

§ _____
CITY OF SAN JOSE
TAXABLE PENSION OBLIGATION BONDS, SERIES 202_

BOND PURCHASE AGREEMENT

_____, 202_

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

Ladies and Gentlemen:

The undersigned _____ (the “**Representative**”), on behalf of itself and on behalf of _____ (collectively, the “**Underwriter**”) offers to enter into this Bond Purchase Agreement (this “**Bond Purchase Agreement**”) with the City of San José, California (the “**City**”), which, upon the acceptance by the City, will be binding upon the City and the Underwriter. This offer is made subject to acceptance by the City by the execution of this Bond Purchase Agreement and delivery of the same to the Underwriter prior to 11:59 P.M., California time, on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the City at any time prior to the acceptance hereof by the City. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Trust Agreement (defined herein).

Section 1. Purchase and Sale. Upon the terms and conditions and based on the representations, warranties and agreements herein set forth, the Underwriter hereby agrees to purchase from the City, and the City hereby agrees to issue, sell and deliver to the Underwriter all (but not less than all) of the City of San José Taxable Pension Obligation Bonds, Series 202_ (the “**Bonds**”) in the aggregate principal amount of \$_____. The Bonds shall be dated as of their date of delivery. Interest on the Bonds shall be payable semiannually on [March] 1 and [September 1] in each year, commencing _____ 1, 20__ (each an “**Interest Payment Date**”) and will bear interest at the rates and on the dates as set forth in Exhibit A hereto.] The purchase price for the Bonds shall be \$_____ (which represents the principal amount of the Bonds in the amount of \$_____, [plus/less] [net] original issue [premium/discount] and less an Underwriter’s discount of \$_____).

The Underwriter agrees to make a bona fide public offering of the Bonds at the initial offering yields set forth in the Official Statement (defined herein); however, the Underwriter reserves the right to make concessions to dealers and to change such initial offering yields as the Underwriter shall deem necessary in connection with the marketing of the Bonds. The Underwriter agrees that, in connection with the public offering and initial delivery of the Bonds to the purchasers thereof from the Underwriter, the Underwriter will deliver or cause to be delivered to each purchaser a copy of the final Official Statement prepared in connection with the Bonds, for the time period required under Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (“**Rule 15c2-12**”). Terms defined in the Preliminary Official Statement, and to be set forth in the final Official Statement are used herein as so defined.

The City acknowledges and agrees that: (i) the purchase and sale of the Bonds pursuant to this Bond Purchase Agreement is an arm's-length commercial transaction between the City and the Underwriter; (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal and is not acting as a municipal advisor (as defined in section 15B of the Securities Exchange Act of 1934, as amended), financial advisor or fiduciary; (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the City with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the City on other matters); (iv) the only obligations the Underwriter has to the City with respect to the transaction contemplated hereby expressly are set forth in this Bond Purchase Agreement; and (v) the City has consulted its own financial and/or municipal, legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

Section 2. The Bonds. The Bonds are being issued pursuant to Articles 10 and 11 (commencing with section 53570) of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the "**Refunding Law**") and the Trust Agreement, dated as of _____ 1, 202_ (the "**Trust Agreement**"), between the City and _____, as trustee (together with any successor as trustee under the Trust Agreement, the "**Trustee**"). The Bonds shall be obligations of the City payable from any lawfully available funds, shall not be limited as to payment to any special source of funds of the City. The Bonds do not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The Bonds otherwise shall be as described in the Preliminary Official Statement and the Official Statement, the Refunding Law and the Legal Documents. The Underwriter's agreement to purchase the Bonds from the City is made in reliance upon the City's representations, covenants and warranties and on the terms and conditions set forth in this Bond Purchase Agreement.

