under which the applicable Obligations are issued (each, an “Issuing Instrument”) for the payment of debt service for such Obligations; (b) standby charges and Capacity Charges derived from the services and facilities sold or supplied through the Water System; (c) the proceeds derived by the City directly or indirectly from the lease of a part of the Water System; (d) any amount received from the levy or collection of taxes that are solely available and are earmarked for the support of the operation of the Water System; (e) amounts received under contracts or agreements with governmental or private entities and designated for capital costs for the Water System; and (f) grants for maintenance and operations received from the United States of America or from the State; provided, however, that System Revenues shall not include: (1) in all cases, customers’ deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City; and (2) the proceeds of borrowings. Notwithstanding the foregoing, there shall be deducted from System Revenues any amounts transferred into a Rate Stabilization Fund as contemplated by the Agreement and any amounts transferred from current System Revenues to the Secondary Purchase Fund as permitted by the Agreement. There shall be added to System Revenues any amounts transferred out of such Rate Stabilization Fund or the Secondary Purchase Fund to pay Maintenance and Operation Costs of the Water System.

The term “Maintenance and Operation Costs of the Water System” is defined in the Agreement as (a) any Qualified Take or Pay Obligation (as defined herein), and (b) the reasonable and necessary costs spent or incurred by the City for maintaining and operating the Water System, calculated in accordance with generally accepted accounting principles, including (among other things) the reasonable expenses of maintenance and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the City attributable to the Water System, including the Project and the Agreement, salaries and wages of employees of the Water System, payments to such employees’ retirement systems (to the extent paid from System Revenues), overhead, taxes (if any), fees of auditors, accountants, attorneys or engineers, and insurance premiums, and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms of the Obligations, including the Agreement, including any amounts required to be deposited in the Rebate Fund pursuant to a Tax Certificate, and fees and expenses payable to any Credit Provider (herein defined).

The term “Obligations” is defined in the Agreement as (a) obligations of the City for money borrowed (such as bonds, notes, or other evidences of indebtedness) or as installment purchase payments under any contract (including Installment Payments), or as lease payments under any financing lease (determined to be such in accordance with generally accepted accounting principles), the principal of and interest on which are payable from Net System Revenues; (b) obligations to replenish any debt service reserve funds with respect to such obligations of the City; (c) obligations secured by or payable from any of such obligations of the City; and (d) obligations of the City payable from Net System Revenues under (1) any contract providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, (2) any contract to exchange cash flows or a series of payments, or (3) any contract to hedge payment, currency, rate spread, or similar exposure, including but not limited to interest rate cap agreements.

All Senior Obligations are of equal rank with each other without preference, priority, or distinction of any Senior Obligations over any other Senior Obligations. The term “Senior Obligations” is defined in the Agreement as (a) Installment Obligations (as defined herein), (b) Obligations, the principal of and interest on which are payable on a parity with Installment Obligations, and (c) Reserve Fund Obligations. The term “Installment Obligations” is defined in the Agreement as Obligations consisting of or payable from Installment Payments, which are not subordinated in right of payment to other Installment Payments. The term “Credit Provider” is defined in the Agreement as any municipal bond insurance company, bank, or other financial institution or organization that is performing in all material respects its obligations under any policy of insurance, letter of credit, standby purchase agreement, revolving credit agreement, or other credit arrangement providing credit support or liquidity with respect to Senior Obligations (each, a “Credit Support Instrument”) (other than in repayment of a “Credit Provider Reimbursement Obligation” (which term is defined in the Agreement to mean any obligation of the City to repay, from Net System Revenues, amounts advanced by a Credit Provider as credit support or liquidity for Senior Obligations, which obligation shall constitute a Senior Obligation or a Subordinated Obligation, as designated by the City), but excluding in all cases (1) depreciation, replacement, and obsolescence charges or reserves therefor, (2) amortization of intangibles or other bookkeeping entries of a similar nature, (3) costs of capital additions, replacements, betterments, extensions, or improvements to the Water System, which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation, (4) charges for the payment of principal of and interest on any general obligation bond heretofore or hereafter issued for Water System purposes, and (5) charges for the payment of principal of and interest on any debt service on account of any Obligation on a parity with, to the Installment Payments). The term “Reserve Fund Obligations” is defined in the Agreement as the obligations of the City to pay amounts advanced under any Reserve Fund Credit Facility entered into in accordance with the provisions of the related Issuing Instrument or



Supplement, which obligations shall constitute Senior Obligations or Subordinated Obligations, as designated by the City.

The term “Qualified Take or Pay Obligation” is defined in the Agreement as the obligation of the City to make use of any facility, property, or services, or some portion of the capacity thereof, or to pay therefor from System Revenues, or both, whether or not such facilities, properties, or services are ever made available to the City for use, and there is provided to the City a certificate of the City or of an Independent Engineer to the effect that the incurrence of such obligation will not adversely affect the ability of the City to comply with the rate covenant contained in the Agreement. As of the date of issuance of the Commercial Paper Notes, there will be no outstanding Qualified Take or Pay Obligations.

***Outstanding Senior Obligations.*** The pledge and right of payment from Net System Revenues securing the Commercial Paper Notes Subordinated Installment Payments (which, in turn, secure the payment of the Commercial Paper Notes) will be subordinate to the pledge and right of payment from Net System Revenues securing the Installment Payments payable on a senior basis and which, in turn, secure the payment of the SRF Loans outstanding in the principal amount of \$61,600,208, being the only Senior Obligations outstanding as of January 1, 2017.

All Senior Obligations are secured by a first priority lien on and pledge of Net System Revenues. All Senior Obligations are of equal rank with each other without preference, priority, or distinction of any Senior Obligations over any other Senior Obligations.

***Outstanding Subordinated Obligations.*** The Agreement permits the issuance of Obligations secured by a lien on and pledge of Net System Revenues, which lien and pledge is subordinate to the lien on and pledge of Net System Revenues securing Senior Obligations (each, a “Subordinated Obligation”). As of January 1, 2017, there is Outstanding under the Agreement Subordinated Obligations in connection with the Public Facilities Financing Authority of the City of San Diego Subordinated Water Revenue Bonds, Refunding Series 2012A (Payable Solely From Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “2012A Bonds”) outstanding in the aggregate principal amount of \$130,680,000, the Public Facilities Financing Authority of the City of San Diego Subordinated Water Revenue Bonds, Series 2016A (Payable Solely From Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “2016A Bonds”) outstanding in the aggregate principal amount of \$40,540,000 and the Public Facilities Financing Authority of the City of San Diego Subordinated Water Revenue Bonds, Refunding Series 2016B (Payable Solely From Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “2016B Bonds”) outstanding in the aggregate principal amount of \$493,785,000.

Nothing contained in the Agreement limits the ability of the City to grant a lien on and pledge of the Net System Revenues that is subordinate to any liens on and pledges of Net System Revenues for the benefit of Subordinated Obligations, including the Commercial Paper Notes Subordinated Installment Payments.

### **Issuance of Additional Obligations Under the Agreement**

Pursuant to the Agreement, the City may incur additional Obligations, payments with respect to which will be senior to, or on parity with, the City’s obligation to make Commercial Paper Notes Subordinated Installment Payments, subject to satisfaction of the conditions specified in the Agreement, as described below.

***Issuance of Senior Obligations.*** The City may not create any Obligations, the payments of which are senior or prior in right to the payment by the City of the outstanding Senior Obligations and

obligations payable from Net System Revenues on a parity therewith (collectively, the “Senior Obligations”). The City may issue or create any other Senior Obligations, provided that (a) there shall not have occurred and be continuing an Event of Default under the terms of the Agreement, any Issuing Instrument, or any Credit Support Instrument and (b) the City obtains or provides a certificate or certificates, prepared by the City or at the City’s option by a Consultant, showing that:

(1) the Net System Revenues as shown by the books of the City for any 12 consecutive month period within the 18 consecutive months ending immediately prior to the incurring of such additional Senior Obligations shall have amounted to or exceeded the greater of (A) at least 1.20 times the Maximum Annual Debt Service on all Senior Obligations to be Outstanding immediately after the issuance of the proposed Senior Obligations or (B) at least 1.00 times the Maximum Annual Debt Service on all Obligations to be Outstanding immediately after the issuance of the proposed Senior Obligations; or

(2) the estimated Net System Revenues for the five Fiscal Years following the earlier of (A) the end of the period during which interest on those Senior Obligations is to be capitalized or, if no interest is to be capitalized, the Fiscal Year in which the Senior Obligations are issued, or (B) the date on which substantially all new Components to be financed with such Senior Obligations are expected to commence operations, will be at least equal to 1.20 times the Maximum Annual Debt Service for all Senior Obligations that will be Outstanding immediately after the issuance of the proposed Senior Obligations.

The certificate or certificates described in clause (2) above will not be required if the Senior Obligations being issued are for the purpose of refunding (i) then Outstanding Senior Obligations if at the time of the issuance of such Senior Obligations a certificate of an Authorized City Representative is delivered showing that the sum of Adjusted Debt Service on all Senior Obligations Outstanding for all remaining Fiscal Years after the issuance of the refunding Senior Obligations will not exceed the sum of Adjusted Debt Service on all Senior Obligations Outstanding for all remaining Fiscal Years prior to the issuance of such refunding Senior Obligations; or (ii) then Outstanding Balloon Indebtedness, Tender Indebtedness, or Variable Rate Indebtedness, but only to the extent that the principal amount of such indebtedness has been put, tendered to, or otherwise purchased pursuant to a standby purchase or other liquidity facility relating to such indebtedness.

See Appendix A – “SUMMARY OF CERTAIN TERMS OF THE INDENTURE AND THE AGREEMENT” attached hereto.

***Issuance of Subordinated Obligations.*** Pursuant to the Agreement, if (a) no Event of Default has occurred and is continuing, and (b) no event of default or termination event attributable to an act of or failure to act by the City under any Subordinated Credit Support Instrument has occurred and is continuing, the City may issue or incur additional Subordinated Obligations, and such Subordinated Obligations shall be paid in accordance with the provisions of the Agreement, provided that the City obtains or provides a certificate or certificates, prepared by the City or at the City’s option by a Consultant, showing that:

(1) the Net System Revenues as shown by the books of the City for any 12 consecutive month period within the 18 consecutive months ending immediately prior to the incurring of such additional Subordinated Obligations shall have amounted to at least 1.00 times the Maximum Annual Debt Service on all Obligations that will be Outstanding immediately after the issuance of the proposed Subordinated Obligations; or

(2) the estimated Net System Revenues for the five Fiscal Years following the earlier of (A) the end of the period during which interest on those Subordinated Obligations is to be capitalized or, if no interest is to be capitalized, the Fiscal Year in which the Subordinated Obligations are issued; or (B) the date on which substantially all new facilities financed with such Subordinated Obligations are expected to commence operations, will be at least equal to 1.00 times the Maximum Annual Debt Service on all Obligations that will be Outstanding immediately after the issuance of the proposed Subordinated Obligations.

The certificate or certificates described in clauses (1) and (2) above will not be required if the Subordinated Obligations being issued are for the purpose of refunding (i) then-Outstanding Senior Obligations or Subordinated Obligations if at the time of the issuance of such Subordinated Obligations a certificate of an Authorized City Representative is delivered showing that the sum of Debt Service for all remaining Fiscal Years on all Senior Obligations and Subordinated Obligations Outstanding after the issuance of the refunding Subordinated Obligations will not exceed the sum of Debt Service for all remaining Fiscal Years on all Senior Obligations and Subordinated Obligations Outstanding prior to the issuance of such refunding Subordinated Obligations; or (ii) then-Outstanding Balloon Indebtedness, Tender Indebtedness, or Variable Rate Indebtedness, but only to the extent that the principal amount of such indebtedness has been put, tendered to, or otherwise purchased by a standby purchase agreement or other liquidity facility relating to such indebtedness. For additional information relating to the terms and conditions for the issuance of the Subordinated Obligations under the Agreement.

#### **Issuance of Additional Bonds Under the Indenture**

Pursuant to the Indenture, the Trustee may, upon Written Request of the Authority, by a supplement to the Indenture, establish one or more other series of bonds, which may include Additional Senior Bonds and Additional Subordinated Bonds (collectively, the “Additional Bonds”). As defined in the Indenture, the term “Additional Senior Bonds” means those Bonds authorized and issued pursuant to the Indenture on a parity with the SRF Loans. The term “Additional Subordinated Bonds” means those Bonds authorized and issued pursuant to the Indenture on a parity with the 2012A Subordinated Bonds, the 2016A Bonds and the 2016B Bonds, including the Commercial Paper Notes.

