

\$ _____
City of San José Financing Authority
Taxable Lease Revenue Bonds
Series 2020B
(Ice Centre Project)

BOND PURCHASE AGREEMENT

_____, 2020

City of San José Financing Authority
200 East Santa Clara Street, 13th Floor
San José, California 95113

City of San José, California
200 East Santa Clara Street, 13th Floor
San José, California 95113

Ladies and Gentlemen:

The undersigned, BOFA Securities, Inc. (the “Representative”), as representative of itself, Jefferies LLC, J.P. Morgan Securities LLC and U.S. Bancorp Investments, Inc. (collectively, the “Underwriters”), hereby offers to enter into this Bond Purchase Agreement (the “Bond Purchase Agreement”) with you, the City of San José Financing Authority (the “Authority”) and the City of San José, California (the “City”), for the purchase by the Underwriters of the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2020B (Ice Centre Project) (the “2020B Bonds”), in the aggregate principal amount of \$ _____, which will be issued and delivered under the Indenture of Trust, dated as of October 1, 2020 (the “Indenture”), by and between the Authority and Wilmington Trust, N.A., as trustee (the “Trustee”). Capitalized terms used herein and not otherwise defined herein shall have the meanings given to such terms in the Official Statement (as hereinafter defined) and, if not therein, in the Indenture.

This offer is made subject to written acceptance by the Authority and the City prior to 5:00 p.m., California time, on the date hereof. If this offer is not so accepted, this offer will be subject to withdrawal by the Underwriters upon written notice delivered to you by the Representative at any time prior to acceptance of this offer. Upon acceptance, this Bond Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Authority, the City and the Underwriters.

1. Purchase, Sale and Delivery of the 2020B Bonds

(a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriters hereby agree to purchase and the Authority hereby agrees to sell to the Underwriters all (but not less than all) of the 2020B Bonds. The 2020B Bonds are payable from revenues (the “Revenues”) of the Authority, which primarily

consist of (i) certain lease payments (the “Lease Payments”) to be made by the City pursuant to, and as defined in, the Lease Agreement, dated as of October 1, 2020 (the “Lease”), by and between the City and the Authority, as rental for the use and occupancy of the Leased Property, and (ii) all interest or other income from any investment of any money in any fund or account established pursuant to the Indenture (other than the Costs of Issuance Fund and the Project Fund).

Pursuant to a Site Lease, dated as of October 1, 2020, by and between the City and the Authority (the “Site Lease”), the City has leased the Leased Property to the Authority. Pursuant to the Lease, the Authority has leased the Leased Property back to the City. Pursuant to the Lease, the City will make the Lease Payments and Additional Payments under the Lease in amounts at least sufficient to pay the principal, premium, if any, and interest on the 2020B Bonds, together with certain other payments. The 2020B Bonds are subject to optional, make whole, extraordinary and mandatory redemption as set forth in the Indenture, and will mature on the dates and in the amounts set forth in Exhibit A hereto.

The City has covenanted under the Lease that it will take such action as may be necessary to include the Lease Payments (and the Additional Payments) in its annual budgets and to make the necessary annual appropriations therefor. Pursuant to the Indenture, all of the Revenues and other amounts (except for Additional Payments and amounts on deposit in the Costs of Issuance Fund and the Project Fund) received by the Authority in respect of the Leased Property are irrevocably pledged and assigned to the payment of the interest and premium, if any, on and principal of the 2020B Bonds. Pursuant to the Assignment Agreement, dated as of October 1, 2020, between the Authority and the Trustee (the “Assignment Agreement”), has transferred to the Trustee all of the rights of the Authority in the Lease (other than the rights of the Authority under the provisions of the Lease regarding Additional Rental Payments, advances, release and indemnification covenants, and agreement to pay attorneys’ fees).

The 2020B Bonds are being issued for the purposes set forth in, and shall be substantially in the form described in, and shall be executed, delivered and secured under and pursuant to, and shall be payable and subject to redemption as provided in, the Indenture. Such purposes include the redemption of all of the outstanding 2008E Bonds and the defeasance of all of the outstanding 2008E Bonds pursuant to the terms set forth in irrevocable refunding instructions to be given by the City to Wells Fargo Bank, National Association (“WFB”), as trustee of the 2008E Bonds. In connection with the redemption of all of the outstanding 2008E Bonds, the City, the Authority and WFB will enter into a Termination Agreement dated as of October 1, 2020 (the “Termination Agreement”).

The Authority and the City hereby covenant to deliver or cause to be delivered to the Underwriters, not less than three days prior to the Closing Date (as hereinafter defined) and not more than seven business days from the date hereof, copies of the Official Statement relating to the 2020B Bonds (including the cover page, the introduction and all appendices thereto, the “Official Statement”), dated _____, 2020, and executed on behalf of the Authority and the City by duly authorized representatives, in such reasonable quantity as the Underwriters shall request. The Authority and the City hereby approve the use and distribution by the Underwriters of the Official Statement and hereby authorize the Underwriters to use and distribute the Official Statement and all other documents, certificates and statements furnished to the Underwriters in connection with the transactions contemplated by this Bond Purchase Agreement, in connection

with the offer and sale of the 2020B Bonds. The Authority and the City acknowledge that the Underwriters may deliver the Preliminary Official Statement (as hereinafter defined) and the Official Statement electronically over the internet and in printed paper form. For purposes of this Bond Purchase Agreement, the printed paper form of the Preliminary Official Statement and the Official Statement are deemed controlling.

The Indenture, the Site Lease, the Lease, the Assignment Agreement, the Continuing Disclosure Certificate dated the Closing Date (the “Continuing Disclosure Certificate”), the Termination Agreement and the 2020B Bonds shall be collectively referred to herein as the “Legal Documents.”

(b) The aggregate purchase price for the 2020B Bonds shall be \$_____, which represents the par amount of the 2020B Bonds, less an underwriting discount of \$_____. On the Closing Date (as defined below), a portion of such purchase price in the amount of \$_____ shall be wired by the Representative to WFB to refund the 2008E Bonds.

