

## **FIRST AMENDMENT TO STANDBY BOND PURCHASE AGREEMENT**

This FIRST AMENDMENT TO STANDBY BOND PURCHASE AGREEMENT (this “First Amendment”), dated October 16, 2020, is among the SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION, a public entity duly established and existing under the laws of the State of California (the “Issuer” or the “Commission”), U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America as trustee under the Indenture as hereinafter defined (together with any successors thereto as such trustee, the “Trustee”), and BANK OF AMERICA, N.A. (in such capacity, together with its successors and assigns, the “Bank”).

### **WITNESSETH:**

WHEREAS, pursuant to that certain Indenture dated as of March 1, 2008, as amended and supplemented from time to time pursuant to its terms, including as amended and supplemented by (i) that certain First Supplemental Indenture dated as of March 1, 2008, (ii) that certain Second Supplemental Indenture dated as of July 1, 2008, (iii) that certain Third Supplemental Indenture dated as of October 1, 2010, (iv) that certain Fourth Supplemental Indenture dated as of June 1, 2012, (v) that certain Fifth Supplemental Indenture dated as of September 1, 2014, (vi) that certain Sixth Supplemental Indenture dated as of August 1, 2016; (vii) the Seventh Supplemental Indenture dated as of June 1, 2017, (viii) the Eighth Supplemental Indenture dated as of December 1, 2019, and (ix) a Ninth Supplemental Indenture, dated as of February 1, 2020 (collectively, the “Indenture”), between the Commission and the Trustee, the Commission authorized the issuance of \$150,00,000 aggregate principal amount of its San Diego County Regional Transportation Commission Sales Tax Revenue Bonds (Limited Tax Bonds), 2008 Series C, of which \$100,575,000 aggregate principal amount remain outstanding (the “Bonds”); and

WHEREAS, the Bonds are subject to purchase from time to time at the option of the owners thereof and are required to be purchased in certain events and, to further assure the availability of funds for the payment of the purchase price therefor, the Commission has provided for the remarketing of such Bonds and, to the extent such remarketing may not be successful, for the purchase of such Bonds by the provider of a liquidity facility; and

WHEREAS, the Commission, the Trustee and the Bank previously executed into a Standby Bond Purchase Agreement (the “Original Agreement”) with the Bank, dated as of November 1, 2017, to provide for the purchase, from time to time, by the Bank of tendered or deemed tendered Bonds that were not remarketed; and

WHEREAS, the Original Agreement currently expires on November 2, 2020 (the “Stated Expiration Date”); and

WHEREAS, the parties hereto wish to extend the Stated Expiration Date from November 2, 2020 to October 15, 2021 and make certain amendments to the Agreement as set forth herein;

WHEREAS, on the basis of the foregoing, the Commission, the Trustee and the Bank are willing to make those certain changes on the terms and conditions set forth herein;

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

**ARTICLE I.  
DEFINITIONS; INTENTION OF PARTIES**

Section 1.01. Definitions. Capitalized terms used but not otherwise defined in this First Amendment shall have the meanings ascribed to them in the Original Agreement and, if not defined therein, in the Indenture, unless the context clearly indicates otherwise.

Section 1.02 Intention of the Parties. The terms of the Original Agreement, as amended by this First Amendment (as so amended, the “Agreement”), shall govern the rights and obligations of the Commission, the Trustee and the Bank in connection with the transactions contemplated by the Agreement.

**ARTICLE II.  
AMENDMENTS TO ORIGINAL AGREEMENT**

Section 2.01. Amendments.

(a) The following definitions set forth in Section 1.01 of the Original Agreement are hereby amended and restated as follows:

“*Fee Letter*” means the Fee Letter Agreement, dated October 16, 2020, between the Commission and the Bank, as the same may be amended from time to time.

“*Stated Expiration Date*” means the later of (i) October 15, 2021 or (ii) the last day of any extension of such date pursuant to Section 8.08; *provided, however*, that if the date specified in (i) or (ii), as applicable, is not a Business Day, the next preceding Business Day.

(b) Section 1.01 of the Agreement is hereby amended by the addition of the following definitions, which are to be situated therein in alphabetical order:

“*First Amendment*” means the First Amendment to Standby Bond Purchase Agreement, dated October 16, 2020, by and among the Commission, the Trustee and the Bank.”

“*First Amendment Effective Date*” means October 16, 2020.”

(c) Section 8.07(b)(iii) of the Original Agreement is hereby amended by deleting it in its entirety and replacing it with “Reserved.”

**ARTICLE III.  
CONDITIONS TO DELIVERY OF THIS FIRST AMENDMENT**

Section 3.01. Conditions to Delivery. The amendments to the Original Agreement provided for in Article II hereof shall become effective on the First Amendment Effective Date; *provided*, that each of the following conditions shall be fulfilled to the satisfaction of the Bank:

(a) Documentation. The Bank shall have received:

(i) executed counterparts of this First Amendment, signed by authorized representatives of the Commission and the Trustee, and an executed counterpart of the Fee Letter, signed by an authorized representative of the Commission; and

(ii) all other legal matters pertaining to the execution and delivery of this First Amendment and the Fee Letter shall be satisfactory to the Bank and the execution and delivery hereof and thereof by the Bank shall constitute conclusive evidence that all such legal matters have been completed to the satisfaction of the Bank.