The City has previously established its Police and Fire Department Retirement Plan (the "**Police and Fire Plan**") and Federated City Employees' Retirement System (the "**Federated Plan**") and, collectively with the Police and Fire Plan, the "**Retirement Plans**") which are continued, maintained and administered pursuant to Articles XV and XV-A of the City's Charter and the City's Municipal Code, including but not limited to Chapters 3.20 et seq. and 3.32 et seq. of Title 3 thereof, respectively (collectively, the "**Retirement Law**"), which obligates the City to (a) fund pension benefits for its employees who are members of the Retirement Plans, (b) amortize the unfunded actuarial liability with respect to such pension benefits, and (c) appropriate funds for the purposes described in (a) and (b).

The proceeds of the Bonds will be used to: (i) refund the City's unamortized, unfunded accrued liability (the "**Unfunded Liability**") with respect to certain pension benefits under the Retirement Law, (ii) to prepay all or a portion of the City's annual required retirement contribution including the cost for pension normal rate of contribution, COLA normal service, pension prior service contribution, and COLA prior service that are due and payable within 12 months of the issuance of the Bonds (the "**Current Obligation**"), and (iii) pay certain costs associated with the issuance and delivery of the Bonds.

Section 3. Public Offering. The Underwriter agrees to make an initial public offering of all the Bonds at the public offering prices (or yields) set forth on Exhibit A attached hereto and incorporated herein by reference. After the initial public offering, the Underwriter reserves the right

to change the public offering prices (or yields) as it deems necessary in connection with the marketing of the Bonds, provided that the Underwriter shall not change the interest rates set forth on Exhibit A. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices.

Section 4. The Official Statement. By its acceptance of this Bond Purchase Agreement, the City ratifies, confirms and approves of the use and distribution by the Underwriter prior to the date hereof of the Preliminary Official Statement relating to the Bonds, dated _____, 202_ (including the cover page, all appendices and all information incorporated therein and any supplements or amendments thereto and as disseminated in its printed physical form or in electronic form in all respects materially consistent with such physical form, the “**Preliminary Official Statement**”) that the City has deemed “final” as of its date, for purposes of Rule 15c2-12 except for certain omissions permitted to be omitted therefrom by Rule 15c2-12. The City hereby agrees to deliver or cause to be delivered to the Underwriter, within seven (7) business days of the date hereof, copies of the final official statement, dated the date hereof, relating to the Bonds (including all information previously permitted to have been omitted by Rule 15c2-12, the cover page, all appendices, all information incorporated therein and any amendments or supplements as have been approved by the City and the Underwriter (the “**Official Statement**”)) in such quantity as the Underwriter shall reasonably request to comply with Rule 15c2-12(b)(4) and the rules of the Municipal Securities Rulemaking Board (the “**MSRB**”). To the extent required by applicable MSRB Rules, the City hereby confirms that it does not object to distribution of the Official Statement in electronic form.

Section 5. Closing. At 8:00 a.m., California time, on _____, 202_, or at such other time or date as the City and the Underwriter mutually agreed upon, the City shall deliver or cause to be delivered to the Trustee, and the Trustee shall deliver or cause to be delivered through the facilities of The Depository Trust Company, New York, New York (“**DTC**”), the Bonds in definitive form, duly executed and authenticated. Concurrently with the delivery of the Bonds, the City shall deliver the documents hereinafter mentioned at the offices of _____ (“**Bond Counsel**”) or another place to be mutually agreed upon by the City and the Underwriter. The Underwriter will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 hereof by wire transfer in immediately available funds. This payment for and delivery of the Bonds, together with the delivery of the aforementioned documents referenced herein, is called the “**Closing**.”

The Bonds shall be registered in the name of Cede & Co., as nominee of DTC in denominations of \$5,000 and any integral multiple thereof as provided in the Trust Agreement, and shall be made available to the Underwriter at least one (1) business day before the Closing for purposes of inspection and packaging. The City acknowledges that the services of DTC will be used initially by the Underwriter to permit the issuance of the Bonds in book-entry form, and agrees to cooperate fully with the Underwriter in employing such services.