(c) At 8:00 a.m., California time, on ____, 2020, or at such other time or on such other date as we mutually agree upon (the “Closing Date”), the Trustee will deliver or cause to be delivered to the Representative, through the “FAST” book-entry system of The Depository Trust Company (“DTC”), the 2020B Bonds, duly executed and authenticated, together with the other documents mentioned herein. The Representative will accept such delivery and pay the purchase price of the 2020B Bonds in immediately available funds (such delivery and payment being herein referred to as the “Closing”) to the order of the Trustee and WFB as set forth in subparagraph (b) above. The 2020B Bonds will be made available for inspection by the Representative not less than one business day prior to the Closing.

(d) The Underwriters agree to make a bona fide public offering of the 2020B Bonds at a price not in excess of the initial offering price or prices or yields not less than the yields set forth in the printed paper form of the Official Statement; provided, however, the Underwriters reserve the right to change such initial public offering prices as the Underwriters deem necessary or desirable, in their sole discretion, in connection with the marketing of the 2020B Bonds, and may offer and sell the 2020B Bonds to certain dealers, unit investment trusts and money market funds, certain of which may be sponsored or managed by one or more of the Underwriters at prices lower than the public offering prices or yields greater than the yields set forth therein.

(e) The Authority and the City acknowledge and agree that: (i) the primary role of the Underwriters, as underwriters, is to purchase securities, for resale to investors, in an arm’s-length commercial transaction among the Authority, the City and the Underwriters and that the Underwriters have financial and other interests that differ from those of the Authority and the City; (ii) the Underwriters are acting solely as principals and are not acting as municipal advisors, financial advisors, or fiduciaries to the Authority and the City and have not assumed any advisory or fiduciary responsibility to the Authority or the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriters have provided other services or are currently providing other services to the Authority or the City on other matters); (iii) the only obligations the Underwriters have to the Authority and the City with respect to the transaction contemplated hereby expressly are set forth in this Bond Purchase Agreement; and (iv) the Authority and the City have consulted their own

financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent they have deemed appropriate.

2. Representations, Warranties and Agreements of the Authority. The Authority hereby represents, warrants and agrees with the Underwriters as follows:

(a) The Authority is a joint powers authority organized, existing and operating pursuant to the laws of the State of California, including Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7 of the California Government Code, with the full power and authority to execute and deliver the Official Statement, and to enter into this Bond Purchase Agreement and the Legal Documents to which the Authority is a party;

(b) By all necessary official action of the Authority prior to or concurrent with the acceptance hereof, the Authority has duly authorized and approved the execution and delivery of, and the performance by the Authority of the obligations on its part contained in, the Legal Documents, the Official Statement and this Bond Purchase Agreement, and the consummation by it of all other transactions contemplated by the Official Statement and this Bond Purchase Agreement;

(c) The Authority represents to the Underwriters that the Preliminary Official Statement relating to the 2020B Bonds (including the cover page, the introduction and all appendices thereto, the “Preliminary Official Statement”), dated _____, 2020, has been “deemed final” by the Authority as of its date within the meaning of paragraph (b)(1) of Rule 15c2-12, except for the omission of some or all of such information the omission of which is permitted under Rule 15c2-12. The Preliminary Official Statement as of its date and as of the date hereof does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(d) The Legal Documents (other than the Continuing Disclosure Certificate) and this Bond Purchase Agreement, when duly executed and delivered by the parties thereto, will constitute valid and binding obligations of the Authority, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws affecting the enforcement of creditors’ rights in general and to the application of equitable principles, whether or not equitable principles are sought, and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California, including the City and the Authority;

(e) The execution and delivery of the Legal Documents (other than the Continuing Disclosure Certificate), this Bond Purchase Agreement and the Official Statement by the Authority, and compliance with the provisions on the Authority’s part contained herein and therein, will not in any material respect conflict with or constitute a breach of or default under any law, administrative regulation, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or is otherwise subject or any judgment or decree to which the Authority is a party or is otherwise subject (and of which the Treasurer has knowledge), nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature

whatsoever upon any of the properties or assets of the Authority under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided in the Legal Documents and disclosed in the Preliminary Official Statement and the Official Statement;

(f) Except as is otherwise disclosed in the Preliminary Official Statement and the Official Statement, the Authority is not in any material respect in breach of, or in default under, any applicable law or administrative regulation of the State of California or the United States of America or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or is otherwise subject or any judgment or decree to which the Authority is a party or is otherwise subject (and of which the Treasurer has knowledge) that would have a materially adverse effect on the transactions contemplated hereby or by the Preliminary Official Statement and the Official Statement or on the Authority's liabilities and obligations under the Legal Documents to which it is a party, and no event has occurred and is continuing that, with the passage of time or the giving of notice or both, would constitute a default or an event of default under any such instrument that would have a materially adverse effect on the transactions contemplated hereby or by the Preliminary Official Statement and the Official Statement or on the Authority's liabilities and obligations under the Legal Documents to which it is a party;

(g) Except as otherwise disclosed in the Preliminary Official Statement and the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, that has been served on the Authority and that is now pending or, to the actual knowledge of the official executing this Bond Purchase Agreement on the Authority's behalf (after consultation with the Office of the City Attorney), threatened in writing against the Authority in any material respect affecting the Project, the existence of the Authority or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the issuance, sale, or delivery of the 2020B Bonds or the receipt of the Lease Payments or the Additional Payments, or contesting or affecting the validity or enforceability of the Legal Documents or this Bond Purchase Agreement or contesting the powers of the Authority or its authority to enter into, adopt or perform its obligations under any of the foregoing, or contesting the completeness or accuracy of the Preliminary Official Statement and the Official Statement, or any amendment or supplement thereto, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Legal Documents or this Bond Purchase Agreement;

(h) The Authority will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters as the Underwriters may reasonably request in order (i) to qualify the 2020B Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States (collectively, "Blue Sky laws") as the Underwriters may designate and (ii) to determine the eligibility of the 2020B Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualification in effect so long as required for distribution of the 2020B Bonds (at the sole expense of the Underwriters); provided, however, that in no event shall the Authority be required to take any action that would subject it to general or unlimited service of process in any jurisdiction in which it is not now so subject; and provided, further, that notwithstanding the foregoing, nothing in this Bond Purchase Agreement shall impose any past or

future requirement upon the Authority, or constitute a representation or warranty by the Authority, with respect to compliance with any Blue Sky laws;

(i) As of the date thereof, except for statements regarding DTC, as to which the Authority makes no representation or warranty, the Preliminary Official Statement and the Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading;