(b) Representations and Warranties True.

(i) The Commission hereby represents and warrants that the following statements are true and correct as of the First Amendment Effective Date:

(A) The representations and warranties of the Commission contained in Article V of the Agreement, in all material respects, and (B) the representations and warranties contained in this First Amendment shall, in each case, be true and correct with the same effect as though made on and as of the First Amendment Effective Date (except to the extent a representation or warranty relates specifically to an earlier date, in which case, such representation and warranty shall have been true and correct as of such earlier date, including without limitation all representations and warranties in Section 4.07) and, with respect to all representations relating to Related Documents, solely as such Related Documents are currently in effect, including all amendments and supplements thereto to the First Amendment Effective Date.

(B) no Event of Termination or Potential Event of Termination has occurred and is continuing or would result from the execution of the First Amendment; and

(ii) In addition to the foregoing representations, the Commission hereby represents and warrants as follows:

(A) the execution, delivery and performance by the Commission of this First Amendment and the Fee Letter have been duly authorized by all necessary action and do not contravene any law, rule or regulation, any judgment, order or decree or any contractual restriction binding on or affecting the Commission,

(B) the Original Agreement, as amended by this First Amendment, constitutes a valid and legally binding obligation of the Commission, which obligation is enforceable against the Commission in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, reorganization, insolvency, liquidation, readjustment of debt, moratorium or other similar laws effecting the enforcement of the rights of creditors generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), and such document is or will be on the First Amendment Effective Date in full force and effect,

(C) no event has occurred and is continuing under the Agreement which constitutes an Event of Termination or a Potential Event of Termination under the Agreement, and

(D) all authorizations, licenses, consents, approvals and undertakings which were or are required to be obtained by the Commission under any Laws in connection with the execution, delivery and performance by the Commission of its obligations under, or in connection with, this First Amendment and the Second Supplemental Indenture have been received; and all such authorizations, licenses, consents, approvals and undertakings are in full force and effect, and

(c) Absence of Certain Events. There shall not have occurred any material adverse change in the financial condition or operations of the Commission since the date of the most recent financial information provided to the Bank pursuant to Section 4.06 of the Agreement, except as otherwise disclosed by the Commission to the Bank. On or prior to the First Amendment Effective Date, (i) there shall not have occurred a change in the laws, rules, guidelines or regulations (or the interpretation or administration thereof) applicable to the Commission which materially adversely affects the ability of the Commission to perform its obligations under the Agreement, the Fee Letter, the other Related Documents or the Bonds, as determined by the Bank in its sole discretion, and (ii) no law, regulation, ruling or other action of the United States, the State of New York or the State of California or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the Bank from fulfilling its obligations under this Agreement. No event has occurred and is continuing which constitutes a Potential Event of Termination or an Event of Termination under the Agreement.

(d) Fees. The Commission shall have paid, in immediately available funds, on or before the First Amendment Effective Date to the Bank, the fees and disbursements of the Bank's special counsel, Nixon Peabody LLP, as set forth in the Fee Letter. For purposes of this First Amendment only, the Bank has agreed to waive any amendment fee established pursuant to the First Amendment and the related fee letter.

(e) Other Approvals. The Bank shall have received such other approvals, opinions, certificates, instruments and documents as it may reasonably request.

**ARTICLE IV.  
MISCELLANEOUS**

Section 4.01. (a) The parties hereto acknowledge and confirm that, from and after the First Amendment Effective Date, any reference in the Original Agreement, the First Amendment, or the Related Documents to the “Agreement” shall mean and refer to, collectively, the Original Agreement, as amended hereby, and the Fee Letter.

(b) This First Amendment shall be governed in accordance with Section 8.02 of the Agreement.

(c) Except as provided herein, the Original Agreement and the Fee Letter shall remain in full force and effect and unaffected hereby except as set forth herein from and after the First Amendment Effective Date.

(d) The Fee Letter, this First Amendment and the Original Agreement, as amended hereby, shall be subject to Section 8.02 of the Original Agreement. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby.

(e) Section headings in this First Amendment are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this First Amendment.

(f) This First Amendment may be simultaneously executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

[Remainder of page intentionally left blank; signature page follows]



IN WITNESS WHEREOF, the parties hereto, by their officers thereunto duly authorized, have executed and delivered this First Amendment, effective as of the day and year first above written.

**BANK OF AMERICA, N.A.**

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

**SAN DIEGO COUNTY REGIONAL  
TRANSPORTATION COMMISSION**

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

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

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

[Signature page to First Amendment to Standby Bond Purchase Agreement]

IN WITNESS WHEREOF, the parties hereto, by their officers thereunto duly authorized, have executed and delivered this First Amendment, effective as of the day and year first above written.

**BANK OF AMERICA, N.A.**

By: \_\_\_\_\_  
Name: [Redacted]  
Title: [Redacted]

**SAN DIEGO COUNTY REGIONAL  
TRANSPORTATION COMMISSION**

By: \_\_\_\_\_  
Name: [Redacted]  
Title: [Redacted]

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

By: \_\_\_\_\_  
Name: [Redacted]  
Title: [Redacted]