The issuance of Additional Bonds is conditioned upon satisfaction of the following:

- (a) No Event of Default shall have occurred and be then continuing;
- (b) The Supplemental Indenture providing for the execution and delivery of such Additional Bonds shall specify the purposes for which such Additional Bonds are then proposed to be delivered, which shall be one or more of the following: (1) to provide moneys needed to provide for Project Costs by depositing into the Acquisition Fund (the fund by that name established under the Indenture) the proceeds of such Additional Bonds to be so applied; (2) to provide for the payment or redemption of Bonds then Outstanding hereunder, by depositing with the Trustee moneys and/or investments required for such purpose under the defeasance provisions set forth in the Indenture; or (3) to provide moneys needed to refund or refinance all or part of any other current or future obligations of the City with respect to the funding of the Water System. Such Supplemental Indenture may, but shall not be required to, provide for the payment of expenses incidental to such purposes, including the Costs of Issuance of such Additional Bonds, capitalized interest with respect thereto for any period authorized under the Code (in the case of tax-exempt bonds) and, in the case of any Additional Bonds intended to provide for the payment or redemption of existing Bonds, or other Obligations of the City, expenses incident to calling, redeeming, paying or otherwise discharging the Obligations to be paid with the proceeds of the Additional Bonds;

(c) The Supplemental Indenture providing for the execution and delivery of such Additional Bonds shall state whether such Additional Bonds shall be Senior Bonds or Subordinated Bonds;

(d) If such Additional Bonds are Subordinated Bonds, the Supplemental Indenture shall specify whether such Additional Bonds shall be secured by the Common Subordinated Bonds Reserve Fund, a Separate Subordinated Bonds Reserve Bonds or no reserve fund;

(e) Prior to the Amendment Effective Date, if such Additional Bonds are Senior Bonds, the Authority shall deliver or cause to be delivered to the Trustee, from the proceeds of such Additional Bonds or from any other lawfully available source of moneys, an amount (or a Surety Bond in an amount) sufficient to increase the balance in the Reserve Fund established for the Senior Bonds to the applicable Reserve Fund Requirement;

(f) After the Amendment Effective Date, if such Additional Bonds are Common Senior Reserve Fund Bonds, the Authority shall deliver or cause to be delivered by the Trustee, from the proceeds of such Additional Bonds or from any other lawfully available source of moneys, an amount sufficient to increase the balance of the Common Senior Bonds Reserve Fund to the Common Senior Bonds Reserve Fund Requirement;

(g) After the Amendment Effective Date, if such Additional Bonds are Senior Bonds to be secured by a Separate Senior Bonds Reserve Fund, the Authority shall deliver or cause to be delivered by the Trustee, from the proceeds of such Additional Bonds or from any other lawfully available source of moneys, an amount (or a Surety Bond in an amount) sufficient to increase the balance in such Separate Senior Bonds Reserve Fund to the Separate Senior Bonds Reserve Fund for such Series of Senior Bonds;

(h) If such Additional Bonds are Common Subordinated Reserve Fund Bonds, the Authority shall deliver or cause to be delivered by the Trustee, from the proceeds of such Additional Bonds or from any other lawfully available source of moneys, an amount sufficient to increase the balance of the Common Subordinated Bonds Reserve Fund to the Common Subordinated Bonds Reserve Fund Requirement;

(i) If such Additional Bonds are Subordinated Bonds to be secured by a Separate Subordinated Bonds Reserve Fund, the Authority shall deliver or cause to be delivered by the Trustee, from the proceeds of such Additional Bonds or from any other lawfully available source of moneys, an amount (or a Surety Bond in an amount) sufficient to increase the balance in such Separate Subordinated Bonds Reserve Fund to the Separate Subordinated Bonds Reserve Fund for such Series of Subordinated Bonds;

(j) The Additional Bonds shall be payable as to principal and interest on such dates as shall be provided for in the Supplemental Indenture, except that the first interest payment due with respect thereto may be for a period of not longer than twelve (12) months;

(k) Fixed serial maturities or mandatory sinking account payments, or any combination thereof, shall be established in amounts sufficient to provide for the retirement of all of the Additional Bonds of such Series on or before their respective maturity dates;

(l) The aggregate principal amount of Bonds and Additional Bonds executed and delivered hereunder shall not exceed any limitation imposed by law or by any Supplemental Indenture; and

(m) The Trustee shall be the Trustee for the Additional Bonds.

Such conditions include terms for the establishment of a Common Subordinated Bonds Reserve Fund, series specific Separate Subordinated Bonds Reserve Bonds or no debt service reserve fund. Debt service reserve funds were created in connection with the issuance of the 2012A Subordinated Bonds, and under the funding agreements for the existing SRF Loans. As described elsewhere in this Offering Memorandum, amounts on deposit in, or to be on deposit in, such debt service reserve funds, and as established or may hereafter be established including under the funding agreements for SRF loans, are not available to secure the Commercial Paper Notes. No debt service reserve fund will be created or funded to secure the Commercial Paper Notes. See “SECURITY AND SOURCES OF PAYMENT FOR THE COMMERCIAL PAPER NOTES.”

Nothing in the Indenture limits in any way the power and authority of the Authority to incur other obligations payable from other lawful sources. See Appendix A – “SUMMARY OF CERTAIN TERMS OF THE INDENTURE AND THE AGREEMENT” attached hereto.

### **Rate Covenant**

The City has covenanted in the Agreement to fix, prescribe, and collect rates and charges for the City’s Water Service, which will be at least sufficient to yield the greater of (a) Net System Revenues sufficient to pay during each Fiscal Year all Obligations (including the Commercial Paper Notes Subordinated Installment Payments and loan payments due on SRF loans) payable in such Fiscal Year, or (b) Adjusted Net System Revenues (as defined herein) during each Fiscal Year equal to 120% of the Adjusted Debt Service for such Fiscal Year. Adjusted Debt Service does not include debt service on Subordinated Obligations, such as the Commercial Paper Notes Subordinated Installment Payments.

### **THE LETTERS OF CREDIT AND REIMBURSEMENT AGREEMENTS**

*The following are summaries of certain provisions of the Letters of Credit and the Reimbursement Agreements. Each of the Letters of Credit and the Reimbursement Agreements contain substantially similar provisions, as summarized below. The following summaries do not purport to be full and complete statements of the provisions of each Letter of Credit or each Reimbursement Agreement, which documents should be read in full for a complete understanding of all the terms and provisions thereof. Copies of each Letter of Credit and the corresponding Reimbursement Agreement (in their current form) may be obtained from the Corporation, the City or the Authority. Except as otherwise defined herein, capitalized terms used under this heading “THE LETTERS OF CREDIT,” without definition have the respective meanings set forth in each Letter of Credit and the corresponding Reimbursement Agreement. See “THE SUBORDINATED CREDIT PROVIDERS.”*

### **The Letters of Credit**

*The following is a summary of certain provisions of each applicable Letter of Credit to be issued by the related Subordinated Credit Provider. These summaries are not to be considered a full statement of the terms of each applicable Letter of Credit and accordingly is qualified by reference thereto and is subject to the full text thereof. Except as otherwise defined herein, capitalized terms used in this Offering Memorandum without definition have the respective meanings set forth in the applicable Letter of Credit.*

At the request and for the account of the City, BotW will issue the BotW Letter of Credit in favor of the Issuing and Paying Agent in the initial stated amount of \$77,712,329, which may be drawn upon from time to time solely in respect of payment of the principal of and interest on the Series A Commercial Paper Notes at maturity or upon acceleration (or face amount at maturity or accreted value upon acceleration of discount Series A Commercial Paper Notes). At the request and for the account of the City, BofA will issue its irrevocable transferable the BofA Letter of Credit in favor of the Issuing and

Paying Agent in the initial stated amount of \$181,328,768, which may be drawn upon from time to time solely in respect of payment of the principal of and interest on the Series B Commercial Paper Notes at maturity or upon acceleration (or face amount at maturity or accreted value upon acceleration of discount Series B Commercial Paper Notes). The terms of the BotW Letter of Credit and the BofA Letter of Credit are identical in all material respects. The BotW Letter of Credit and the BofA Letter of Credit have scheduled expiration dates of January 31, 2020 and January 31, 2019, respectively (each such date as it may be extended by the applicable Subordinated Credit Provider, the “Stated Expiration Date”).

**No amount may be drawn under the BotW Letter of Credit to pay the principal of or interest on the Series B Commercial Paper Notes (or face amount or accreted value of discount Series B Commercial Paper Notes). No amount may be drawn under the BofA Letter of Credit to pay the principal of or interest on the Series A Commercial Paper Notes (or face amount or accreted value of discount Series A Commercial Paper Notes).**

The stated amount of each Letter of Credit in effect from time to time shall be subject to reductions and reinstatements as set forth in such Letter of Credit. The Issuing and Paying Agent will draw moneys under each Letter of Credit to the extent necessary to pay principal of and interest on the Commercial Paper Notes of the applicable Series (or face amount or accreted value of discount Commercial Paper Notes of the applicable Series) (each, a “Drawing”). Drawings by the Issuing and Paying Agent under each Letter of Credit will reduce the amounts available for subsequent drawings under such Letter of Credit, subject to reinstatement as provided in such Letter of Credit. Upon the honoring of the drawing in connection with the acceleration of the Commercial Paper Notes (the “Acceleration Drawing”), the stated amount shall be permanently reduced to zero and the Stated Amount shall no longer be reinstated. All drawings under each Letter of Credit will be paid with the related Subordinated Credit Provider’s own immediately available funds and will not be paid directly or indirectly from funds of any other person. The related Subordinated Credit Provider will seek reimbursement for payments made pursuant to drawings under each Letter of Credit only after such payments have been made.

The City and the Authority may elect to reduce the stated amount of any Letter of Credit from time to time prior to the applicable Stated Expiration Date to an amount not less than the sum of the outstanding principal amount of Commercial Paper Notes of the applicable Series plus interest accrued and to accrue thereon to the maturity date thereof.

Each Letter of Credit shall expire at 2:00 p.m., Los Angeles, California time (in the case of the BotW Letter of Credit), or 5:00 p.m., Scranton, Pennsylvania time (in the case of the BofA Letter of Credit), on the date (the earliest of such date to occur referred to herein as the applicable “Termination Date”) which is the earliest of (i) the applicable Stated Expiration Date; provided, however, that if such date is not a Business Day, the applicable Stated Expiration Date shall be the next preceding Business Day; (ii) later of the date on which the related Subordinated Credit Provider receives a specified written notice from the Issuing and Paying Agent that an Alternate Subordinated Credit Support Instrument has been substituted for such Letter of Credit in accordance with the Issuing and Paying Agency Agreement or the effective date of any such Alternate Subordinated Credit Support Instrument (after the Subordinated Credit Provider honors any properly presented and conforming drawing, if any, on such date), (iii) the date on which the related Subordinated Credit Provider receives a specified written notice from the Issuing and Paying Agent that there are no longer any Commercial Paper Notes of the applicable Series Outstanding within the meaning of the Indenture and that the Issuing and Paying Agent elects to terminate such Letter of Credit, (iv) the earlier of (a) the 15th calendar day (or if such date is not a Business Day, the immediately succeeding Business Day) after the date on which the Issuing and Paying Agent receives the final drawing notice (the “Final Drawing Notice”) issued by the applicable Subordinated Credit Provider following the occurrence of an event of default under the reimbursement

agreement between such Subordinated Credit Provider and the City (each, a “Reimbursement Agreement”) (or if the Issuing and Paying Agent receives the Final Drawing Notice after 7:00 a.m. Los Angeles, California time (in the case of the BotW Letter of Credit) or 10:00 a.m. Scranton, Pennsylvania time (in the case of the BofA Letter of Credit) on a Business Day, the 15th calendar day (or if such date is not a Business Day, the immediately succeeding Business Day) after the day after the Issuing and Paying Agent’s receipt of the Final Drawing Notice) and (b) the date on which the Final Drawing is honored under the applicable Letter of Credit, or (v) the date on which the Acceleration Drawing is honored under the applicable Letter of Credit.