Section 6. Representations, Warranties and Covenants of the City. The City represents, warrants and covenants to the Underwriter 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 (the “**State**”) with the full power and authority to execute and deliver the Official Statement, and to enter into the Trust Agreement, the Continuing

Disclosure Certificate relating to the Bonds (the “**Continuing Disclosure Certificate**”) and this Bond Purchase Agreement (collectively, 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, and the Official Statement 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 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, 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.

(e) As of the date thereof, the Preliminary Official Statement and the Official Statement (excluding any information therein concerning DTC and the book-entry system for the Bonds and under the heading “UNDERWRITING”, as to which the City does not make any representation or warranty) 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 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 actual 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 actual knowledge after consultation with the Office of the City Attorney) 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 actual knowledge after consultation with the Office of the City Attorney), 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 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 Bonds or the payment of principal or redemption price of and interest on the Bonds when due, or contesting or affecting the validity or enforceability of the Legal Documents to which the City is a party 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.

(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 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 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 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 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 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 of 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 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 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.

(n) The City will promptly apply the proceeds of the Bonds to refund the Unfunded Liability, to pay the Current Obligation as of the date of issuance of the Bonds and to pay costs associated with the issuance and delivery of the Bonds.

(o) The default judgment dated _____, 202_ entered in favor of the City in connection with *City of San José v. All Persons Interested, etc.* was duly entered, the appeal period has run without any appeal having been filed, and the default judgment is in full force and effect.

Section 7. Conditions to the Obligations of the Underwriter. The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations and warranties of the

City contained herein. The obligations of the Underwriter to accept delivery of and pay for the Bonds on the date of the Closing shall be subject, at the option of the Underwriter, to the accuracy in all respects of the statements of the officers and other officials of the City, as well as authorized representatives of the City Attorney, Bond Counsel, Disclosure Counsel and the Trustee made in any certificates or other documents furnished pursuant to the provisions hereof, to the performance by the City of its obligations to be performed hereunder at or prior to the date of the Closing, and to the following additional conditions:

(a) The representations, warranties and covenants of the City contained herein shall be true, complete and correct at the date hereof and at the time of the Closing, as if made on the date of the Closing;

(b) At the time of Closing, the Legal Documents shall be in full force and effect as valid and binding agreements between or among the various parties thereto, and the Legal Documents and the Preliminary Official Statement and the Official Statement shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriter, and all such reasonable actions as, in the opinion of Bond Counsel, shall reasonably deem necessary in connection with the transactions contemplated hereby;

(c) At the time of the Closing, no default shall have occurred or be existing under the Legal Documents, or any other agreement or document pursuant to which any of the City's financial obligations were executed and delivered, and the City shall not be in default in the payment of principal or interest with respect to any of its financial obligations, which default would result in any material adverse change to the financial condition of the City or adversely impact its ability to make payment of principal or redemption price of and interest on the Bonds when due;

(d) In recognition of the desire of the City and the Underwriter to effect a successful public offering of the Bonds, and in view of the potential adverse impact of any of the following events on such a public offering, this Bond Purchase Agreement shall be subject to termination in the absolute discretion of the Underwriter by notification, in writing, to the City prior to delivery of and payment for the Bonds, if at any time prior to such time, regardless of whether any of the following statements of fact were in existence or known of on the date of this Bond Purchase Agreement:

(i) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of America of a national emergency or war or other calamity or crisis the effect of which on financial markets is materially adverse such as to make it, in the sole judgment of the Underwriter, impractical to proceed with the purchase or delivery of the Bonds as contemplated by the Official Statement (exclusive of any amendment or supplement thereto); or

(ii) a general banking moratorium shall have been declared by federal, State or New York authorities, or the general suspension of trading on any national securities exchange; or

(iii) any event shall occur which makes untrue any statement or results in an omission to state a material fact necessary to make the statements in the Preliminary Official Statement and the Official Statement, in the light of the circumstances under which they were made, not misleading, which event, in the reasonable opinion of the Underwriter would materially or adversely affect the ability of the Underwriter to market the Bonds; or