(j) If between the date hereof and the date that is 25 days after the End of the Underwriting Period (as such term is hereinafter defined) for the 2020B Bonds, an event occurs that would cause the information contained in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact necessary to make such information therein, in the light of the circumstances under which they were made, not misleading, the Authority will notify the Representative, and, if in the opinion of the Authority, the Representative or their respective counsel, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority will forthwith prepare and furnish to the Underwriters (at the expense of the Authority) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to counsel for the Authority and counsel for the Underwriters) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. For the purposes of this subsection, between the date hereof and the date that is 25 days after the End of the Underwriting Period for the 2020B Bonds, the Authority will furnish such information with respect to itself as the Representative may from time to time reasonably request;

(k) If the information contained in the Official Statement is amended or supplemented pursuant to paragraph (j) hereof, at the time of each supplement or amendment thereto, the Authority will represent and warrant that the portions of the Official Statement so supplemented or amended (including any financial and statistical data contained therein), except for statements regarding DTC, as to which the Authority does not make any representation or warranty, do not contain any untrue statement of a material fact or omit to state a material fact necessary to make such information therein, in the light of the circumstances under which they are made, not misleading; and

(l) As used herein and for the purposes of the foregoing (and for purposes of Section 3 below), the term “End of the Underwriting Period” for the 2020B Bonds shall mean the later of the Closing Date or the date the Underwriters do not retain, directly or as members of an underwriting syndicate, an unsold balance of the 2020B Bonds for sale to the public; provided, however, that unless the Authority and the City shall have been notified in writing to the contrary by the Representative on or prior to the Closing Date, the End of the Underwriting Period shall be deemed to mean the Closing Date. Notwithstanding anything to contrary contained herein, under no circumstances shall the End of the Underwriting Period occur any later than twenty-five days following 90 days after the Closing Date.

3. Representations, Warranties and Agreements of the City. The City hereby represents, warrants and agrees with the Underwriters as follows:

(a) The City is a municipal corporation and charter city organized and operating pursuant to its Charter and the laws of the State of California with the full power and authority to execute and deliver the Official Statement, and to enter into this Bond Purchase Agreement and the Legal Documents to be executed by it;

(b) By all necessary official action of the City prior to or concurrently with the acceptance hereof, the City has duly authorized and approved the execution and delivery of the Preliminary Official Statement and the Official Statement, and authorized and approved the execution and delivery of, and the performance by the City of the obligations on its part contained in, the Legal Documents to which it is a party, the Official Statement and this Bond Purchase Agreement to be executed by it and the consummation by it of all other transactions contemplated by the Official Statement and this Bond Purchase Agreement;

(c) The City represents to the Underwriters that the Preliminary Official Statement has been “deemed final” by the City as of its date within the meaning of paragraph (b)(1) of Rule 15c2-12, except for the omission of some or all of such information the omission of which is permitted under Rule 15c2-12. The Preliminary Official Statement as of its date and as of the date hereof does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(d) The Legal Documents to which the City is a party and this Bond Purchase Agreement, when duly executed and delivered by the parties thereto, will constitute valid and binding obligations of the City, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws affecting the enforcement of creditors’ rights in general and to the application of equitable principles, whether or not equitable remedies are sought, and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State, including the City and the Authority;

(e) As of the date thereof, except for statements regarding DTC, as to which the City does not make any representation or warranty, the Preliminary Official Statement and the Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(f) The execution and delivery of the Legal Documents to be executed by the City, this Bond Purchase Agreement and the Official Statement, and compliance with the provisions on the City’s part contained herein and therein, will not in any material respect conflict with or constitute a breach of or default under any law, administrative regulation, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, which breach or default would have a materially adverse effect on the transactions contemplated hereby or by the Official Statement or on the City’s liabilities and obligations under the Legal Documents to which it is a party or any judgment or decree to which the City is a party or is

otherwise subject (and of which the Director of Finance has knowledge), nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon the Project under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, which lien, charge or other security interest or encumbrance would have a materially adverse effect on the transactions contemplated hereby or by the Official Statement or on the City's liabilities and obligations under the Legal Documents to which it is a party, except as provided in the Legal Documents and disclosed in the Preliminary Official Statement and the Official Statement;

(g) Except as is otherwise disclosed in the Preliminary Official Statement and the Official Statement, the City is not in any material respect in breach of, or in default under, any applicable law or administrative regulation of the State of California or the United States of America or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject or any judgment or decree to which the City is a party or is otherwise subject (and of which the Director of Finance has knowledge) that would have a materially adverse effect on the transactions contemplated hereby or by the Preliminary Official Statement and the Official Statement or on the City's liabilities and obligations under the Legal Documents to which it is a party or any judgment or decree to which the City is a party or is otherwise subject (and of which the Director of Finance has knowledge), and no event has occurred and is continuing that, with the passage of time or the giving of notice or both, would constitute a default or an event of default under any such instrument that would have a materially adverse effect on the transactions contemplated hereby or by the Preliminary Official Statement and the Official Statement or on the City's liabilities and obligations under the Legal Documents to which it is a party;

(h) Except as otherwise disclosed in the Preliminary Official Statement and the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, that has been served on the City and that is now pending or, to the actual knowledge of the official executing this Bond Purchase Agreement on the City's behalf (after consultation with the Office of the City Attorney), threatened in writing against the City in any material respect affecting the Project, the existence of the City or the titles of its officers to their respective offices or the finances or operations of the City, or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the 2020B Bonds or the payment of Lease Payments or Additional Payments, or contesting or affecting the validity or enforceability of the Legal Documents to which the City is a party or this Bond Purchase Agreement or contesting the powers of the City or its authority to enter into, adopt or perform its obligations under any of the foregoing, or contesting the completeness or accuracy of the Preliminary Official Statement and the Official Statement, or any amendment or supplement thereto, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of, or the City's ability to perform its obligations under, the Legal Documents to which it is a party or this Bond Purchase Agreement;

(i) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters as the Underwriters may reasonably request in order (i) to qualify the 2020B Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriters may

designate and (ii) to determine the eligibility of the 2020B Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualification in effect so long as required for distribution of the 2020B Bonds (at the sole expense of the Underwriters); provided, however, that in no event shall the City be required to take any action that would subject it to general or unlimited service of process in any jurisdiction in which it is not now so subject; and provided, further, that notwithstanding the foregoing, nothing in this Bond Purchase Agreement shall impose any past or future requirement upon the City, or constitute a representation or warranty by the City, with respect to compliance with any Blue Sky laws;