Except as expressly stated therein, each 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 (the “ISP98”). As to matters not governed by the ISP98, each Letter of Credit shall be governed by and construed in accordance with Article 5 of the Uniform Commercial Code of the State of New York, without regard to conflict of laws.

### **The Reimbursement Agreements**

**General.** The City and each Subordinated Credit Provider will enter into a Reimbursement Agreement, pursuant to which the applicable Letter of Credit will be issued. Among other things, each Reimbursement Agreement provides for (a) the repayment to the related Subordinated Credit Provider of all draws made under the applicable Letter of Credit, together with specified interest thereon; (b) the payment or reimbursement to the related Subordinated Credit Provider of certain specified fees, costs and expenses; (c) representations and warranties to be made to the applicable Subordinated Credit Provider by the City, the Authority and the Corporation; (d) affirmative and negative covenants to be observed on the part of the City (which, in some instances, extend to the Authority and the Corporation); (e) events of default and remedies; and (f) certain indemnification obligations on the part of the Corporation and the City.

**Defined Terms.** For purposes of this Offering Memorandum, the following terms shall have the following meanings:

“Bank Loan” means, with respect to a Drawing under a Letter of Credit, the Unreimbursed Amount with respect to such Drawing that is automatically converted to a loan at 4:00 p.m. San Diego time on the 180<sup>th</sup> day succeeding the date such Drawing was made (the “Liquidity Period End Date”), which automatic conversion shall occur if (a) representations and warranties of the City, the Authority and the Corporation contained in the applicable Reimbursement Agreement (i) which are not qualified by materiality (including, without limitation, “material adverse change” and “material adverse effect”) shall be true and correct in all material respects to and (ii) which are qualified by materiality (including, without limitation, “material adverse change” and “material adverse effect”) shall be true and correct in all respects, in each case to the same extent as though made on and as of the Liquidity Period End Date, except to the extent that such representations and warranties specifically relate to an earlier date and to the extent that any such representation or warranty specifically relates to an earlier date, such representation or warranty shall be true and correct as of such date; and (b) no Event of Default (as defined below) shall have occurred and be continuing and no Event of Default will result from the making of the Bank Loan.

“Bank Note” means the promissory note made by the City in favor of each Subordinated Credit Provider to evidence the City’s obligation to pay all Unreimbursed Amounts and Bank Loans under the applicable Reimbursement Agreement resulting from drawings under the Letter of Credit issued by such Subordinated Credit Provider.

“City Document” means (a) the Agreement, (b) the applicable Reimbursement Agreement, (c) the applicable Fee Letter, and (d) the applicable Bank Note, each as amended from time to time in accordance with their respective terms.

“Commercial Paper Documents” means (a) those provisions of the Indenture relating to the pledge of revenues and payment fund, covenants, events of default, remedies, amendments and supplemental indentures and the terms of the Commercial Paper Notes, (b) the Agreement, (c) the Assignment Agreement, (d) the Issuing and Paying Agency Agreement, (e) the Dealer Agreements, (f) the Commercial Paper Notes, (g) the applicable Reimbursement Agreement, (h) the applicable Fee Agreement and (i) the applicable Bank Note, each as amended from time to time in accordance with their respective terms.

“Fee Agreement” means the agreement entered into by the City and each Subordinated Credit Provider addressing fees and expenses in connection with each Subordinated Credit Provider’s Letter of Credit and Reimbursement Agreement.

“Governmental Authority” means any federal, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, administrative, public or statutory instrumentality, authority, body, agency, commission, bureau or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any zoning authority, the Federal Deposit Insurance Corporation or the Federal Reserve Board, any central bank or any comparable authority), or any arbitrator with authority to bind a party at law.

“Net System Revenues” has the meaning set forth in the Agreement.

“Obligation” has the meaning set forth in the Agreement.

“Parity Obligation” has the meaning set forth in the Agreement.

“Payment Obligation” means any and all obligations of the City to pay or reimburse the applicable Subordinated Credit Provider contained in or evidenced by any City Document, including, without limitation, obligations to reimburse such Subordinated Credit Provider for all Drawings under the Letter of Credit issued by such Subordinated Credit Provider, all obligations to repay such Subordinated Credit Provider for any Unreimbursed Amount and any Bank Loan, including all interest accrued thereon, all amounts owing under the Bank Note made in favor of such Subordinated Credit Provider, the fees relating to the Letter of Credit issued by such Subordinated Credit Provider and all other obligations of the City to such Subordinated Credit Provider arising under, or in relation to, or evidenced by, the applicable Reimbursement Agreement, the applicable Fee Agreement and the Bank Note made in favor of such Subordinated Credit Provider.

“Permitted Parity Obligation” means Obligations of the City payable from or secured by a lien on Net System Revenues that is on parity in right of payment to Parity Obligations permitted to be issued or created pursuant to Section 5.03(c) of the Agreement.

“Permitted Subordinated Obligation” means Obligations of the City payable from or secured by a lien on Net System Revenues that is subordinated in right of payment to Parity Obligations permitted to be issued or created pursuant to Section 5.03(f) of the Agreement.



“Rating Agency” means Fitch Ratings, Inc. or Moody’s Investors Service, Inc. (and their respective successors and assigns, or if they shall be dissolved or liquidated or cease to perform the functions of a securities rating agency, any other nationally recognized securities rating agency selected by the City).

“Subordinated Credit Provider Reimbursement Obligation” has the meaning set forth in the Agreement.

“Subordinated Obligation Rating” shall mean the long-term unenhanced, unsecured debt ratings assigned by the Rating Agencies to any Subordinated Obligations.

“Subordinated Obligations” has the meaning given to that term in the Agreement.

“System Revenues” has the meaning set forth in the Agreement.

“Unreimbursed Amounts” means with respect to the applicable Letter of Credit, the amount of each Drawing on such Letter of Credit for which the applicable Subordinated Credit Provider has not been reimbursed by or on behalf of the City, but not including the outstanding balance of all Bank Loans owing to such Subordinated Credit Provider.

***Events of Default.*** The occurrence of any of the following events shall be an “Event of Default” under the applicable Reimbursement Agreement:

(a) The City shall fail to pay to the Subordinated Credit Provider when due (whether upon demand or otherwise) (i) the principal of, or interest on, any Unreimbursed Amount or Bank Loan or (ii) any other any of the Payment Obligation and such default shall remain unremedied for five (5) business days; or

(b) The City fails to perform or observe (i) certain specified covenants set forth in the applicable Reimbursement Agreement; or (ii) fails to perform or observe any other term, covenant or agreement contained in the applicable Reimbursement Agreement (other than those referred to in (a) or (b)(i) above) or any other City Document and such failure shall not have been cured within thirty (30) days after the earlier to occur of (x) the date of delivery of written notice of such failure to the City by the applicable Subordinated Credit Provider, and (y) the date on which the City has actual knowledge of such failure; or

(c) The City shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of the City or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce, any petition filed against the City in any involuntary case under said Federal Bankruptcy Code, or (viii) take any action for the purpose of effecting any of the foregoing; or

(d) A proceeding or case shall be commenced, without the application or consent of the City, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding up or composition or readjustment of debts of the City, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like, of the City, or of all or any substantial part of the City’s assets, or (iii) similar relief in respect of the City under any law relating to bankruptcy, insolvency,

reorganization, winding up or composition, moratorium, repudiation or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days from commencement of such proceeding or case, or an order for relief against the City shall be entered in an involuntary case under said Federal Bankruptcy Code; or

(e) A debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction is imposed by any Governmental Authority (including the City) on the repayment when due and payable of the principal of or interest on any indebtedness of the City payable from, and secured by, Net System Revenues or any portion thereof; or

(f) Any representation or warranty (i) made by the City in the applicable Reimbursement Agreement or in any other City Document or in any certificate or statement delivered under the applicable Reimbursement Agreement or under any other City Document that is not qualified by the concept of “materiality” shall be incorrect or untrue in any material respect when made or deemed to have been made or delivered or (ii) made by the City in applicable Reimbursement Agreement or in any other City Document or in any certificate or statement delivered under the applicable Reimbursement Agreement or under any other City Document that is qualified by the concept of “materiality” shall be incorrect or untrue in any respect when made or deemed to have been made or delivered; or

(g) The independent certified public accountants retained by the City shall fail or refuse to deliver an opinion, unqualified in scope (other than an opinion qualified as a result of a change in application of generally accepted accounting principles, such change being one with which such accountants concur) with respect to the financial statements of the City; or

(h) (i) Any material provision of the applicable Reimbursement Agreement or any other Commercial Paper Document (other than the applicable Letter of Credit) (1) shall at any time for any reason cease to be valid and binding on the City, the Authority or the Corporation (with respect to those Commercial Paper Documents to which the City, the Authority or the Corporation, as the case may be, is a party), or (2) shall be declared to be null and void, or (ii) the validity or enforceability thereof shall be contested by the City, the Authority or the Corporation (with respect to those Commercial Paper Documents to which the City, the Authority or the Corporation, as the case may be, is a party), or (iii) the City, the Authority or the Corporation (with respect to those Commercial Paper Documents to which the City, the Authority or the Corporation, as the case may be, is a party) shall deny that it has any or further liability or obligation under this Reimbursement Agreement or any of the other Commercial Paper Documents to which it is a party; or

(i) (i) One or more final, non-appealable judgments against the City for the payment of money from System Revenues not covered by insurance (excluding any insured judgment if the insurer has disputed coverage thereof in writing), the operation and result of which, individually or in the aggregate, equal or exceed \$15,000,000 shall remain unpaid as and when due (i.e., if such judgment allows for payment over time), unstayed, undischarged, unbonded or undismissed for a period of forty five (45) days; or (ii) any of the System Revenues 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 sixty (60) calendar days after its issue or levy; or

(j) The occurrence of an “event of default” or an event which, with the passage of time or the giving of notice, or both, would be an “event of default” under the Agreement, if the result is to permit an acceleration of the obligations thereunder; or

(k) The City fails to make any payment with respect to any Parity Obligation, any Permitted Parity Obligations, any Subordinated Obligations or any Subordinated Credit Provider Reimbursement Obligations when due or any other event or condition shall occur which would permit the acceleration of the maturity of any such Parity Obligations, Permitted Parity Obligations, Subordinated Obligation or Subordinated Credit Provider Reimbursement Obligation; or

(l) Any Rating Agency shall have downgraded its Subordinated Obligation Rating for credit related reasons to below “BBB- (or its equivalent) or “Baa3” (or its equivalent), respectively, or suspended or withdrawn its Subordinated Obligation Rating for credit related reasons.

***Remedies of Subordinated Credit Provider upon an Event of Default.*** Upon the occurrence and continuance of an Event of Default, a Subordinated Credit Provider may, in its sole discretion, but shall not be obligated to:

(a) Declare the unpaid principal amount of all outstanding Bank Loans and all Unreimbursed Amounts, all interest accrued and unpaid thereon, and all other amounts owing or payable under such Subordinated Credit Provider’s Reimbursement Agreement or under any other City Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the City in such Reimbursement Agreement; provided, however, that such acceleration shall occur immediately without any action upon the occurrence of an Event of Default described in paragraph (c) or (d) above; or

(b) Terminate or suspend the authority of the City and the Issuing and Paying Agent to issue any further Commercial Paper Notes and reduce the stated amount of such Subordinated Credit Provider’s Letter of Credit to an amount equal to the principal amount of Commercial Paper Notes then outstanding supported by such Letter of Credit, plus interest payable thereon at maturity of the Commercial Paper Notes, by delivering to the Issuing and Paying Agent a notice of no issuance; or

(c) Issue a final drawing notice (the effect of which shall be to cause the Termination Date of the Letter of Credit to occur on the 15th day after the date of receipt thereof by the Issuing and Paying Agent); or

(d) Enforce the rights and obligations of the City under the Commercial Paper Documents as if the Subordinated Credit Provider were a party thereto; or

(e) Exercise any other remedies available at law or in equity.

Upon the exercise by a Subordinated Credit Provider of any remedy described in clauses (a), (b) or (c) above, the stated amount of the Letter of Credit issued by such Subordinated Credit Provider shall be immediately and permanently reduced by an amount equal to the amount of each subsequent Drawing. Upon the occurrence and during the continuance of an Event of Default all Payment Obligations shall bear interest at a default rate of interest described in the applicable Reimbursement Agreement.