(iv) any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency of the State, or a decision by any court of competent jurisdiction within the State shall be rendered which materially adversely affects the market price of the Bonds; or

(v) the marketability of the Bonds or the market price thereof, in the reasonable opinion of the Underwriter, has been materially adversely affected by an amendment to the Constitution of the United States of America or by any legislation in or by the Congress of the United States of America or by the State, or the amendment of legislation pending as of the date of this Bond Purchase Agreement in the Congress of the United States of America, or the recommendation to Congress or endorsement for passage (by press release, other form of notice or otherwise) of legislation by the President of the United States of America, the Treasury Department of the United States of America, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or the proposal for consideration of legislation by either such Committee or by any member thereof, or the presentment of legislation for consideration as an option by either such Committee, or by the staff of the Joint Committee on Taxation of the Congress of the United States of America, or the favorable reporting for passage of legislation to either House of the Congress of the United States of America by a Committee of such House to which such legislation has been referred for consideration; or

(vi) an order, decree or injunction shall have been issued by any court of competent jurisdiction, or order, ruling, regulation (final, temporary or proposed), official statement or other form of notice or communication 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: (i) obligations of the general character of the Bonds, or the Bonds, including any or all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended, or that the Trust Agreement is not exempt from qualification under the Trust Indenture Act of 1939; or (ii) the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including any or all underlying obligations, as contemplated hereby or by the Preliminary Official Statement and the Official Statement, is or would be in violation of the federal securities laws as amended and then in effect; or

(vii) legislation shall be introduced, by amendment or otherwise, or be enacted by the House of Representatives or the Senate of the Congress of the United States of America, or a decision by a court of the United States of America shall be rendered, or a stop order, ruling, regulation or official statement by or on behalf of the Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter shall be made or proposed, to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, as contemplated hereby or by the Preliminary Official Statement and the Official Statement, is or would be in violation of any provision of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect, or with the purpose or effect of otherwise prohibiting the issuance, offering or sale of the Bonds or obligations of the general character of the Bonds, as contemplated hereby or by the Preliminary Official Statement and the Official Statement; or

(viii) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national

securities exchange, which, in the Underwriter's reasonable opinion, materially adversely affects the marketability or market price of the Bonds; or

(ix) the New York Stock Exchange, or other national securities exchange or association or any governmental authority, shall impose as to the Bonds, or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by or the charge to the net capital requirements of broker dealers; or

(x) trading in securities on the New York Stock Exchange or the American Stock Exchange shall have been suspended or limited or minimum prices have been established on either such exchange which, in the Underwriter's reasonable opinion, materially adversely affects the marketability or market price of the Bonds; or

(xi) any rating of the Bonds or the issuer credit rating of the City shall have been downgraded or withdrawn by a national rating service, which, in the reasonable opinion of the Underwriter, materially adversely affects the market price of the Bonds; or

(xii) any action shall have been taken by any government in respect of its monetary affairs which, in the reasonable opinion of the Underwriter, has a material adverse effect on the United States securities market, rendering the marketing and sale of the Bonds, or enforcement of sale contracts with respect thereto impracticable; or

(xiii) the commencement of any action, suit or proceeding described in Section 6(m).

(e) at or prior to the Closing, the Underwriter shall receive or have received the following documents, in each case to the reasonable satisfaction, in form and substance, of the Underwriter and _____, _____, California ("**Underwriter's Counsel**"):

(i) a copy of the default judgment, dated _____, 202_, entered in favor of the City in connection with *City of San José v. All Persons Interested, etc.*, Case No _____ filed in the Superior Court of California, County of Santa Clara;

(ii) all resolutions relating to the Bonds adopted by the City and certified by an authorized official of the City, authorizing the execution and delivery of the Legal Documents and the delivery of the Bonds and the Official Statement;