(j) The financial statements of the City attached as Appendix C to the Preliminary Official Statement and the Official Statement fairly represent the financial condition of the City as of the dates and for the periods therein set forth. Except as disclosed in the Preliminary Official Statement and the Official Statement or otherwise disclosed in writing to the Representative, there has not been any materially adverse change in the financial condition of the City or in its operations since the date of such financial statements;

(k) If between the date hereof and the date that is 25 days after the End of the Underwriting Period for the 2020B Bonds, an event occurs that would cause the information contained in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact necessary to make such information therein, in the light of the circumstances under which it was presented, not misleading, the City will notify the Representative, and, if in the opinion of the City, the Representative or their respective counsel, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will forthwith prepare and furnish to the Underwriters (at the expense of the City) a reasonable number of copies of an amendment or supplement to the Official Statement (in form and substance satisfactory to counsel for the City and counsel for the Underwriters) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. For the purposes of this subsection, between the date hereof and the date that is 25 days after the End of the Underwriting Period for the 2020B Bonds, the City will furnish such information with respect to itself as the Representative may from time to time reasonably request;

(l) If the information contained in the Official Statement is amended or supplemented pursuant to paragraph (k) hereof, at the time of each supplement or amendment thereto, the City will represent and warrant that the portions of the Official Statement so supplemented or amended (including any financial and statistical data contained therein), except for statements regarding but excluding any information therein concerning DTC and the book-entry system for the 2020B Bonds and under the heading "UNDERWRITING", as to which the City does not make any representation or warranty, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(m) The City will undertake, pursuant to the Continuing Disclosure Certificate, to provide certain annual financial information and notices of the occurrence of certain events. A description of this undertaking is set forth in, and a form of such agreement is attached as an appendix to, the Preliminary Official Statement and the Official Statement. In the last five (5)

years, the City has not failed to comply in any material respect with any previous undertakings to provide annual financial information and notices of certain events pursuant to Rule 15c2-12 except as disclosed in the Preliminary Official Statement and the Official Statement.

4. Conditions to the Obligations of the Underwriters. The Representative hereby enters into this Bond Purchase Agreement in reliance upon the representations and warranties of the City and the Authority contained herein and the representations and warranties to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Authority and the City of their obligations both on and as of the date hereof and as of the Closing Date. Accordingly, the Underwriters' obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the 2020B Bonds shall be subject to the accuracy of the representations and warranties of the Authority and the City contained herein as of the date hereof and as of the Closing Date, to the accuracy in all material respects of the statements of the officers and other officials of the Authority and the City made in any certificate or other document furnished pursuant to the provisions hereof, to the performance by the Authority and the City of their respective obligations to be performed hereunder and under the Legal Documents at or prior to the Closing Date, and also shall be subject to the following additional conditions:

(a) The Authority shall deliver, or cause to be delivered, the 2020B Bonds to the Representative, as provided in this Bond Purchase Agreement.

(b) At the Closing, the Legal Documents shall have been duly authorized, executed and delivered by the respective parties thereto, and the Official Statement shall have been duly authorized, executed and delivered by the Authority and by the City, all in substantially the forms submitted to the Representative, with only such changes as shall have been agreed to in writing by the Representative, and shall be in full force and effect; and there shall be in full force and effect such resolution or resolutions of the City Council of the City and of the Governing Board of the Authority as, in the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California ("Bond Counsel"), shall be necessary or appropriate in connection with the transactions contemplated hereby;

(c) Between the date hereof and the Closing Date, the market price or marketability of the 2020B Bonds, at the initial offering prices set forth in the Official Statement, or the Underwriters' ability to process and settle transactions, shall not have been materially adversely affected, in the reasonable judgment of the Representative (evidenced by a written notice from the Representative to the Authority and the City terminating the obligation of the Underwriters to accept delivery of and make any payment for the 2020B Bonds), by reason of any of the following:

(1) an amendment to the Constitution of the State of California shall have been passed or legislation shall have been introduced in or enacted by the State of California or a decision shall have been rendered by a court of the State of California, or a ruling shall have been made or a regulation or temporary regulation shall have been proposed or made or any other release or announcement shall have been made by State of California authority, with respect to State of California taxation upon revenues or other income of the general character to be derived by the Authority and City or upon interest received on obligations of the general character of the 2020B Bonds which, in the judgment of the Representative, may have the purpose or effect, directly or, indirectly, of affecting the tax status of the Authority or the City, its property or income, its

securities (including the 2020B Bonds) or the interest thereon, or any tax exemption granted or authorized by State of California legislation;

(2) the declaration of war or engagement in or escalation of major military hostilities by the United States or the occurrences or escalation of any other national or international emergency, calamity, or crisis affecting the operation of the government of or the financial community or credit markets in the United States;

(3) the declaration of a general banking moratorium by federal, New York or California authorities, the general suspension of trading on any national securities exchange, or a major financial crisis or a material disruption in commercial banking in securities settlement or clearance services shall have occurred;

(4) the imposition by the New York Stock Exchange or other national securities exchange, or any governmental authority, of any material restrictions not now in force with respect to the 2020B Bonds or obligations of the general character of the 2020B Bonds or securities generally, or the material increase of any such restrictions now in force, including those relating to the extension of credit by, or the charge to the net capital requirements of underwriters or broker-dealers;

(5) legislation enacted (or resolution passed) by or introduced or pending legislation amended in the Congress or recommended for passage by the President of the United States, or an order, decree or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary or proposed) or press release issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the 2020B Bonds, or the 2020B Bonds, including any or all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended, or that the execution, offering or sale of obligations of the general character of the 2020B Bonds, or of the 2020B Bonds, including any or all underlying arrangements, as contemplated hereby or by the Official Statement, otherwise is or would be in violation of the federal securities laws as amended and then in effect;

(6) the withdrawal or downgrading of any rating assigned to the 2020B Bonds by S&P Global Ratings (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”) or Fitch Ratings (“Fitch”);

(7) there is a withdrawal, downgrading or placement on credit watch with negative outlook by any major credit rating agency of any rating on any of the City’s obligations substantially similar to the 2020B Bonds;

(8) any event or circumstance shall exist that either makes untrue or incorrect in any material respect any statement or information in the Official Statement (other than any statement provided by the Underwriters) or is not reflected in the Official Statement but should be reflected therein in order to make the statements therein, in the light of the circumstances under which they were made, not misleading and, in either such event, the Authority or the City refuses to permit the Official Statement to be supplemented to supply such statement or information, or

the effect of the Official Statement as so supplemented is to materially adversely affect the market price or marketability of the 2020B Bonds or the ability of the Underwriters to enforce contracts for the sale of the 2020B Bonds;

(9) any change in, or particularly affecting, the Authority or the City, the Law, the Legal Documents or the Revenues, as the foregoing matters are described in the Official Statement, which in the reasonable judgment of the Representative materially impairs the investment quality of the 2020B Bonds.