## **THE SUBORDINATED CREDIT PROVIDERS**

*The investment decision to purchase a Series of Commercial Paper Notes should be made solely on the basis of the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit from which will be paid all such principal of and interest on such Series of Commercial Paper Notes, rather than the City. Prospective investors should not rely on any source other than proceeds of drawings under the applicable Letter of Credit to pay such principal of and interest on such Series of Commercial Paper Notes.*

*The following information relates to and has been furnished by the respective Subordinated Credit Provider for inclusion herein. None of the City, the Authority, the Corporation, or any other party has independently verified or assumes any responsibility for such information. The City, the Authority, the Corporation and the Dealers cannot and do not make any representation as to the accuracy or completeness of such information or the absence of material changes in such information subsequent to the date hereof. The delivery of this Offering Memorandum shall not create any implication that there has been no change in the affairs of any of the Subordinated Credit Providers since the date hereof or that the information contained or referred to in this section is correct as of any time subsequent to the date hereof. The City, the Authority, the Corporation and the Dealers do not undertake any responsibility to update the information under "THE SUBORDINATED CREDIT PROVIDERS."*

## **Bank of the West**

BotW is a regional financial services company chartered in California and headquartered in San Francisco with \$75.7 billion in assets as of December 31, 2015. With community bank roots dating back more than 140 years, BotW operates a network of more than 538 retail, wealth, commercial and business banking offices in 23 states. The bank has 10,573 employees serving the needs of 2.0 million customers.

Through three major business areas – Commercial Banking, Consumer Banking, and Wealth Management – BotW and its subsidiaries originate commercial, small business and consumer loans and leases, and offers a wide range of banking, insurance, trust and investment solutions for individuals and businesses.

In addition to banking products offered by BotW, investment and insurance services are offered through its subsidiary, BancWest Investment Services, a registered broker/dealer.

BotW is a subsidiary of BNP Paribas, which has a presence in 75 countries with 189,000 employees.

As of the quarter ending September 30, 2016, BotW had total assets of approximately \$82.6 billion and total deposits of \$60.7 billion. BotW reported third quarter 2016 earnings of \$128 million. As of September 30, 2016, the Tier I Risk-Based Capital Ratio was 12.41%; Total Risk-Based Capital Ratio was 13.37%; and Tier I Leverage Ratio 10.80%.

As of the year ending December 31, 2015, BotW had total assets of approximately \$75.7 billion and total deposits of \$54.2 billion. Net income for the year ending December 31, 2015 was \$628 million. As of December 31, 2015, the Tier I Risk-Based Capital Ratio was 13.21%; Total Risk-Based Capital Ratio was 14.25%; and Tier I Leverage Ratio 11.42%.

The principal offices of BotW are located at 180 Montgomery Street, San Francisco, California, 94104, and its telephone number is (925) 942-8300. BotW files financial reports with the Federal Deposit Insurance System ("FDIC") and those reports may be viewed on the FDIC's web site at: <http://www.fdic.gov>.

## **Bank of America, N.A.**

BofA is a national banking association organized under the laws of the United States, with its principal executive offices located in Charlotte, North Carolina. BofA is a wholly-owned indirect subsidiary of Bank of America Corporation (the "BofA Corporation") and is engaged in a general consumer banking, commercial banking and trust business, offering a wide range of commercial, corporate, international, financial market, retail and fiduciary banking services. As of September 30,

2016, BofA had consolidated assets of \$1.66 trillion, consolidated deposits of \$1.312 trillion and stockholder's equity of \$211.59 billion based on regulatory accounting principles.

The BofA Corporation is a bank holding company and a financial holding company, with its principal executive offices located in Charlotte, North Carolina. Additional information regarding the BofA Corporation is set forth in its Annual Report on Form 10-K for the fiscal year ended December 31, 2015, together with its subsequent periodic and current reports filed with the Securities and Exchange Commission (the "SEC").

Filings can be inspected and copied at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549, United States, at prescribed rates. In addition, the SEC maintains a website at <http://www.sec.gov> which contains reports, proxy statements and other information regarding registrants that file such information electronically with the SEC.

The information concerning the BofA Corporation and BofA is furnished solely to provide limited introductory information and does not purport to be comprehensive. Such information is qualified in its entirety by the detailed information appearing in the referenced documents and financial statements referenced therein.

BofA will provide copies of the most recent Bank of America Corporation Annual Report on Form 10-K, any subsequent reports on Form 10-Q, and any required reports on Form 8-K (in each case as filed with the SEC pursuant to the Exchange Act), and the publicly available portions of the most recent quarterly Call Report of BofA delivered to the Comptroller of the Currency, without charge, to each person to whom this document is delivered, on the written request of such person. Written requests should be directed to:

Bank of America Corporate Communications  
100 North Tryon St, 18<sup>th</sup> Floor  
Charlotte, North Carolina 28255  
Attention: Corporate Communication

PAYMENTS OF PRINCIPAL AND INTEREST ON THE SERIES B COMMERCIAL PAPER NOTES WILL BE MADE FROM DRAWINGS UNDER THE LETTER OF CREDIT. PAYMENTS OF THE PURCHASE PRICE OF THE SERIES B COMMERCIAL PAPER NOTES WILL BE MADE FROM DRAWINGS UNDER THE LETTER OF CREDIT IF REMARKETING PROCEEDS ARE NOT AVAILABLE. ALTHOUGH THE LETTER OF CREDIT IS A BINDING OBLIGATION OF BOFA, THE SERIES B COMMERCIAL PAPER NOTES ARE NOT DEPOSITS OR OBLIGATIONS OF THE BOFA CORPORATION OR ANY OF ITS AFFILIATED BANKS AND ARE NOT GUARANTEED BY ANY OF THESE ENTITIES. THE SERIES B COMMERCIAL PAPER NOTES ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY AND ARE SUBJECT TO CERTAIN INVESTMENT RISKS, INCLUDING POSSIBLE LOSS OF THE PRINCIPAL AMOUNT INVESTED.

The delivery of this information shall not create any implication that there has been no change in the affairs of the BofA Corporation or BofA since the date of the most recent filings referenced herein, or that the information contained or referred to in this Section is correct as of any time subsequent to the referenced date.

## **CERTAIN RISK FACTORS**

*The following risk factors should be considered by potential investors, along with all other information in this Offering Memorandum, in evaluating the risks inherent in the purchase of the Commercial Paper Notes. The following discussion is not meant to be a comprehensive or definitive list of the risks associated with an investment in the Commercial Paper Notes. The order in which this information is presented does not necessarily reflect the relative importance of the various issues. Any one or more of the risk factors discussed below, among others, could lead to a decrease in the market value and/or in the liquidity of the Commercial Paper Notes or failure by the City to pay Commercial Paper Note Subordinated Installment Payments. There can be no assurance that other risk factors not discussed herein will not become material in the future.*

### **Subordinated Credit Provider's Obligations Unsecured**

The ability of a Subordinated Credit Provider to honor draws upon its Letter of Credit is based solely upon such Subordinated Credit Provider's general credit and is not collateralized or otherwise guaranteed by the United States of America or any agency or instrumentality thereof. No provision has been made for replacement of or substitution for a Letter of Credit in the event of any deterioration in the financial condition of such Subordinated Credit Provider. Neither the Authority nor any of the Subordinated Credit Providers assume any liability to any purchaser of the Commercial Paper Notes as a result of any deterioration of the financial condition of such Subordinated Credit Provider. Upon any insolvency of a Subordinated Credit Provider, any claim by the Trustee against such Subordinated Credit Provider would be subject to bank receivership proceedings. Further, the market price of the Commercial Paper Notes may be adversely affected by the financial condition of the respective Subordinated Credit Provider. See "RATINGS" herein.

### **General Factors Affecting the Subordinated Credit Providers**

Each Subordinated Credit Provider is subject to regulation and supervision by various regulatory bodies. New regulations could impose restrictions upon the Subordinated Credit Providers which would restrict their ability to respond to competitive pressures. Various legislative or regulatory changes could dramatically impact the banking industry as a whole and each Subordinated Credit Provider specifically. The banking industry is highly competitive in many of the markets in which the Subordinated Credit Providers operate. Such competition directly impacts the financial performance of the Subordinated Credit Providers. Any significant increase in such competition could adversely impact each Subordinated Credit Provider.

Prospective purchasers of the Commercial Paper Notes should evaluate the financial strength of each Subordinated Credit Provider based upon the information contained and referred to herein under the caption "THE SUBORDINATED CREDIT PROVIDERS" and other information available upon request from the Subordinated Credit Providers and should not rely upon any governmental supervision by any regulatory entity.

### **Limited Obligations of the City**

**The investment decision to purchase a Series of Commercial Paper Notes should be made solely on the basis of the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit from which will be paid all such principal of and interest on such Series of Commercial Paper Notes, rather than the City.** Prospective investors should not rely on any source other than proceeds of drawings under the applicable Letter of Credit to pay such principal of and interest on such Series of Commercial Paper Notes. The ratings assigned to each Series of Commercial Paper

Notes are based on the creditworthiness of the Subordinated Credit Provider that will issue the applicable Letter of Credit. See “RATINGS” herein.

The obligation of the City to pay the Commercial Paper Notes Subordinated Installment Payments securing the Commercial Paper Notes and any related Subordinated Credit Provider Reimbursement Obligations is a limited obligation of the City and is not secured by a legal or equitable pledge or charge or lien upon any property of the City or any of its income or receipts, except the Net System Revenues payable on a basis that is subordinate to the right of payment by the City of its Outstanding Senior Obligations under the Agreement. The obligation of the City to make the Commercial Paper Notes Subordinated Installment Payments does not constitute an obligation of the City to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The City is obligated under the 2017 Commercial Paper Supplement to make the Commercial Paper Notes Subordinated Installment Payments payable solely from Net System Revenues on a basis that is subordinate to the right of payment by the City of its Outstanding Senior Obligations under the Agreement.

No assurance can be made that Net System Revenues, estimated or otherwise, will be realized by the City in amounts sufficient to pay the Commercial Paper Notes Subordinated Installment Payments. Among other matters, drought, general and local economic conditions, and changes in law and government regulations (including initiatives and moratoriums on growth) could adversely affect the amount of Net System Revenues realized by the City. In addition, the realization of future Net System Revenues is subject to, among other things, the capabilities of management of the City, the ability of the City to provide water to its customers, and the ability of the City to meet its covenant to fix, prescribe, and collect rates and charges for the Water Service in amounts sufficient to timely pay the Commercial Paper Notes Subordinated Installment Payments, which could in turn adversely impact the Authority’s ability to make payments of the principal of or interest on the Commercial Paper Notes. The City has covenanted in the Agreement to fix, prescribe, and collect rates and charges for the Water Service which will be at least sufficient to yield the greater of (a) Net System Revenues (as defined herein) sufficient to pay during each Fiscal Year all Obligations payable in such Fiscal Year, or (b) Adjusted Net System Revenues during each Fiscal Year equal to 120% of the Adjusted Debt Service for such Fiscal Year. Adjusted Debt Service does not include debt service on Subordinated Obligations, such as the Commercial Paper Notes Subordinated Installment Payments.

#### **Limited Obligation of the Authority**

The Commercial Paper Notes are limited obligations of the Authority payable solely from and secured solely by the Subordinated Revenues pledged therefor and amounts on deposit in the Subordinated Bonds Payment Fund established under the Indenture. Funds for the payment of the principal of and the interest on the Commercial Paper Notes are derived solely from the Commercial Paper Notes Subordinated Installment Payments. The Authority has no other source of revenues from which to pay debt service on the Commercial Paper Notes. The Authority has no taxing power.

#### **Subordinated Obligations**

The Commercial Paper Notes are limited obligations of the Authority payable solely from and secured by the Commercial Paper Notes Subordinated Installment Payments to be received by the Authority and from the amounts on deposit in certain funds held under the Indenture. The Commercial Paper Notes Subordinated Installment Payments are payable from Net System Revenues on a basis that is subordinate to the right of payment by the City of its Outstanding Senior Obligations under the Agreement. In the event of a default under the Indenture, the Holders of the Senior Obligations have, in certain circumstances, the right to accelerate the entire principal amount of the Senior Obligations. See

“Acceleration; Limitations on Remedies” below. In such circumstances, Holders of the Commercial Paper Notes may not receive scheduled payments of principal of and interest on the Commercial Paper Notes until all holders of Senior Obligations have been paid in full. Further, as concerns the Rate Covenant under the Indenture, Adjusted Debt Service does not include debt service on Subordinated Obligations such as the Commercial Paper Notes Subordinated Installment Payments. See “SECURITY AND SOURCES OF PAYMENT FOR THE COMMERCIAL PAPER NOTES.”