(iii) the Legal Documents duly executed and delivered by the respective parties thereto, with only such amendments, modifications or supplements as may have been agreed to in writing by the Underwriter; and

(iv) the approving opinion of Bond Counsel, dated the date of Closing and addressed to the City, in substantially the form attached as Appendix __ to the Preliminary Official Statement and the Official Statement, together with a reliance letter thereon addressed to the Underwriter;

(v) a supplemental opinion of Bond Counsel dated the date of Closing and addressed to the Underwriter, to the effect that:

(A) the statements on the cover of the Official Statement and in the Official Statement under the captions [“INTRODUCTION,” “THE BONDS,” “SECURITY AND SOURCE OF PAYMENT FOR THE BONDS,” “VALIDATION,” and “TAX MATTERS,” and in APPENDIX __ — “SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT,” APPENDIX __ — “PROPOSED FORM OF BOND COUNSEL OPINION” and APPENDIX __ — “FORM OF CONTINUING DISCLOSURE CERTIFICATE,”] and excluding any material that may be treated as included under such captions and appendices by any cross-reference, insofar as such statements expressly summarize provisions of the Bonds, the Trust Agreement, and Bond Counsel’s final opinion relating to the Bonds, are accurate in all material respects as of the date of Closing;

(B) this Bond Purchase Agreement has been duly authorized, executed and delivered by the City and is the valid, legal and binding agreement of the City enforceable in accordance with its terms, except that the rights and obligations under the Bond Purchase Agreement are subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors’ rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State, and provided that no opinion is expressed with respect to any indemnification or contribution provisions contained therein; and

(C) the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(vi) the Official Statement, executed on behalf of the City;

(vii) evidence that the rating on the Bonds is as described in the Official Statement;

(viii) a certificate, dated the date of Closing, signed by a duly authorized officer of the City satisfactory in form and substance to the Underwriter to the effect that: (i) the representations, warranties and covenants of the City contained in this Bond Purchase Agreement are true and correct in all material respects on and as of the date of Closing with the same effect as if made on the date of the Closing by the City, and the City has complied with all of the terms and conditions of the Bond Purchase Agreement required to be complied with by the City at or prior to the date of Closing; (ii) to such officer’s actual knowledge, no event affecting the City has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purposes for which it is to be used or which is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect; (iii) the information and statements contained in the Official Statement (other than information relating to DTC and its book entry system) did not as of its date and do not as of the Closing contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect; (iv) the City is not in breach of or default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, which would have a material adverse impact on the City’s ability to perform its obligations under the Legal Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute such a default or an event of default

under any such instrument; and (v) no further consent is required for inclusion of its audited financial statements in the Preliminary Official Statement and the Official Statement;

(ix) an opinion dated the date of Closing and addressed to the Underwriter, the Trustee and the Bond Counsel, of the City Attorney of the City of San José, substantially 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 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 payment of principal or redemption price of and interest on the Bonds when due, or contesting or affecting the enforceability of the Legal Documents to which the City is a party;
- (iv) the execution and delivery of the Legal Documents to which the City is a party 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 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;
- (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 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;

(x) a letter of _____, _____, California, Disclosure Counsel to the City dated the date of Closing and addressed to the Underwriter substantially to the effect that, on the basis of the information made available to them in the course of their participation in the preparation of the Official Statement as disclosure counsel, but without having undertaken to determine or verify independently, or assuming any responsibility for, the accuracy, completeness or fairness of any of the statements contained in the Official Statement, no facts have come to the attention of the personnel in such firm directly involved in rendering legal advice and assistance to the City in connection with the preparation of the Official Statement which caused them to believe that (A) the Preliminary Official Statement as of its date or as of _____, 202_ (excluding therefrom financial, demographic and statistical data; forecasts, projections, estimates, assumptions and expressions of opinions; statements relating to DTC, Cede & Co. and the operation of the book-entry system;