(d) At or prior to the Closing Date, the Representative shall have received the following instruments and documents, in each case satisfactory in form and substance to the Representative and its counsel:

(1) Copies of the Legal Documents (excluding the 2020B Bonds) each duly executed and delivered by the respective parties thereto;

(2) The approving opinion of Bond Counsel, dated the Closing Date and addressed to the Authority, in substantially the form attached to the Official Statement as Appendix E, and a letter of Bond Counsel, dated the Closing Date and addressed to the Representative to the effect that such opinion may be relied upon by the Representative to the same extent as if such opinion were addressed to the Representative;

(3) The supplemental opinion of Bond Counsel, dated the Closing Date and addressed to the Representative, in a form acceptable to the Representative, substantially to the effect that (i) this Bond Purchase Agreement has been duly authorized, executed and delivered by the City and the Authority, respectively, and (assuming due authorization, execution and delivery by and validity with respect to the Representative) constitutes a valid, legal and binding obligation of the City and the Authority, respectively, subject to laws relating to bankruptcy or other laws affecting creditors rights, to the application of equitable principles whether or not equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public bodies in the State of California; (ii) the 2020B Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended; and (iii) the statements contained in the Preliminary Official Statement and the Official Statement under the captions “INTRODUCTION,” “THE BONDS,” “SECURITY FOR THE BONDS,” “TAX MATTERS,” and in Appendix D– “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS” and Appendix E – “PROPOSED FORM OF OPINION OF BOND COUNSEL,” excluding any material that may be treated as included under such captions by cross-reference, insofar as such statements expressly summarize certain provisions of the Legal Documents and the form and content of Bond Counsel’s opinion relating to the 2020B Bonds, are accurate in all material respects;

(4) A letter of Jones Hall, A Professional Law Corporation, San Francisco, California, as disclosure counsel, dated the Closing Date and addressed to the Authority, the City and the Representative, to the effect that: they are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Preliminary Official Statement or the Official Statement, and make no representation that they

have independently verified the accuracy, completeness or fairness of any such statements. However, in connection with the preparation of the Preliminary Official Statement and the Official Statement, they have reviewed certain documents and have participated in conferences in which the contents of the Preliminary Official Statement and the Official Statement and related matters were discussed. During the course of their work on this matter, no facts have come to our attention that have caused us to believe that the Preliminary Official Statement as of its date, or the Official Statement as of its date or as of the date hereof (except for the following items, which we expressly exclude from the scope of this sentence: any financial and statistical data, forecasts, numbers, estimates, assumptions, expressions of opinion and information concerning DTC and the book-entry system for the 2020B Bonds, that is contained or incorporated by reference in the Preliminary Official Statement or the Official Statement and the appendices to the Preliminary Official Statement or the Official Statement) contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.;

(5) The opinion of the City Attorney, as counsel for the Authority, dated the Closing Date and addressed to the Representative, to the effect that:

- (i) the Authority is a joint powers authority duly organized and operating pursuant to the laws of the State of California;
- (ii) the resolution or resolutions of the Authority (the “Authority Resolutions”) approving and authorizing the execution and delivery by the Authority of the Legal Documents to which it is a party, the Bond Purchase Agreement, the Preliminary Official Statement and the Official Statement were duly adopted at meetings of the Board of the Authority that were called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout;
- (iii) based on a review of the roster of litigation and claims maintained by the Office of the City Attorney, there is no action, suit, proceeding or investigation (other than as disclosed in the Preliminary Official Statement and the Official Statement) at law or in equity before or by any court, public board or body, that has been served on the Authority and that is now pending or, threatened in writing against or affecting the existence or powers of the Authority, or contesting or affecting the validity of the 2020B Bonds or the enforceability of the other Legal Documents or the Bond Purchase Agreement;
- (iv) the execution and delivery of the Legal Documents, the Bond Purchase Agreement and the Official Statement, the adoption of the Authority Resolutions, and compliance by the Authority with the provisions of the foregoing to which it is a party, under the circumstances contemplated thereby, do not and will not conflict with or constitute on the part of the Authority a breach or default

under (a) any agreement or other instrument to which the Authority is a party (and of which such counsel is aware after reasonable investigation) or by which it is bound (and of which such counsel is aware after reasonable investigation), which conflict, breach or default would have a materially adverse effect on the transactions contemplated hereby and by the Official Statement or on the Authority's liabilities and obligations under the Legal Documents to which it is a party, (b) any existing law or regulation to which the Authority is subject, which conflict, breach or default would have a materially adverse effect on the transactions contemplated hereby and by the Official Statement or on the Authority's liabilities and obligations under the Legal Documents to which it is a party, or (c) any court order or consent decree to which the Authority is subject (and of which such counsel is aware after reasonable investigation), which conflict, breach or default would have a materially adverse effect on the transactions contemplated hereby and by the Preliminary Official Statement and the Official Statement or on the Authority's liabilities and obligations under the Legal Documents to which it is a party;

- (v) the Official Statement has been duly authorized, executed and delivered by the Authority, and the Legal Documents and the Bond Purchase Agreement have been duly authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery by the other parties thereto, constitute legal, valid and binding agreements of the Authority enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws affecting the enforcement of creditors' rights in general and to the application of equitable principles, whether or not equitable remedies are sought, and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State, including the City and the Authority;
- (vi) except as described in the Preliminary Official Statement and the Official Statement, no authorization, approval, consent, or other order of the State of California or any other governmental authority or agency within the State of California having jurisdiction over the Authority is required for the valid authorization, execution, delivery and performance by the Authority of the Legal Documents to which it is a party, the Official Statement or the Bond Purchase Agreement or for the adoption of the Authority Resolutions that has not been obtained; and
- (vii) solely as a statement of factual matters and not as an opinion of legal matters, as of its date and as of the Closing Date, the information

contained in the Preliminary Official Statement and the Official Statement under the captions “INTRODUCTION – The Authority,” “THE AUTHORITY,” and “LITIGATION” does not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(6) The opinion of the City Attorney, as counsel for the City, dated the Closing Date and addressed to the Representative, to the effect that:

- (i) the City is a charter city duly organized and existing under its charter and the laws of the State of California;
- (ii) the resolution or resolutions of the City approving and authorizing the execution and delivery by the City of the Legal Documents to which the City is a party, the 2020B Bonds, the Bond Purchase Agreement, the Preliminary Official Statement and the Official Statement (the “City Resolutions”) were duly adopted at meetings of the City Council of the City that were called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout;
- (iii) except as otherwise disclosed in the Preliminary Official Statement and the Official Statement, based on a review of the roster of litigation and claims maintained by the Office of the City Attorney there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, that has been served on the City and that is now pending or, threatened in writing against the City, to restrain or enjoin the Project, the payment of the Lease Payments or Additional Payments under the Lease, or contesting or affecting the enforceability of the Legal Documents to which the City is a party or the Bond Purchase Agreement;
- (iv) the execution and delivery of the Legal Documents to which the City is a party, the Bond Purchase Agreement and the Official Statement, the adoption of the City Resolutions, and compliance by the City with the provisions of the foregoing, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the City a breach or default under (a) any agreement or other instrument to which the City is a party (and of which such counsel is aware after reasonable investigation) or by which it is bound (and of which such counsel is aware after reasonable investigation), which conflict, breach or default would have a materially adverse effect on the transactions contemplated hereby and by the Preliminary Official Statement and the Official Statement or on the City’s liabilities and obligations under the Legal Documents to which it is a party, (b) any existing

law or regulation to which the City is subject, which conflict, breach or default would have a materially adverse effect on the transactions contemplated hereby and by the Preliminary Official Statement and the Official Statement or on the City's liabilities and obligations under the Legal Documents to which it is a party, or (c) any court order or consent decree to which the City is subject (and of which such counsel is aware after reasonable investigation), which conflict, breach or default would have a materially adverse effect on the transactions contemplated hereby and by the Preliminary Official Statement and the Official Statement or on the City's liabilities and obligations under the Legal Documents to which it is a party;

- (v) the Official Statement has been duly authorized, executed and delivered by the City, and the Legal Documents to which the City is a party and the Bond Purchase Agreement have been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the other parties thereto, constitute legal, valid and binding agreements of the City enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws affecting the enforcement of creditors' rights in general and to the application of equitable principles, whether or not equitable remedies are sought, and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State, including the City and the Authority;
- (vi) except as described in the Preliminary Official Statement and the Official Statement, no authorization, approval, consent, or other order of the State of California or any other governmental authority or agency within the State of California having jurisdiction over the City is required for the valid authorization, execution, delivery and performance by the City of the Legal Documents to which the City is a party or the Bond Purchase Agreement or the adoption of the City Resolutions or for the authorization, execution and delivery of the Official Statement, that has not been obtained; and
- (vii) solely as a statement of factual matters and not as an opinion of legal matters, as of its date and as of the Closing Date, the information contained in the Preliminary Official Statement and the Official Statement under the caption "LITIGATION" does not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(7) The opinion of Counsel to the Trustee, dated the Closing Date and addressed to the Underwriter, the Authority and the City, to the effect that (i) the Trustee has been duly incorporated as a national banking association under the laws of the United States and is in good standing under the laws of the State of California, duly qualified to do business and to exercise trust powers therein, having full power and authority to enter into and to perform its duties as Trustee under the Indenture; (ii) the Trustee has duly authorized, executed and delivered the Indenture; (iii) the Indenture constitutes a legally valid and binding agreement of the Trustee, enforceable against the Trustee in accordance with its terms; (iv) the 2020B Bonds have been validly authenticated and delivered by the Trustee; (v) no authorization, approval, consent, or other order of the State of California or any other governmental authority or agency within the State of California having jurisdiction over the Trustee is required for the valid authorization, execution, delivery and performance by the Trustee of the Indenture; and (vi) the execution and delivery of the Indenture and compliance by the Trustee with the respective provisions of the foregoing, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the Trustee a breach or default under any agreement or other instrument to which the Trustee is a party (and of which such counsel is aware after reasonable investigation) or by which it is bound (and of which such counsel is aware after reasonable investigation) or any existing law, regulation, court order or consent decree to which the Trustee is subject.

(8) The opinion of Nixon Peabody LLP, counsel for the Underwriters (“Underwriters’ Counsel”), dated the Closing Date and addressed to the Representative, to the effect that (a) the 2020B Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended; (b) without passing upon or assuming responsibility for the accuracy, completeness or fairness of the statements contained in the Preliminary Official Statement and the Official Statement and making no representation that Underwriters’ Counsel has independently verified the accuracy, completeness or fairness of any such statements, based upon the information made available to Underwriters’ Counsel in the course of its participation in the preparation of the Preliminary Official Statement and the Official Statement as Underwriters’ Counsel, nothing has come to its attention that would lead it to believe that the Official Statement as of its date or as of the Closing Date (excluding therefrom the information under the caption entitled “MUNICIPAL ADVISOR,” “PROFESSIONAL SERVICES,” “VERIFICATION OF MATHEMATICAL ACCURACY” and Appendices B, C, D, E and G and any and all summaries of any of the foregoing or references thereto, or any other financial, statistical, or valuation data included in the Preliminary Official Statement and the Official Statement, as to which no opinion need be expressed) contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and (c) the provisions of the Continuing Disclosure Certificate comply with the requirements of Rule 15c2-12(b)(5);

(9) A certificate or certificates, dated the Closing Date, signed by a duly authorized official of the Authority satisfactory to the Representative, in form and substance satisfactory to the Representative, to the effect that (a) to the actual knowledge of such official after reasonable investigation the representations and warranties of the Authority contained in the Bond Purchase Agreement are true and correct when made and true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date; (b) except as otherwise disclosed in the Preliminary Official Statement and the Official Statement,

there is no litigation that has been served on the Authority and that is now pending or, to the actual knowledge of such official (after consultation with the Office of the City Attorney), threatened in writing (i) to restrain or enjoin the Project, the execution, sale or delivery of any of the 2020B Bonds or the Lease Payments under the Lease, (ii) in any way contesting or affecting the validity of the 2020B Bonds, the Bond Purchase Agreement, or the Legal Documents, or (iii) in any way contesting the existence or powers of the Authority; and (c) no event has occurred since the date of the Official Statement that either makes untrue or incorrect in any material respect as of the Closing Date any statement or information contained in the Official Statement or is not reflected in the Official Statement but should be reflected therein in order to make the statements and information therein not misleading;