### **Acceleration; Limitation on Remedies**

The Indenture provides that, upon and during the continuance of an Event of Default thereunder, the Trustee may, subject to certain conditions, declare the principal of all Bonds then Outstanding and the interest accrued thereon to be due and payable immediately. As provided in the Indenture, so long as any Senior Bonds remain outstanding, no Owners of Subordinated Bonds shall have the right to declare an Event of Default, to declare any Bonds immediately due and payable, to direct the Trustee with respect to any Event of Default or to waive any Event of Default. There are currently no Senior Bonds Outstanding.

Also, any remedies available to the Holders of the Commercial Paper Notes upon the occurrence of an Event of Default under the Indenture are in many respects dependent upon judicial actions, which are often subject to discretion and delay and could prove both expensive and time consuming to obtain. Further, enforceability of the rights and remedies of the Holders of the Commercial Paper Notes, and the obligations incurred by the City, may become subject to the federal bankruptcy code and applicable bankruptcy, insolvency, receivership, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditor’s rights generally, now or hereafter in effect, equity principles that may limit the specific enforcement under State law of certain remedies, the exercise by the United States of America of the powers delegated to it by the Constitution, the reasonable and necessary exercise, in certain exceptional situations, of the police powers inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose, and the limitations on remedies against counties in the State. Bankruptcy proceedings, or the exercise of powers by the federal or State government, if initiated, could subject the Holders of the Commercial Paper Notes to judicial discretion and interpretation of their rights in bankruptcy or otherwise and consequently may entail risks of delay, limitation, or modification of their rights. The opinion to be delivered by Bond Counsel, concurrently with the issuance of the Commercial Paper Notes, that the Commercial Paper Notes constitute valid and binding limited obligations of the City and the Indenture constitutes a valid and binding obligation of the City will be subject to such limitations and the various other legal opinions to be delivered concurrently with the issuance of the Commercial Paper Notes will be similarly qualified. See Appendix B – “FORM OF APPROVING OPINION.”

If the City fails to comply with its covenants under the 2017 Commercial Paper Supplement to pay the Commercial Paper Notes Subordinated Installment Payments, there can be no assurance of the availability of remedies adequate to protect the interests of the holders of Senior Bonds and, accordingly, the Subordinated Bonds.

### **NO CONTINUING DISCLOSURE**

The offering and sale of the Commercial Paper Notes are exempt from the rules of the United States Securities and Exchange Commission relating to the disclosure of annual financial and operating information and certain listed events specified under Rule 15c-12 promulgated pursuant to the Securities Exchange Act of 1934. The City, the Authority, the Corporation and the Subordinated Credit Providers are not obligated to provide and do not expect to provide updates of annual financial and operating information and notices of certain listed events.



## **TAX MATTERS**

### **Opinion of Bond Counsel**

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the City and the Authority, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Commercial Paper Notes is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Commercial Paper Notes is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed on such corporations. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the City, the Authority and others in connection with the Commercial Paper Notes, and Bond Counsel has assumed compliance by the City and the Authority with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Commercial Paper Notes from gross income under Section 103 of the Code.

In addition, in the opinion of Bond Counsel to the City and the Authority, under existing statutes, interest on the Commercial Paper Notes is exempt from State of California personal income tax.

Bond Counsel expresses no opinion regarding any other Federal or state tax consequences with respect to the Commercial Paper Notes. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update, revise or supplement its opinion to reflect any action hereafter taken or not taken, or any facts or circumstances that may hereafter come to its attention, or changes in law or in interpretations thereof that may hereafter occur, or for any other reason. Bond Counsel expresses no opinion on the effect of any action hereafter taken or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for Federal income tax purposes of interest on the Commercial Paper Notes, or under state and local tax law.

### **Certain Ongoing Federal Tax Requirements and Covenants**

The Code establishes certain ongoing requirements that must be met subsequent to the issuance and delivery of the Commercial Paper Notes in order that interest on the Commercial Paper Notes be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Commercial Paper Notes, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the Federal government. Noncompliance with such requirements may cause interest on the Commercial Paper Notes to become included in gross income for Federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. The City and the Authority have covenanted to comply with certain applicable requirements of the Code to assure the exclusion of interest on the Commercial Paper Notes from gross income under Section 103 of the Code.

### **Certain Collateral Federal Tax Consequences**

The following is a brief discussion of certain collateral Federal income tax matters with respect to the Commercial Paper Notes. It does not purport to address all aspects of Federal taxation that may be relevant to a particular Holder of a Commercial Paper Note. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the Federal tax consequences of owning and disposing of the Commercial Paper Notes.

Prospective Holders of the Commercial Paper Notes should be aware that the Ownership of such obligations may result in collateral Federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is excluded from gross income for Federal income tax purposes. Interest on the Commercial Paper Notes may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.

### **Original Issue Discount**

“Original issue discount” (“OID”) is the excess of the sum of all amounts payable at the stated maturity of a Commercial Paper Note (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates) over the issue price of that maturity. In general, the “issue price” of a maturity means the first price at which a substantial amount of the Commercial Paper Notes of that maturity was sold (excluding sales to Commercial Paper Note houses, brokers, or similar persons acting in the capacity as underwriters, placement agents, or wholesalers). In general, the issue price for each maturity of Commercial Paper Notes is expected to be the initial public offering price set forth on the cover page of the Offering Memorandum. Commercial Paper Bond Counsel further is of the opinion that, for any Commercial Paper Notes having OID (a “Discount Commercial Paper Note”), OID that has accrued and is properly allocable to the Owners of the Discount Commercial Paper Notes under Section 1288 of the Code is excludable from gross income for Federal income tax purposes to the same extent as other interest on the Commercial Paper Notes.

In general, under Section 1288 of the Code, OID on a Tax-Exempt Discount Commercial Paper Note accrues under a constant yield method, based on periodic compounding of interest over prescribed accrual periods using a compounding rate determined by reference to the yield on that Discount Commercial Paper Note. An owner’s adjusted basis in a Discount Commercial Paper Note is increased by accrued OID for purposes of determining gain or loss on sale, exchange, or other disposition of such Commercial Paper Note. Accrued OID may be taken into account as an increase in the amount of tax-exempt income received or deemed to have been received for purposes of determining various other tax consequences of owning a Discount Commercial Paper Note even though there will not be a corresponding cash payment.

Owners of Discount Commercial Paper Notes should consult their own tax advisors with respect to the treatment of original issue discount for Federal income tax purposes, including various special rules relating thereto, and the state and local tax consequences of acquiring, holding, and disposing of Discount Commercial Paper Notes.

### **Information Reporting and Backup Withholding**

Information reporting requirements apply to interest paid on tax-exempt obligations, including the Commercial Paper Notes. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, “Request for Taxpayer Identification Number and Certification,” or if the recipient is one of a limited class of exempt recipients. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to “backup withholding,” which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a “payor” generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an Holder purchasing a Commercial Paper Note through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the Commercial Paper Notes from gross income for Federal income tax purposes. Any amounts withheld pursuant to backup withholding would be allowed as a refund or a credit against the Holder's Federal income tax once the required information is furnished to the Internal Revenue Service.

### **Proposed Legislation and Other Matters**

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the Federal or state level, may adversely affect the tax-exempt status of interest on the Commercial Paper Notes under Federal or state law or otherwise prevent Holders of the Commercial Paper Notes from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future, or enacted) and such decisions could affect the market price or marketability of the Commercial Paper Notes. For example, the budgets proposed by the Obama Administration from time to time have recommended a 28% limitation on certain itemized deductions and other tax benefits, including tax-exempt interest. The net effect of such a proposal, if enacted into law, would be that an Holder of a tax-exempt bond with a marginal tax rate in excess of 28% would pay some amount of Federal income tax with respect to the interest on such tax-exempt bond, regardless of issue date.

Prospective purchasers of the Commercial Paper Notes should consult their own tax advisors regarding the foregoing matters.

### **MUNICIPAL ADVISOR**

Montague DeRose and Associates, LLC has acted as Municipal Advisor to the City in conjunction with the issuance of the Commercial Paper Notes. The Municipal Advisor has assisted the City in preparation of this Offering Memorandum and advised in other matters related to the planning, structuring, pricing, issuance and delivery of the Commercial Paper Notes. The Municipal Advisor will receive compensation contingent upon the sale and delivery of the Commercial Paper Notes.

The Municipal Advisor has not audited, authenticated or otherwise independently verified the information set forth in the Offering Memorandum, or any other information related to the City with respect to the accuracy or completeness of disclosure of such information.

### **CERTAIN LEGAL MATTERS**

The validity of the Commercial Paper Notes and certain other legal matters are subject to the approving opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the City and the Authority. Attached to this Offering Memorandum as Appendix B is the form of the opinion of Bond Counsel expected to be rendered upon the initial issuance of the Commercial Paper Notes. Bond Counsel undertakes no responsibility for the accuracy, completeness or fairness of this Offering Memorandum. Hawkins Delafield & Wood LLP, as Disclosure Counsel, will provide certain other legal services for the City and the Authority. Certain legal matters will be passed upon for the Authority and the City by the City Attorney, and certain legal matters relating to the Letters of Credit and the Reimbursement Agreements were passed upon for the Subordinated Credit Providers by McGuireWoods LLP, Los Angeles, California, Special Counsel to the Subordinated Credit Providers.

## **CERTAIN RELATIONSHIPS**

BofA, the Subordinated Credit Provider for the Series B Commercial Paper Notes, will issue the BofA Letter of Credit pursuant to the reimbursement agreement related thereto in support of the payment of the Series B Commercial Paper Notes. Merrill Lynch, Pierce Fenner & Smith Incorporated, one of the Dealers for the Commercial Paper Notes and BofA, the Subordinated Credit Provider for the Series B Commercial Paper Notes, are both wholly-owned, indirect subsidiaries of Bank of America Corporation. BofA and Merrill Lynch, Pierce Fenner & Smith Incorporated, as one of the Dealers for the Commercial Paper Notes, will have separate responsibilities and duties in connection with the issuance, the sale, and the payment of the Series B Commercial Paper Notes.

## **RATINGS**

Fitch Ratings (“Fitch”) and Moody’s Investors Service, Inc. (“Moody’s”) have assigned their short-term ratings to the Commercial Paper Notes based upon the issuance of the respective Letter of Credit supporting the payment of the principal amount due and payable at the stated maturity of each Series of Commercial Paper Notes and interest accrued or to accrue thereon through the maturity dates thereof by BotW and BofA, respectively. Fitch and Moody’s have assigned the Series A Commercial Paper Notes short-term ratings of “F1” and “P-1,” respectively, and the Series B Commercial Paper Notes short-term ratings of “F1” and “P-1,” respectively. Such ratings reflect only the views of such organizations and any desired explanation of the significance of such ratings should be obtained from the rating agency furnishing the same, at the following addresses: Fitch Ratings, One State Street Plaza, New York, New York 10004 and Moody’s Investors Service, Inc., 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. There is no assurance that a rating will continue for any given period of time or that a rating will not be revised or withdrawn entirely by any or all of such rating agencies, if, in its or their judgment, circumstances so warrant. Any downward revision or withdrawal of a rating could have an adverse effect on the market prices of the Commercial Paper Notes.

## **ADDITIONAL INFORMATION**

This Offering Memorandum contains certain information for quick reference only; it is not a summary of the terms of the Commercial Paper Notes. Information essential to the making of an informed decision with respect to the Commercial Paper Notes may be obtained in the manner described herein. All references to the documents and other materials not purporting to be quoted in full are qualified in their entirety by reference to the complete provisions of the documents and other materials referenced which may be obtained in the manner described herein.