statements relating to the treatment of the Bonds or the interest, discount or premium, if any, thereon or therefrom for tax purposes under the law of any jurisdiction; and the statements contained in the Preliminary Official Statement under the captions “TAX MATTERS,” and in [Appendices __ through __] to the Preliminary Official Statement; as to all of which they express no view) contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, except for such information as is permitted to be excluded from the Preliminary Official Statement pursuant to Rule 15c2-12 of the Securities Exchange Act of 1934, as amended, including but not limited to information as to pricing, yields, interest rates, maturities, amortization, redemption provisions, debt service requirements, Underwriter’s discount and CUSIP numbers or (B) the Official Statement as of its date or as of the Closing Date (excluding therefrom financial, demographic and statistical data; forecasts, projections, estimates, assumptions and expressions of opinions; statements relating to DTC, Cede & Co. and the operation of the book-entry system, statements relating to the treatment of the Bonds or the interest, discount or premium, if any, thereon or therefrom for tax purposes under the law of any jurisdiction; and the statements contained in the Official Statement under the caption “TAX MATTERS,” and in [Appendices __ through __] to the Official Statement; as to all of which they express no view) contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(xi) an opinion of counsel to the Trustee, addressed to the Underwriter and the City, dated the date of the Closing, to the effect that:

(A) the Trustee is a national banking association duly organized and validly existing under the laws of the United States of America, having full corporate power to undertake the trust created under the Trust Agreement;

(B) the Trust Agreement has been duly authorized, executed and delivered by the Trustee and, assuming due authorization, execution and delivery by the other parties thereto, the Trust Agreement constitutes the valid, legal and binding obligations of the Trustee enforceable in accordance with their terms, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors’ rights generally and by the application of equitable principles, if equitable remedies are sought;

(C) the Trustee has duly authenticated the Bonds upon the order of City;

(D) the Trustee’s actions in executing and delivering the Trust Agreement are in full compliance with, and do not conflict with any applicable law or governmental regulation and, to the best of such counsel’s knowledge, after reasonable inquiry with respect thereto, do not conflict with or violate any contract to which the Trustee is a party or any administrative or judicial decision by which the Trustee is bound;

(E) no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the banking or trust powers of the Trustee that has not been obtained is or will be required for the execution and delivery of the Bonds or the consummation by the Trustee of its obligations under the Trust Agreement; and

(F) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or public body pending or, to the best of such counsel’s knowledge,

threatened against or affecting the Trustee, which would materially adversely impact the Trustee's ability to complete the transactions contemplated by the Trust Agreement.

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

(A) the Trustee is duly organized and existing as a national banking association under the laws of the United States of America, having the full corporate power and authority to enter and perform its duties under the Trust Agreement;

(B) the Trustee is duly authorized to enter into the Trust Agreement and has duly executed and delivered the Trust Agreement, and assuming due authorization and execution by the other parties thereto, the Trust Agreement is legal, valid and binding upon the Trustee and enforceable against such party in accordance with its terms;

(C) the Trustee has duly authenticated the Bonds under the Trust Agreement and delivered the Bonds to or upon the order of the Underwriter;

(D) no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the banking or trust powers of the Trustee that has not been obtained is required for the execution and delivery of the Bonds or the consummation by the Trustee of its obligations under the Trust Agreement; and

(E) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court or public body pending or, to the best of such counsel's knowledge, threatened against or affecting the Trustee, which would materially adversely impact the Trustee's ability to complete the transactions contemplated by the Trust Agreement.