(10) A certificate or certificates, dated the Closing Date, signed by a duly authorized official of the City satisfactory to the Representative, in form and substance satisfactory to the Representative, to the effect that, , (a) to the actual knowledge of such official after reasonable investigation the representations and warranties of the City contained in the Bond Purchase Agreement are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date; (b) except as otherwise disclosed in the Preliminary Official Statement and the Official Statement, there is no litigation that has been served on the City and that is now pending or, to the actual knowledge of such official (after consultation with the Office of the City Attorney), threatened in writing (i) to restrain or enjoin the Project, the execution, sale or delivery of any of the 2020B Bonds or the Lease Payments or Additional Payments under the Lease, (ii) in any way contesting or affecting the validity of the 2020B Bonds, the Bond Purchase Agreement or the Legal Documents to which the City is a party, or (iii) in any way contesting the existence or powers of the City; (c) the information set forth in the Preliminary Official Statement and the Official Statement under the headings “THE LEASED PROPERTY” and “FINANCING PLAN” and in Appendix A – “THE CITY OF SAN JOSE: DEMOGRAPHIC, ECONOMIC AND FINANCIAL INFORMATION” is true and correct in all material respects, (d) the information set forth in, Appendix C – “BASIC FINANCIAL STATEMENTS OF THE CITY OF SAN JOSE FOR THE FISCAL YEAR ENDED JUNE 30, 2019” to the Preliminary Official Statement and the Official Statement is true and correct as of June 30, 2019 in all material respects; and (e) no event affecting the City has occurred since the date of the Official Statement that either makes untrue or incorrect in any material respect as of the Closing Date any statement or information contained in the Official Statement relating to the City, the Leased Property or the Project or is not reflected in the Official Statement but should be reflected therein in order to make the statements and information therein relating to the City, the Leased Property or the Project not misleading;

(11) A certificate, dated the date of Closing, signed by a duly authorized officer of the Trustee, satisfactory in form and substance to the Representative, to the effect that:

- (i) the Trustee is a national banking association organized and existing under and by virtue of the laws of the United States, having the full power and being qualified to accept the trusts, and enter into and perform its duties, under the Indenture and to execute and deliver the 2020B Bonds to the Representative and the Indenture constitutes the legal, valid and binding obligation of the Trustee, enforceable in accordance with the terms;

- (ii) the Trustee is duly authorized to enter into the Indenture and to execute and deliver the 2020B Bonds to the Representative pursuant to the Indenture;
- (iii) the execution and delivery of the Indenture and compliance with the provisions on the Trustee's part contained therein, will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Trustee is a party or is otherwise subject (except that no representation, warranty or agreement is made with respect to any federal or state securities or blue sky laws or regulations), nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets held by the Trustee pursuant to the lien created by the Indenture under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided by the Indenture; and
- (iv) to the best of the knowledge of the Trustee, it has not been served with any action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, nor is any such action or other proceeding threatened against the Trustee, affecting the existence of the Trustee, or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the execution and delivery of the 2020B Bonds or the collection of revenues to be applied to pay the principal, premium, if any, and interest with respect to the 2020B Bonds, or the pledge thereof, or in any way contesting or affecting the validity or enforceability of the Legal Documents, or contesting the powers of the Trustee or its authority to enter into, adopt or perform its obligations under any of the foregoing to which it is a party, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Legal Documents;

(12) Two copies of the Official Statement, executed on behalf of the Authority and the City by authorized representatives;

(13) A certified copy of the general resolution of the Trustee authorizing the execution and delivery of the Legal Documents to which the Trustee is a party;

(14) Certified copies of the Authority Resolutions;

(15) Certified copies of the City Resolutions;

(16) Written evidence that the ratings on the 2020B Bonds of “___” by Moody’s, “___” by S&P and “___” by Fitch, are in full force and effect on the Closing Date;

(17) A certificate, dated the Closing Date, signed by a duly authorized officer of Public Resources Advisory Group, municipal advisor to the City and to the Authority in connection with the 2020B Bonds, the Preliminary Official Statement and the Official Statement in form and substance satisfactory to the City, the Authority, the Representative and their respective counsel to the effect that the information set forth in the Preliminary Official Statement and the Official Statement under the caption “MUNICIPAL ADVISOR” does not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(18) A CLTA title insurance policy in the amount not less than the aggregate principal amount of the 2020B Bonds, insuring the City’s title, the Authority’s leasehold estate and the City’s sub-leasehold estate in the Project, subject only to Permitted Encumbrances;

(19) Evidence of insurance as required by the Lease;

(20) a Verification Report of _____ certified public accountants (the “Verification Agent”).

and

(21) Such additional legal opinions, certificates, proceedings, instruments, insurance policies or evidences thereof and other documents as the Representative or Bond Counsel may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the representations of the City and the Authority herein and of the statements and information contained in the Preliminary Official Statement and the Official Statement, and the due performance or satisfaction by the Trustee, the City and the Authority at or prior to the Closing of all agreements then to be performed and all conditions then to be satisfied by any of them in connection with the transactions contemplated hereby, by the Preliminary Official Statement and the Official Statement and by the Legal Documents.

(e) No order, decree, injunction, ruling or regulation of any court, regulatory agency, public board or body shall have been issued, nor shall any legislation have been enacted, with the purpose or effect, directly or indirectly, of prohibiting the Project or the offering, sale or issuance of the 2020B Bonds as contemplated hereby or by the Preliminary Official Statement and the Official Statement.

(f) If the Authority, the City or the Trustee shall be unable to satisfy the conditions to the Underwriters’ obligations contained in this Bond Purchase Agreement or if the Underwriters’ obligations shall be terminated for any reason permitted herein, all obligations of the Underwriters hereunder may be terminated by the Representative at, or at any time prior to, the Closing Date by written notice to the Trustee, the Authority and the City and neither the Underwriters nor the City or the Authority shall have any further obligations hereunder.