Copies of the Indenture, the Agreement, the Assignment Agreement, the Issuing and Paying Agency Agreement, the Dealer Agreements, each Letter of Credit and each Reimbursement Agreement may be obtained from the Authority at the following address:

Public Facilities Financing Authority of the City of San Diego  
c/o City of San Diego  
Office of the City Clerk  
202 C Street, 2nd Floor  
San Diego, California 92101  
Phone: (619) 553-4000  
Fax: (619) 553-4045

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**APPENDIX A**

**SUMMARY OF CERTAIN TERMS OF THE INDENTURE AND THE AGREEMENT**

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## **APPENDIX A**

### **SUMMARY OF CERTAIN TERMS OF THE INDENTURE AND THE AGREEMENT**

*This Appendix A contains only a brief summary of certain of the terms of the Agreement and the Indenture relating to the Commercial Paper Notes and a full review should be made of the entire Offering Memorandum, including the cover page and the Appendices. References to, and summaries of, provisions of the documents referred to herein do not purport to be complete and such references are qualified in their entirety by reference to the complete provisions. All statements contained in this Appendix A are qualified in their entirety by reference to the entire Offering Memorandum and the complete provisions of the documents referenced.*

#### **Certain Definitions in the Indenture**

The term “Adjusted Debt Service” is defined in the Agreement as, for any Fiscal Year, Debt Service on Senior Obligations for such Fiscal Year, minus an amount equal to earnings from investments in any Reserve Fund for Senior Obligations for such Fiscal Year. Adjusted Debt Service does not include debt service on Subordinated Obligations, such as the Commercial Paper Notes Subordinated Installment Payments. Net System Revenues (and, therefore, Adjusted Net System Revenues) may be increased or reduced by transfers in to or out of the Rate Stabilization Fund or the Secondary Purchase Fund described in the Agreement.

The term “Balloon Indebtedness” means, with respect to any Series of Obligations twenty-five percent (25%) or more of the principal of which matures on the same date or within a 12-month period (with sinking fund payments on Term Obligations deemed to be payments of matured principal), that portion of such Series of Obligations which matures on such date or within such 12-month period; provided, however, that to constitute Balloon Indebtedness the amount of indebtedness maturing on a single date or over a 12-month period must equal or exceed 150% of the amount of such Series of Obligations which matures during any preceding 12-month period. For purposes of this definition, the principal amount maturing on any date shall be reduced by the amount of such indebtedness which is required, by the documents governing such indebtedness, to be amortized by prepayment or redemption prior to its stated maturity date.

The term “Consultant” is defined in the Agreement as the consultant, consulting firm, engineer, architect, engineering firm, architectural firm, accountant, or accounting firm retained by the City to perform acts or carry out the duties provided for such consultant in the Agreement. Such consultant, consulting firm, engineer, architect, engineering firm, or architectural firm shall be nationally recognized within its profession for work of the character required. Such accountants or accounting firm shall be independent certified public accountants licensed to practice in the State.

The term “Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other twelve-month period selected and designated as the official Fiscal Year of the City.

The term “Independent Certified Public Accountant” means any firm of certified public accountants appointed by the City, and each of whom is independent pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

The term “Maximum Annual Debt Service” means,

(a) with respect to Parity Obligations then Outstanding, the maximum amount of principal and interest becoming due on the Parity Obligations in the then-current or any future Fiscal Year, calculated by the City or by an Independent Certified Public Accountant in accordance with the Agreement and provided to the Trustee. For purposes of calculating Maximum Annual Debt Service, the following assumptions shall be used to calculate the principal and interest becoming due in any Fiscal Year:

(i) in determining the principal amount due in each Fiscal Year, payments shall (except to the extent a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such debt, including the amount of any Parity Obligations which or have the characteristics of commercial paper and which not intended at the time of issuance to be retired from the sale of a corresponding amount of Parity Obligations, and including any scheduled mandatory redemption or prepayment of Parity Obligations on the basis of accreted value due upon such redemption or prepayment, and for such purpose, the redemption payment or prepayment shall be deemed a principal payment; provided, however, that with respect to Parity Obligations which are or have the characteristics of commercial paper and which are intended at the time of issuance to be retired from the sale of a corresponding amount of other Obligations, which other Obligations would not constitute Balloon Indebtedness, each maturity thereof shall be treated as if it were to be amortized in substantially equal installments of principal and interest over a term of 30 years, commencing in the year of such stated maturity; in determining the interest due in each Fiscal Year, interest payable at a fixed rate shall (except to the extent paragraph (a)(ii) or (iii) of this definition applies) be assumed to be made at such fixed rate and on the required payment dates;

(ii) if all or any portion or portions of an Outstanding Series of Parity Obligations constitute Balloon Indebtedness or if all or any portion or portions of a Series of Parity Obligations or such payments then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Maximum Annual Debt Service, each maturity which constitutes Balloon Indebtedness shall be treated as if it were to be amortized in substantially equal annual installments of principal and interest over a term of 30 years, commencing in the year the stated maturity of such Balloon Indebtedness occurs, the interest rate used for such computation shall be determined as provided in paragraph (a)(iv) or (v) below, as appropriate, and all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in paragraph (a)(i) above;

(iii) if any Outstanding Series of Parity Obligations constitutes Tender Indebtedness or if Parity Obligations proposed to be issued would constitute Tender Indebtedness, then for purposes of determining Maximum Annual Debt Service, Tender Indebtedness shall be treated as if the principal amount of such Parity Obligations were to be amortized in accordance with the amortization schedule set forth in the Supplement or Issuing Instrument for such Tender Indebtedness or in the standby purchase or liquidity facility established with respect to such Tender Indebtedness, or if no such amortization schedule is set forth, then such Tender Indebtedness shall be deemed to be amortized in substantially equal annual installments of principal and interest over a term of 30 years commencing in the year in which such Series is first subject to tender, the interest rate used for such computation shall be determined as provided in paragraph (a)(iv) or (v) below, as appropriate;



(iv) if any Outstanding Series of Parity Obligations constitutes Variable Rate Indebtedness, the interest rate on such Obligations shall be assumed to be 110% of the daily average interest rate on such Parity Obligations during the 12 months ending with the month preceding the date of calculation, or such shorter period that such Parity Obligations shall have been Outstanding;

(v) if Parity Obligations proposed to be issued will be Variable Rate Indebtedness, then such Parity Obligations shall be assumed to bear interest at 80% of the average Revenue Bond Index during the calendar quarter preceding the calendar quarter in which the calculation is made, or if that index is no longer published, another similar index selected by the City, or if the City fails to select a replacement index, an interest rate equal to 80% of the yield for outstanding United States Treasury bonds having an equivalent maturity, or if there are no such Treasury bonds having such maturities, 100% of the lowest prevailing prime rate of any of the five largest commercial banks in the United States ranked by assets; and

(vi) if moneys or Permitted Investments (as defined in the Agreement) have been deposited by the City into a separate fund or account or are otherwise held by the City or by a fiduciary to be used to pay principal of and/or interest on specified Parity Obligations, then the principal and/or interest to be paid from such moneys, Permitted Investments, or from the earnings thereon shall be disregarded and not included in calculating Maximum Annual Debt Service; and

(b) with regard to all Obligations then Outstanding, the maximum amount of principal and interest becoming due on the Obligations in the then-current or any future Fiscal Year, calculated by the City or by an Independent Certified Public Accountant in accordance with this subsection and provided to the Trustee. For purposes of calculating Maximum Annual Debt Service, the following assumptions shall be used to calculate the principal and interest becoming due in any Fiscal Year:

(i) in determining the principal amount due in each Fiscal Year, payments shall (except to the extent a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such debt, including the amount of any Obligations which are or have the characteristics of commercial paper and which are not intended at the time of issuance to be retired from the sale of a corresponding amount of Obligations, and including any scheduled mandatory redemption or prepayment of Obligations on the basis of accreted value due upon such redemption or prepayment, and for such purpose, the redemption payment or prepayment shall be deemed a principal payment; provided, however, that with respect to Obligations which are or have the characteristics of commercial paper and which are intended at the time of issuance to be retired from the proceeds of sale of a corresponding amount of other Obligations, and which would not constitute Balloon Indebtedness, each maturity thereof shall be treated as if it were to be amortized in substantially equal installments of principal and interest over a term of 30 years, commencing in the year of such stated maturity; in determining the interest due in each Fiscal Year, interest payable at a fixed rate shall (except to the extent paragraph (b)(ii) or (iii) of this definition applies) be assumed to be made at such fixed rate and on the required payment dates;

(ii) if all or any portion or portions of an Outstanding Series of Obligations constitute Balloon Indebtedness or if all or any portion or portions of a Series of Obligations or such payments then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Maximum Annual Debt Service, each maturity which constitutes Balloon Indebtedness shall be treated as if it were to be amortized in substantially equal annual installments of principal and interest over a term of 30 years, commencing in the year the stated

maturity of such Balloon Indebtedness occurs, the interest rate used for such computation shall be determined as provided in paragraph (b)(iv) or (v) below, as appropriate, and all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in paragraph (b)(i) above;

(iii) if any Outstanding Series of Obligations constitutes Tender Indebtedness or if Obligations proposed to be issued would constitute Tender Indebtedness, then for purposes of determining Maximum Annual Debt Service, Tender Indebtedness shall be treated as if the principal amount of such Obligations were to be amortized in accordance with the amortization schedule set forth in the Supplement or Issuing Instrument for such Tender Indebtedness or in the standby purchase or liquidity facility established with respect to such Tender Indebtedness, or if no such amortization schedule is set forth, then such Tender Indebtedness shall be deemed to be amortized in substantially equal annual installments of principal and interest over a term of 30 years, commencing in the year in which such Obligations are first subject to tender, the interest rate used for such computation shall be determined as provided in paragraph (b)(iv) or (v) below, as appropriate;

(iv) if any Outstanding Series of Obligations constitute Variable Rate Indebtedness, the interest rate on such Series of Obligations shall be assumed to be 110% of the daily average interest rate on such Series of Obligations during the 12 months ending with the month preceding the date of calculation, or such shorter period that such Series of Obligations shall have been Outstanding;

(v) if Obligations proposed to be issued will be Variable Rate Indebtedness, then such Obligations shall be assumed to bear interest at 80% of the average Revenue Bond Index during the calendar quarter preceding the calendar quarter in which the calculation is made, or if that index is no longer published, another similar index selected by the City, or if the City fails to select a replacement index, an interest rate equal to 80% of the yield for outstanding United States Treasury bonds having an equivalent maturity, or if there are no such Treasury bonds having such maturities, 100% of the lowest prevailing prime rate of any of the five largest commercial banks in the United States ranked by assets; and

(vi) if moneys or Permitted Investments have been deposited by the City into a separate fund or account or are otherwise held by the City or by a fiduciary to be used to pay principal and/or interest on specified Obligations, then the principal and/or interest to be paid from such moneys, Permitted Investments or from the earnings thereon shall be disregarded and not included in calculating Maximum Annual Debt Service.

The term "Term Obligations" means Obligations which are payable on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such Obligations on or before their specified maturity dates.

The term "Tender Indebtedness" means any Obligations or portions of Obligations, a feature of which is an option, on the part of the holders thereof, or an obligation, under the terms of such Obligations, to tender all or a portion of such Obligations to the City, a Trustee or other fiduciary or agent for payment or purchase and requiring that such Obligations or portions of Obligations or that such rights to payments or portions of payments be purchased if properly presented. Tender Indebtedness may consist of either Parity Obligations or Subordinated Obligations.

The term "Variable Rate Indebtedness" means any portion of indebtedness evidenced by Obligations, the interest rate for which is subject to adjustment periodically through a remarketing process

or according to a stated published index for similar obligations in the municipal markets. Variable Rate Indebtedness may consist of either Parity Obligations or Subordinated Obligations.

### **Amendment of Indenture**

The Indenture and the rights and obligations of the Authority and of the all Owners of the Bonds may be amended at any time by a Supplemental Indenture, which shall become binding when the written consents of the Owners of 51% in aggregate principal amount of the Senior Bonds then Outstanding and the written consents of the Owner of 51% in aggregate principal amount of the Subordinated Bonds then Outstanding, exclusive of Bonds disqualified as provided in the Indenture, are filed with the Trustee. No such amendment shall (i) permit the creation by the Authority of any pledge of the Revenues or Subordinated Revenues as provided in the Indenture superior to or on a parity with the pledge created under the Indenture for the benefit of any Bond without the written consent of the Owner thereof; (ii) modify any rights or obligations of the Trustee without its prior written assent thereto; or (iii) modify provisions respecting the time or amount of payments on any Bond, without the written consent of the Owner thereof.