(xiii) the preliminary and final forms required to be delivered to the California Debt and Investment Advisory Commission pursuant to section 53583 of the Government Code of the State of California and section 8855(i) and (j) of the Government Code;

(xiv) a copy of the executed Blanket Issuer Letter of Representations by and between the City and DTC relating to the book-entry system;

(xv) an opinion of _____, _____, California, as Underwriter's Counsel, in form and substance acceptable to the Underwriter, substantially to the effect that:

(A) the Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended;

(B) based upon an examination which they have made, and without having undertaken to determine independently or assuming any responsibility for the accuracy or completeness or fairness of the statements, and based on its participation in the conferences (which did not extend beyond the date of the Official Statement), and in reliance thereon, on oral and written statements and representations of the City and others and on the records, documents, certificates, opinions and matters therein mentioned, such counsel advises the Underwriter as a matter of fact and not opinion that, during the course of such counsel's representation of the Underwriter on this matter, (a) as of the date of the Preliminary Official Statement and as of _____, 202_, no facts had come

to the attention of the attorneys in such counsel's firm rendering legal services to the Underwriter in connection with the Preliminary Official Statement which caused it to believe that the Preliminary Official Statement contained any untrue statement of a material fact or omitted 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 (b) as of the date of the Official Statement and as of the Closing Date, no facts had come to the attention of the attorneys in such counsel's firm rendering legal service to the Underwriter in connection with the Official Statement which caused it to believe as of the date of the Official Statement and as of the Closing Date that the Official Statement 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; provided that, such counsel expressly excludes from the scope of this paragraph and expresses no view or opinion about (i) with respect to the Preliminary Official Statement, any difference in information contained therein compared to what is contained in the Official Statement, whether or not related to pricing or sale of the Bonds, and whether any such difference is material and should have been included in the Preliminary Official Statement, and (ii) with respect to both the Preliminary Official Statement and the Official Statement, any CUSIP numbers, financial, accounting, statistical or economic, engineering or demographic data or forecasts, numbers, charts, tables, graphs, estimates, projections, assumptions or expressions of opinion, management discussion and analysis, environmental matters, environmental litigation, any statements about compliance with prior continuing disclosure undertakings, information relating to DTC and its book-entry system, [Appendices __ through __] thereto, and information relating to ratings, rating agencies, tax exemption, included or referred to therein or omitted therefrom, which such counsel expressly excludes from the scope of this paragraph and as to which such counsel expresses no opinion or view, and no responsibility is undertaken or view expressed with respect to any other disclosure document, materials or activity, or as to any information from another document or source referred to by or incorporated by reference in the Preliminary Official Statement or the Official Statement; and

(C) the Continuing Disclosure Certificate, together with Section 5(o) of this Bond Purchase Agreement, satisfies the requirements contained in Rule 15c2-12 for an undertaking for the benefit of the holders of the Bonds to provide the information at the times and in the manner required by Rule 15c2-12; provided that, for purposes of such opinion, Underwriter's Counsel will not be expressing any view regarding the content of the Official Statement that is not expressly stated in numbered clause (ii) above;

(xvi) a Rule 15c2-12 certificate, dated the date of the Preliminary Official Statement and executed by the City;

(xvii) written evidence of the Board of Administration of the Police and Fire Plan and the Board of Administration of the Federated Plan setting forth the amount of the discounted prepayment of the annual contribution of the City to the Police and Fire Plan and the Federated Plan, respectively, for Fiscal Year ____ - __ together with written evidence of Board of Administration of the Police and Fire Plan and the Board of Administration of the Federated Plan acknowledging of payment of the Unfunded Liability and Current Obligation;

(xviii) such additional legal opinions, Bonds, proceedings, instruments or other documents as the Underwriter or Underwriter's Counsel may reasonably request.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds contained in this Bond Purchase Agreement, this

Bond Purchase Agreement shall terminate, and except as set forth in Section 9 hereof, neither the Underwriter nor the City shall be under further obligation hereunder.

Section 8. Changes in Official Statement. Within 90 days after the Closing or within 25 days following the “end of the underwriting period” (as defined in Rule 15c2-12), whichever occurs first, if any event relating to or affecting the Bonds, the Trustee, or the City shall occur as a result of which it is necessary, in the reasonable opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in any material respect in the light of the circumstances existing at the time it is delivered to a purchaser, the City will forthwith prepare and furnish to the Underwriter an amendment or supplement 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 existing at the time the Official Statement is delivered to purchaser, not misleading. The City shall cooperate with the Underwriter in the filing by the Underwriter of such amendment or supplement to the Official Statement with the MSRB. The Underwriter acknowledges that the “end of the underwriting period” will be the date of Closing unless the Underwriter otherwise notifies the City in writing that it still owns some or all the Bonds.