5. Expenses. All expenses and costs incident to the authorization, execution, delivery and sale of the 2020B Bonds to the Underwriters, including the costs of printing of the 2020B

Bonds, the Preliminary Official Statement, the Official Statement, the cost of duplicating the Legal Documents, the fees of accountants, consultants and rating agencies, costs incurred by the Representative in relation to communications with the rating agencies, the initial fee of the Trustee and its counsel in connection with the issuance of the 2020B Bonds, the fees and expenses of the Municipal Advisor, and the fees and expenses of Bond Counsel and Disclosure Counsel shall be paid from the proceeds of the 2020B Bonds.

The Underwriters shall be responsible for and pay fees and expenses related to obtaining CUSIP numbers for the 2020B Bonds, the California Debt and Investment Advisory Commission, qualifying the 2020B Bonds for sale under any “blue sky” laws, and other expenses incurred by the Underwriters in connection with the public offering and distribution of the 2020B Bonds not specifically enumerated in the immediately preceding paragraph, including the fees and disbursements of Underwriters’ Counsel. Certain payments may be in the form of inclusion of such expenses in the expense component of the Underwriters’ discount.

6. Notices. Any notice or other communication to be given to the parties to this Bond Purchase Agreement may be given by delivering the same in writing to the respective party at the following address:

Representative: BOFA Securities, Inc.
333 South Hope Street, Suite 3820
Los Angeles, CA 90071
Attention: Jeffrey Bower, Managing Director

City: City of San José, California
200 East Santa Clara Street, 13th Floor
San José, California 95113
Attention: Director of Finance

Authority: City of San José Financing Authority
200 East Santa Clara Street, 13th Floor
San José, California 95113
Attention: Treasurer

7. Survival of Representations and Warranties. The parties acknowledge and agree that except as otherwise provided under Sections 2(j) and 3(k) hereof, (a) neither the Authority nor the City shall have any obligation to update or reconfirm their respective representations and warranties in this Bond Purchase Agreement after the Closing Date, and (b), neither the Authority nor the City shall have any liability to the Underwriters by virtue of any event occurring after the Closing which makes any representation or warranty made by the Authority or the City herein untrue or incomplete, provided the official making such representation had no prior knowledge of such event at Closing.

8. Counterparts. This Bond Purchase Agreement may be executed in any number of counterparts and by delivering by electronic mail a scanned copy of a party’s signature, and each of such counterparts shall for all purposes be deemed to be an original.

[Remainder of Page Intentionally Left Blank]

9. Effectiveness. This Bond Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by duly authorized officers of the City and the Authority and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

BOFA Securities, Inc., as Representative of itself, Jefferies LLC, J.P. Morgan Securities LLC and U.S. Bancorp Investments, Inc.

Authorized Representative

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
Chief Deputy City Attorney

ACCEPTED:
CITY OF SAN JOSE FINANCING
AUTHORITY

By: _____
Treasurer

ACCEPTED:
CITY OF SAN JOSE

By: _____
Director of Finance

Optional Redemption with Make Whole Premium. The 2020B Bonds maturing on or before June 1, 20__, may be redeemed in whole or in part at the election of the Authority among maturities on such basis as designated by the Authority and by lot within a maturity, at the option of the Authority, on any date before June 1, 20__, from any moneys that may be provided for such purpose, at a redemption price for such Bonds to be redeemed determined by the Reference Treasury Dealer equal to the greater of (i) 100% of the principal amount of such Bonds to be redeemed, or (ii) an amount equal to the sum of the present values of the remaining scheduled payments of principal and interest on each of such Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2020B Bonds are to be redeemed, discounted to the date on which such Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the applicable Treasury Rate plus __ basis points, plus accrued and unpaid interest on the 2020B Bonds to be redeemed on the redemption date.

“Comparable Treasury Issue” means, with respect to any redemption date for a particular 2020B Bond, the U.S. Treasury security or securities selected by the Designated Investment Banker that has or have an actual maturity closest to (one equal to or one earlier and one later than) the remaining average life of the 2020B Bonds to be redeemed, and that would be utilized in accordance with customary financial practice in pricing new issues of debt securities of comparable maturity to the remaining average life of such 2020B Bonds to be redeemed.

“Comparable Treasury Price” means, with respect to any redemption date for a particular 2020B Bond, the average of five Reference Treasury Dealer Quotations for that redemption date, after excluding the highest and lowest such Reference Treasury Dealer Quotations, or if the Designated Investment Banker obtains fewer than five Reference Treasury Dealer Quotations, the average of all such quotations.

“Reference Treasury Dealer” means each of five firms, specified by the Authority and the City from time to time, that are primary U.S. Treasury securities dealers in the City of New York (each, a “Primary Treasury Dealer”); provided, however, that if any of them ceases to be a Primary Treasury Dealer, the Authority will substitute another Primary Treasury Dealer.

“Reference Treasury Dealer Quotations” means, with respect to each Reference Treasury Dealer and any redemption date for a particular 2020B Bond, the average, as determined by the Designated Investment Banker, of the bid and asked prices for the Comparable Treasury Issue or Comparable Treasury Issues, as applicable (expressed in each case as a percentage of its principal amount), quoted in writing to the Authority, the City and the Trustee by such Reference Treasury Dealer at 3:30 p.m. (New York City time) on the Valuation Date.

“Treasury Rate” means, with respect to any redemption date for particular 2020B Bonds, the rate per annum, expressed as a percentage of the principal amount, equal to the actual or interpolated rate based on (a) the most recent yield data for the applicable U.S. Treasury maturity index or indices, as applicable, from the Federal Reserve Statistical Release H.15 Daily Update (or any comparable or successor publication) reported, as of 11:00 a.m. New York City time, on the Valuation Date; or (b) if the yield described in (a) above is not reported

as of such date and time or the yield reported as of such date and time is not ascertainable, the semi-annual equivalent yield to maturity of the Comparable Treasury Issue or Comparable Treasury Issues, assuming that such Comparable Treasury Issue or Comparable Treasury Issues are purchased on the redemption date for a price equal to the applicable Comparable Treasury Price, as calculated by the Designated Investment Banker.

“U.S. Treasury” means any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged.

“Valuation Date” means a date, as determined by the Authority and the City, after consultation with the Designated Investment Banker, that is no earlier than 45 days prior to the redemption date.