The Indenture and the rights and obligations of the Authority and of the Owners may also be amended at any time by a Supplemental Indenture, which shall become binding without the consent of any Owners of Bonds for any one or more of the following purposes: (i) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained in the Indenture in regard to questions arising under the Indenture that the Authority may deem desirable or necessary and not inconsistent with the Indenture and that shall not adversely affect the interests of the Owners; or (ii) to make any other change or addition thereto that shall not materially adversely affect the interests of the Owners, or to surrender any right or power reserved in the Indenture to or conferred in the Indenture on the Authority; provided, however, that the Owners shall be given prompt notice of any such amendment and shall receive a copy of the final executed Supplemental Indenture making such changes.

### **Events of Default and Remedies of Holders under the Indenture**

***Events of Default and Acceleration of Maturities.*** The following events shall constitute events of default under the Indenture (each an “Event of Default” for purposes of the Indenture): (i) failure in the due and punctual payment of the interest on the Bonds when and as the same shall become due and payable; (ii) failure in the due and punctual payment of the principal of the Bonds when and as the same shall become due and payable, whether at maturity as therein expressed or by proceedings for redemption; (iii) failure by the Authority in the performance of any of the other agreements or covenants required in the Indenture to be performed by the Authority, as set forth in the Indenture, and such default shall have continued for a period of 30 days after the Authority and the City shall have been given notice in writing of such default by the Trustee or to the Authority, the City and the Trustee by Owners of 25% or more of the aggregate principal amount of the Bonds then Outstanding; or (iv) if any event of default shall have occurred and be continuing under the Agreement; or (v) if the Authority shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

If one or more Events of Default shall occur, then and in each and every such case during the continuance of such Event of Default, the Trustee may by notice in writing to the Authority and the City, declare the principal of all Bonds then Outstanding and the interest accrued thereon to be due and payable immediately. Upon any such declaration, the same shall become due and payable, anything contained in

the Indenture or in the Bonds to the contrary notwithstanding. These provisions are subject to the condition that if at any time after the entire principal amount of the unpaid Bonds and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, there shall be deposited with the Trustee a sum sufficient to pay the unpaid principal amount of the Bonds due prior to such declaration and the accrued interest thereon, with interest on such overdue installments at the rate or rates applicable thereto in accordance with their terms, and the reasonable fees and expenses of the Trustee, and any and all other defaults known to the Trustee (other than in the payment the entire principal amount of the unpaid Bonds and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then and in every such case the Trustee, by written notice to the City and the Authority, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

***Limitation on Rights and Remedies of Holders of Subordinated Bonds.*** So long as any Senior Bonds remain outstanding, no Owners of Subordinated Bonds shall have the right to declare an Event of Default, to declare any Bonds immediately due and payable, to direct the Trustee with respect to any Event of Default or to waive any Event of Default and, for such purposes, any reference to the Owners of a percentage of the principal amount of "Bonds then Outstanding" shall be deemed to refer to the Owners of such percentage of Senior Bonds then Outstanding. Effect of Discontinuance or Abandonment. In case any proceeding taken by the Trustee on account of any default or Event of Default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case, the Authority, the Trustee, and the Owners shall be restored to their former positions and rights under the Indenture, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken. Rights of Owners. Anything in the Indenture to the contrary notwithstanding and subject to the limitations and restrictions as to the rights of the Owners in the Indenture, upon the occurrence and continuance of any Event of Default or the Owners of 51% or more in aggregate principal amount of the Bonds then Outstanding shall have the right upon providing the Trustee security and indemnity reasonably satisfactory to it against the costs, expenses, and liabilities to be incurred therein or thereby, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee under the Indenture.

The Trustee may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is prejudicial to rights of other Owners or would subject the Trustee to personal liability.

***Application of Moneys.*** Any moneys received by the Trustee pursuant to the Indenture, together with any moneys that upon the occurrence of an Event of Default are held by the Trustee in any of the funds and accounts under the Indenture (other than the Rebate Fund and other than moneys held for Bonds not presented for payment) shall, after payment of all fees and expenses of the Trustee, and the fees and expenses of its counsel, be applied as follows: (i) Unless the principal of all of the Outstanding Bonds shall be due and payable:

First – To the payment of the Owners of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Owners, without any discrimination or privilege;

Second - To the payment of the Owners of the unpaid principal of any of the Bonds that shall have become due (other than Bonds matured or called for redemption for the payment of which moneys are held pursuant to the provisions of the Indenture), in the order of their due dates and, if the amount available shall not be sufficient to pay in full the principal of and premium, if any, on such Bonds due on any particular date, then to the payment ratably, according to the amount due on such date, to the Owners without any discrimination; and

Third – To be held for the payment to the Owners as the same shall become due of the principal of and interest on the Bonds, that may thereafter become due either at maturity or upon call for redemption prior to maturity and, if the amount available shall not be sufficient to pay in full such principal and premium, if any, due on any particular date, together with interest then due and owing thereon, payment shall be made in accordance with the Indenture.

If the principal of all of the Outstanding Bonds shall be due and payable, to the payment of the principal and interest then due and unpaid upon the Outstanding Bonds without preference or priority of any of principal, or interest over the others or of any installment of interest, or of any Outstanding Bond over any other Outstanding Bond, ratably, according to the amounts due respectively for principal and interest, to the Owners without any discrimination or preference except as to any difference in the respective amounts of interest specified in the Outstanding Bonds.

Whenever moneys are to be applied pursuant to the provisions of the Indenture, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. The Trustee shall give, by mailing by first-class mail as it may deem appropriate, such notice of the deposit with it of any such moneys.

## **Events of Default and Remedies of the Corporation under the Agreement**

***Events of Default and Acceleration of Maturities.*** If one or more of the following Events of Default (each an “Event of Default” for purposes of the Agreement”) shall happen, that is to say: (a) if default shall be made in the due and punctual payment of or on account of any Parity Obligation as the same shall become due and payable; (b) if default shall be made by the City in the performance of any of the agreements or covenants required in the Agreement to be performed by it (other than as specified in (a) above), and such default shall have continued for a period of 60 days after the City shall have been given notice in writing of such default by the Corporation or any Trustee; (c) if any Event of Default specified in any Supplement, Authorizing Ordinance or Issuing Instrument shall have occurred and be continuing; or (d) if the City shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property; then, and in each and every such case during the continuance of such Event of Default, the Corporation shall upon the written request of the Owners of 25% or more of the aggregate principal amount of all Series of Parity Installment Obligations Outstanding, voting collectively as a single class, by notice in writing to the City, declare the entire unpaid principal amount thereof and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained in the Agreement to the contrary notwithstanding; provided, that with respect to a Series of Parity Installment Obligations that is credit enhanced by a Credit Support Instrument, acceleration shall not be effective unless the declaration is consented to by the related Credit Provider. The foregoing provisions, however, are subject

to the condition that if at any time after the entire principal amount of all Parity Installment Obligations and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the City shall deposit with the Corporation a sum sufficient to pay the unpaid principal amount of all such Parity Installment Obligations and the unpaid payments of any other Parity Obligations referred to in clause (a) above due prior to such declaration and the accrued interest thereon, with interest on such overdue installments at the rate or rates applicable thereto in accordance with their terms, and the reasonable expenses of the Corporation, and any and all other defaults known to the Corporation (other than in the payment of the entire principal amount of the unpaid Parity Installment Obligations and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Corporation or provision deemed by the Corporation to be adequate shall have been made therefor, then and in every such case the Corporation, by written notice to the City, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

As provided in the Indenture, so long as any Senior Bonds remain outstanding, no Owners of Subordinated Bonds shall have the right to declare an Event of Default, to declare any Bonds immediately due and payable, to direct the Trustee with respect to any Event of Default or to waive any Event of Default and, for such purposes, any reference to the Owners of a percentage of the principal amount of "Bonds then Outstanding" shall be deemed to refer to the Owners of such percentage of Senior Bonds then Outstanding.

The Owners of Subordinated Obligations may enforce the provisions of the Agreement for their benefit by appropriate legal proceedings. The payment of Subordinated Obligations will be subordinate in right of payment to payment of the Parity Obligations (except for any payment in respect of Subordinated Obligations from the Reserve Fund securing such Subordinated Obligations). Upon the occurrence and during the continuance of any Event of Default, Owners of Parity Obligations will be entitled to receive payment thereof in full before the Owners of Subordinated Obligations are entitled to receive payment thereof (except for any payment in respect of Subordinated Obligations from the Reserve Fund securing such Subordinated Obligations) and the Owners of the Subordinated Obligations will become subrogated to the rights of the Owners of Parity Obligations to receive payments with respect thereto.

So long as any Senior Bonds remain Outstanding, no amounts, other than amounts in the Subordinated Bonds Payment Fund and the Subordinated Bonds Reserve Fund, shall be applied to the payment of Subordinated Bonds.

***Application of Net System Revenues Upon Acceleration.*** All Net System Revenues received after the date of the declaration of acceleration by the Corporation as provided in the Agreement shall be applied in the following order: (a) first, to the payment of the costs and expenses of the Corporation and the Trustee, if any, in carrying out the provisions of the Agreement, including reasonable compensation to its accountants and counsel; (b) second, to the payment of the entire principal amount of the unpaid Parity Installment Obligations and the unpaid principal amount of all other Parity Obligations and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable thereto in accordance with their respective terms. In the event there are insufficient Net System Revenues to pay the entire principal amount of and accrued interest on all Parity Obligations, then accrued interest shall first be paid and any remaining amount shall be paid on account of principal, and in the event there are insufficient Net System Revenues to fully pay either interest or principal in accordance with the foregoing, then payment shall be prorated within a priority based upon the total amounts due in that priority; and (c) third, to the payment of the entire principal amount of the unpaid Subordinated Obligations and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable thereto in accordance with their respective terms. In the event there are insufficient

Net System Revenues to pay the entire principal amount of and accrued interest on all Subordinated Obligations, then accrued interest shall first be paid and any remaining amount shall be paid on account of principal, and in the event there are insufficient Net System Revenues to fully pay either interest or principal in accordance with the foregoing, then payment shall be prorated within a priority based upon the total amounts due in that priority.

### **Amendments to the Agreement**

The Agreement may be amended with respect to a Series of Installment Payment Obligations in writing as may be mutually agreed by the City and the Corporation, with the written consent of any Credit Provider for any Installment Payment Obligations or, as to Installment Obligations for which there is no Credit Support Instrument, the Owners of a majority in aggregate principal amount of such Series of Installment Payment Obligations then Outstanding, provided that no such amendment shall (1) extend the payment date of any Installment Payment, or reduce the amount of any Installment Payment without the prior written consent of the Owner of each Obligation so affected; or (2) reduce the percentage of Installment Payment Obligations the consent of the Owners of which is required for the execution of any amendment of the Agreement without the prior written consent of each of the Owners so affected.

The Agreement and the rights and obligations of the City and the Corporation thereunder may also be amended for supplemented at any time by an amendment or supplement to the Agreement that shall not adversely affect the interests of the Owners of the Installment Payment Obligations and that shall become binding upon execution by the City and the Corporation, without the written consents of any Owner of Installment Payment Obligations or any Credit Provider, but only to the extent permitted by law and only upon receipt of an unqualified opinion of Bond Counsel to the effect that such amendment or supplement is permitted by the provisions of the Agreement and is not inconsistent with the Agreement and does not adversely affect the exclusion of the interest portion of the Installment Payments received by the Owners from gross income for federal income tax purposes, and only for any one or more of the following purposes: (1) to add to the covenants and agreements of the Corporation or the City contained in the Agreement other covenants and agreements thereafter to be observed or to surrender any right or power in the Agreement reserved to or conferred upon the Corporation or the City; (2) to cure, correct or supplement any ambiguous or defective provision contained in the Agreement or in regard to questions arising under the Agreement, as the Corporation or the City may deem necessary or desirable; (3) to make other amendments or modifications that shall not materially adversely affect the interests of the Owners of the Installment Payment Obligations; (4) to provide for the issuance of Parity Installment Payment Obligations; and (5) to provide for the issuance of Subordinated Obligations.

### **Agreement as Net Purchase Contract**

The Agreement shall be deemed and construed to be a net contract, and the City shall pay absolutely net during the term thereof the Installment Payments and all other payments required under the Indenture, free of any deductions and without abatement, diminution or setoff whatsoever.