Section 9. Expenses.

(a) Whether or not the Underwriter accepts delivery of and pays for the Bonds as set forth herein, it shall be under no obligation to pay, and the City shall pay out of the proceeds of the Bonds or any other legally available funds of the City, all expenses incidental to the performance of the City’s obligations hereunder, including but not limited to the cost of printing and delivering the Legal Documents to the Underwriter, the costs of printing and shipping and electronic distribution of the Preliminary Official Statement and the Official Statement in reasonable quantities, the fees and disbursements of the City, the Trustee and its counsel, Bond Counsel, Disclosure Counsel, City Attorney, the City’s actuary, accountants, engineers, appraisers, economic consultants and any other experts or consultants retained by the City in connection with the issuance and sale of the Bonds, rating agency fees, advertising expenses, and any other expenses not specifically enumerated in paragraph (b) of this section incurred in connection with the issuance and sale of the Bonds. The City shall pay out of the proceeds of the Bonds, for any expenses incurred by the Underwriter on behalf of the City’s employees and representatives which are incidental to implementing this Bond Purchase Agreement, including meals, transportation, and lodging of those employees and representatives.

(b) Whether or not the Bonds are delivered to the Underwriter as set forth herein, the City shall be under no obligation to pay, and the Underwriter shall be responsible for and pay (which may be included as an expense component of the Underwriter’s discount), MSRB, CUSIP Bureau and CDIAC fees and expenses to qualify the Bonds for sale under any “blue sky” laws, and all other expenses incurred by the Underwriter in connection with its public offering and distribution of the Bonds not specifically enumerated in paragraph (a) of this section, including the cost of preparing this Bond Purchase Agreement and other Underwriter documents, travel expenses and the fees and disbursements of Underwriter’s Counsel.

Section 10. Notices. Any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to _____, _____, _____, California _____, Attention: _____. Any notice or communication to be given to the City under this Bond Purchase Agreement may be given

by delivering the same in writing to the City of San José, at the address first set forth above, Attention: Director of Finance. All notices or communications hereunder by any party shall be given and served upon each other party.

Section 11. Parties in Interest. This Bond Purchase Agreement is made solely for the benefit of the City and the Underwriter (including the successors or assigns thereof) and no other person shall acquire or have any right hereunder or by virtue hereof. All representations, warranties and agreements of the City in this Bond Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Underwriter and shall survive the delivery of and payment for the Bonds.

Section 12. 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 counterpart shall for all purposes be deemed to be an original.

Section 13. Entire Agreement. This Bond Purchase Agreement embodies the entire agreement and understanding between the parties hereto relating to the subject matter hereof and supersedes all prior agreements and understandings related to such subject matter, and it is agreed that there are no terms, understandings, representations or warranties, express or implied, other than those set forth herein.

Section 14. Effectiveness. This Bond Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by a duly authorized officer of the City and shall be valid and enforceable as of the time of such acceptance.

Section 15. Governing Law. This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State.

By: _____
Authorized Officer

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

ACCEPTED:
CITY OF SAN JOSE

By: _____
Senior Deputy City Attorney

By: _____
Director of Finance

EXHIBIT A
MATURITY SCHEDULE

<i>Maturity Date</i> (____ 1)	<i>Principal Amount</i>	<i>Interest Rate</i>	<i>Yield</i>	<i>Price</i>
	\$	%	%	

\$ _____ % Term Bond due _____ 1, 20__ ; Yield _____ %; Price _____
 \$ _____ % Term Bond due _____ 1, 20__ ; Yield _____ %; Price _____