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**APPENDIX B**

**FORM OF APPROVING OPINION**

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## APPENDIX B

### FORM OF APPROVING OPINION

*Upon the initial issuance of the Commercial Paper Notes, Hawkins Delafield & Wood LLP, Bond Counsel to The City of San Diego and the Public Facilities Financing Authority of the City of San Diego, is expected to issue its approving opinion in substantially the following form:*

Board of Commissioners of the  
Public Facilities Financing Authority  
of the City of San Diego  
San Diego, California

The City of San Diego  
San Diego, California

Ladies and Gentlemen:

We have acted as Bond Counsel to The City of San Diego (the “City”) in connection with the issuance and delivery from time to time of the Subordinated Water Revenue Commercial Paper Notes, Series A (Payable Solely from Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “Series A Commercial Paper Notes”) and the Subordinated Water Revenue Commercial Paper Notes, Series B (Payable Solely from Subordinated Installment Payments Secured by Net System Revenues of the Water Utility Fund) (the “Series B Commercial Paper Notes”) and, together with the Series A Commercial Paper Notes, the “Commercial Paper Notes”) of the Public Facilities Financing Authority of the City of San Diego (the “Authority”) in an aggregate principal amount outstanding at any time of up to \$250,000,000. The Commercial Paper Notes are to be issued and delivered from time to time pursuant to the Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009 (as heretofore amended and supplemented, the “Agreement”), including as supplemented by the 2017 Commercial Paper Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2017 (the “2017 Commercial Paper Supplement”), by and between the City and the San Diego Facilities and Equipment Leasing Corporation (the “Corporation”), the Assignment Agreement, dated as of January 1, 2017, by and between the Corporation and the Authority, the Indenture, dated as of January 1, 2009 (as heretofore amended and supplemented, the “Indenture”), including as supplemented by the Fifth Supplemental Indenture, dated as of January 1, 2017 (the “Fifth Supplement”), by and between the Authority and U.S. Bank National Association, as trustee (the “Trustee”), and the Issuing and Paying Agency Agreement, dated as of January 1, 2017 (the “Issuing and Paying Agency Agreement”), by and between the Authority and U.S. Bank National Association, as the issuing and paying agent (the “Issuing and Paying Agent”). The Commercial Paper Notes may be issued and delivered from time to time as Series A Commercial Paper Notes in an aggregate principal amount outstanding at any time of up to \$75,000,000 or Series B Commercial Paper Notes in an aggregate principal amount outstanding at any time of up to \$175,000,000.

The Commercial Paper Notes to be issued and delivered from time to time as Series A Notes are entitled to the benefit of, and payments made under, the irrevocable direct-pay letter of credit issued by Bank of the West (the “Series A Bank”) on January 31, 2017 (the “Series A Letter of Credit”) pursuant to the Reimbursement Agreement, dated as of January 1, 2017 (the “Series A Reimbursement Agreement”), by and between the City and the Series A Bank. The Commercial Paper Notes to be issued and delivered from time to time as Series B Notes are entitled to the benefit of, and payments made under, the

irrevocable direct-pay letter of credit issued by Bank of America, N.A. (the “Series B Bank”) on January 31, 2017 (the “Series B Letter of Credit” and together with the Series A Letter of Credit, the “Letters of Credit”) pursuant to the Reimbursement Agreement, dated as of January 1, 2017 (the “Series B Reimbursement Agreement” and together with the Series A Reimbursement Agreement, the “Reimbursement Agreements”), by and between the City and the Series B Bank.

In rendering this opinion, we have reviewed the record of the actions taken by the Authority, the Corporation and the City in connection with the issuance and delivery of the Commercial Paper Notes. We have examined and relied on originals or copies, certified or otherwise identified to our satisfaction, of such documents, instruments, or corporate records, and have made such investigation of law, as we have considered necessary or appropriate for the purpose of this opinion.

We are of the opinion that:

1. The Commercial Paper Notes, when issued from time to time as provided in the Indenture and the Issuing and Paying Agency Agreement, will constitute the valid and binding limited obligations of the Authority, enforceable in accordance with their terms and the terms of the Indenture and the Issuing and Paying Agency Agreement.

2. The 2017 Commercial Paper Supplement has been duly executed and delivered by the City and constitutes the valid and binding limited obligation of the City and is enforceable against the City in accordance with their respective terms.

3. The Fifth Supplement has been duly executed and delivered by, and constitutes the valid and binding limited obligation of, the Authority, and, assuming due execution by the other party thereto, is enforceable against the Authority in accordance with its terms. The Indenture creates the valid pledge to secure the payment of the principal of and interest on the Commercial Paper Notes, of the Commercial Paper Notes Subordinated Installment Payments, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture.

4. Under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described below, (i) interest on the Commercial Paper Notes is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Commercial Paper Notes is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed on such corporations. In rendering this opinion, we have relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Authority and the City in connection with the Commercial Paper Notes, and we have assumed compliance by the Authority and the City with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Commercial Paper Notes from gross income under Section 103 of the Code.

The Code establishes certain requirements that must be met subsequent to the issuance and delivery of the Commercial Paper Notes in order that, for Federal income tax purposes, interest on the Commercial Paper Notes be not included in gross income pursuant to Section 103 of the Code. These requirements include, but are not limited to, requirements relating to the use and expenditure of proceeds of the Commercial Paper Notes, restrictions on the investment of proceeds of the Commercial Paper Notes prior to expenditure and the requirement that certain earnings be rebated to the Federal government. Noncompliance with such requirements may cause interest on the Commercial Paper Notes to become

subject to federal income taxation retroactive to their date of issue, irrespective of the date on which such noncompliance occurs or is ascertained.

On the date hereof, the Authority and the City will execute a Tax Certificate (the "Tax Certificate") containing provisions and procedures pursuant to which such requirements can be satisfied. In executing the Tax Certificate, the Authority and the City covenant that they will comply with the provisions and procedures set forth therein and that they will do and perform all acts and things necessary or desirable to assure that interest paid on the Commercial Paper Notes will, for Federal income tax purposes, be excluded from gross income.

In rendering the opinion in paragraph 4 hereof, we have relied upon and assumed (i) the material accuracy of the representations, statements of intention and reasonable expectation, and certifications of fact contained in the Tax Certificate with respect to matters affecting the status of interest paid on the Commercial Paper Notes, and (ii) compliance by the Authority and the City with the procedures and covenants set forth in the Tax Certificate as to such tax matters.

5. Under existing statutes, interest on the Commercial Paper Notes is exempt from State of California personal income taxes.

Except as stated in paragraphs 4 and 5 above, we express no opinion as to any other Federal, state or local tax consequences arising with respect to the Commercial Paper Notes or the ownership or disposition thereof. We express no opinion concerning the exclusion of interest from gross income on any Revolving Note. We render our opinion under existing statutes and court decisions as of the date hereof, and we assume no obligation to update, revise or supplement this opinion after the date hereof to reflect any action hereafter taken or not taken, or any facts or circumstances, or any change in law or in interpretations thereof, or otherwise, that may hereafter arise or occur, or for any other reason. Furthermore, we express no opinion herein as to the effect of any action hereafter taken or not taken in reliance upon an opinion of counsel other than ourselves on the exclusion from gross income for Federal income tax purposes of interest on the Commercial Paper Notes.

This letter is furnished by us as Bond Counsel and is solely for your benefit and it is not to be used, circulated, quoted, or otherwise referred to for any purposes other than the issuance and delivery of the Commercial Paper Notes and may not be relied upon by any other person or entity without our express written permission, except that references may be made to it in any list of closing documents pertaining to the issuance and delivery of the Commercial Paper Notes.

The foregoing opinions are qualified to the extent that the rights of the Holders of the Commercial Paper Notes and the enforceability of the Commercial Paper Notes, the Agreement and the Indenture may be limited by bankruptcy, moratorium, insolvency or other laws affecting creditors' rights or remedies and are subject to general principles of equity (regardless of whether such enforceability is considered in equity or at law). We express no opinion regarding the availability of equitable remedies.

We express no opinion herein as Bond Counsel regarding the accuracy, adequacy or completeness of the Offering Memorandum relating to the Commercial Paper Notes.

We note that the Commercial Paper Notes program will have a maximum term for Federal income tax purposes of eighteen (18) months from the date hereof, unless and to the extent a new program is established by the Authority and the City by execution of a new tax certificate and certain other related documents. You may rely on this opinion as to any Commercial Paper Notes issued on or after the date hereof to the extent that, at the date of issuance of such Commercial Paper Notes, (i) we have not advised you that this opinion may no longer be relied upon with respect to such Commercial

Paper Notes, (ii) there is no change or proposed change in pertinent law, including rulings and interpretations of law by the Internal Revenue Service, from that in effect on the date hereof, (iii) the facts upon which this opinion is based do not change in any way material to this opinion, (iv) the representations, warranties and covenants contained in the Indenture, the Issuing and Paying Agency Agreement, the Agreement, the Tax Certificate and any supplemental tax certificates thereto, and other documents executed and delivered by the Authority and the City in connection with the Commercial Paper Notes and the certificates executed and delivered by the Authority and the City in connection with the Commercial Paper Notes remain true and correct and the Authority and the City continue to comply with their respective covenants in such documents and certificates, (v) no amendment has been made to the Indenture, the Agreement, the Issuing and Paying Agency Agreement, any of the Letters of Credit or the Reimbursement Agreements or any of the Commercial Paper Notes without our prior written consent, and (vi) no litigation affecting the issuance, legality, validity or enforceability in accordance with their respective terms of, or the exemption from federal income taxation of interest on, the Commercial Paper Notes is pending or threatened at the time of delivery of any such Commercial Paper Notes. We undertake no obligation to determine, at any time, whether the conditions described in this paragraph have been met.

Very truly yours,

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**APPENDIX C**  
**BOOK-ENTRY ONLY SYSTEM**

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## APPENDIX C

### BOOK-ENTRY ONLY SYSTEM

*The information in this Appendix C concerning The Depository Trust Company (“DTC”), New York, New York, and DTC’s book-entry system has been obtained from DTC, and City, the Authority, the Corporation, the Trustee, the Issuing and Paying Agent, the Dealers and the Subordinated Credit Providers take no responsibility for the completeness or accuracy thereof. The City, the Authority, the Corporation, the Trustee, the Issuing and Paying Agent, the Dealers and the Subordinated Credit Providers cannot and do not give any assurances that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Commercial Paper Notes, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Commercial Paper Notes, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Commercial Paper Notes, or that they will do so on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Offering Memorandum. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.*

1. The Depository Trust Company, New York, NY, will act as securities depository for the Commercial Paper Notes (the “Commercial Paper Notes”). The Commercial Paper Notes will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Commercial Paper Notes, each in the aggregate principal amount of such maturity of such issue, and will be deposited with DTC.

2. DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). The information on this website is not incorporated herein by reference.

3. Purchases of Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Commercial Paper Notes on DTC’s records. The ownership interest of each actual purchaser of each Note (“Beneficial Owner”) is in turn to be recorded

on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Commercial Paper Notes are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Notes, except in the event that use of the book-entry system for the Commercial Paper Notes is discontinued.

4. To facilitate subsequent transfers, all Notes deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Notes with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Commercial Paper Notes; DTC's records reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Notes may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Commercial Paper Notes, such as redemptions, tenders, defaults, and proposed amendments to the Commercial Paper Note documents. For example, Beneficial Owners of Notes may wish to ascertain that the nominee holding the Commercial Paper Notes for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Notes unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City, the Authority, the Trustee or the Issuing and Paying Agent as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

7. Proceeds, distributions, and other payments on the Commercial Paper Notes will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City, the Authority, the Trustee or the Issuing and Paying Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the City, the Authority, the Trustee, the Issuing and Paying Agent or its agent, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and other payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City, the Authority, the Trustee or the Issuing and Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

8. If applicable, a Beneficial Owner shall give notice to elect to have its Commercial Paper Notes purchased or tendered, through its Participant, to the City's, the Authority's, the Trustee's or the Issuing and Paying Agent's designated agent, and shall effect delivery of such Notes by causing the Direct Participant to transfer the Participant's interest in the Commercial Paper Notes, on DTC's records, to the City's, the Authority's, the Trustee's or the Issuing and Paying Agent's designated agent. The requirement for physical delivery of Commercial Paper Notes in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Commercial Paper Notes are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Commercial Paper Notes to the DTC account of the City's, the Trustee's or the Issuing and Paying Agent's designated agent.

9. DTC may discontinue providing services as depository with respect to the Commercial Paper Notes at any time by giving reasonable notice to the Authority or the Issuing and Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, Commercial Paper Note certificates are required to be printed and delivered.

10. The Authority may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Commercial Paper Note certificates will be printed and delivered to DTC.

