

**STANDBY BOND PURCHASE AGREEMENT**

Dated as of February 26, 2009

by and among

**KING COUNTY, WASHINGTON,**  
as County

**THE BANK OF NEW YORK MELLON,**  
as Bond Registrar

and

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

relating to

\$50,000,000  
King County, Washington  
Multi-Modal Limited Tax General Obligation Bonds  
Series 2009 A

**Bank of America** 

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EXHIBIT A – FORM OF NOTICE OF PRESENTATION

EXHIBIT B – FORM OF CUSTODY AGREEMENT

## STANDBY BOND PURCHASE AGREEMENT

This STANDBY BOND PURCHASE AGREEMENT ("Agreement") is entered into as of February 26, 2009, by and among KING COUNTY, WASHINGTON, a political subdivision of the State of Washington (the "County"), THE BANK OF NEW YORK MELLON, a New York State chartered bank, in its capacity as Bond Registrar (as defined below), and BANK OF AMERICA, N.A., a national banking association (the "Bank").

### RECITALS

A. The County has determined that it is necessary and desirable and in the best interests of the County to arrange for the purchase by the Bank of outstanding King County, Washington, Multi-Modal Limited Tax General Obligation Bonds, 2009, Series A (each, a "Bond" and collectively, the "Bonds") on the terms and conditions set forth herein.

B. The County, the Bond Registrar and the Bank desire to enter into this Agreement to provide for the purchase of Bonds from time to time by the Bank on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the County, the Bond Registrar and the Bank hereby agree as follows:

### ARTICLE I. DEFINITION; CONSTRUCTION

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

"Agreement" means this Standby Bond Purchase Agreement, as amended, supplemented or otherwise modified from time to time.

"Alternate Liquidity Facility" has the meaning specified in the Bond Legislation.

"Amortization End Date" means, with respect to each Bank Bond, the earliest to occur of (a) the third anniversary of the 61st day after the relevant Purchase Date and (b) the third anniversary of the last day of the Availability Period.

"Amortization Payment Date" means, with respect to each Bank Bond, (a) the first Business Day of the sixth calendar month immediately following the Purchase Date for such Bank Bond and the first Business Day of each sixth calendar month occurring thereafter prior to the Amortization End Date and (b) the Amortization End Date.

"Availability Period" means the period commencing at 11:00 a.m., New York City time, on the Effective Date and ending at the earlier to occur of (a) 5:00 p.m., New York City time, on February 26, 2011 (as the same may be extended from time to time as provided herein) and (b) the time that the Available Commitment is terminated pursuant to Section 9.04.

“Available Commitment” means on any day the sum of the Available Principal Commitment and the Available Interest Commitment on such day. The Available Commitment is available only for Bonds that bear interest in any Covered Mode.

“Available Interest Commitment” means an amount equal to 34 days of interest on the Available Principal Commitment calculated at an assumed rate of interest of 12% per annum (on the basis of actual days elapsed and a year of 365/366 days). The Available Interest Commitment shall increase or decrease concurrently and proportionately with each increase or decrease in the Available Principal Commitment. In no event shall the Available Interest Commitment exceed \$558,905.

“Available Principal Commitment” initially means \$50,000,000, representing an amount equal to the original aggregate principal amount of the Bonds. The Available Principal Commitment shall be adjusted from time to time as follows: (a) downward by the principal amount of the Bonds redeemed, paid, defeased or converted to bear interest other than in a Covered Mode, (b) downward by the principal amount of any Bonds purchased by the Bank pursuant to Article II hereof, (c) downward by the principal component of any reduction in the Available Commitment pursuant to Section 2.10 and (d) upward by the principal amount of any Bonds, theretofore purchased by the Bank pursuant to Article II hereof, which are remarketed by the Remarketing Agent to the extent the Bank receives the proceeds of such remarketing; provided, however, that the Available Principal Commitment shall at no time exceed \$50,000,000. Any adjustments to the Available Principal Commitment pursuant to clauses (a), (b), (c) or (d) hereof shall occur simultaneously with the occurrence of the events described in such clauses.

“Bank” has the meaning specified in the introductory paragraph hereto.

“Bank Bond” means each Bond held by a Bank Bondholder, and in the Bond Legislation are defined as “Liquidity Provider Bonds.”

“Bank Bond Custody Agreement” means the Bank Bond Custody Agreement dated as of February 26, 2009 between the Bank and the Custodian and acknowledged by the County, substantially in the form of Exhibit B hereto, as amended, supplemented or otherwise modified from time to time.

“Bank Bond Interest Payment Date” has the meaning specified in Section 2.08.

“Bank Bond Payment Date” has the meaning specified in Section 2.08.

“Bank Bondholder” means the Bank (but only in its capacity as owner (which as used herein shall mean beneficial owner if at the relevant time Bank Bonds are held in book-entry form) of Bank Bonds pursuant to this Agreement) and any other Person to whom the Bank has sold Bank Bonds pursuant to Section 2.06(b).

“Bank Book-Entry Account” has the meaning specified in Section 2.02(c).

“Bank Rate” means, for each day of determination with respect to a Bank Bond, a rate per annum (computed on the basis a year of 365/366 days) equal to: (i) for the period from and

including the Purchase Date of such Bank Bond to and including the 30th day following such Purchase Date, the greater of (x) the Base Rate then in effect and (y) the highest interest rate at which any Bond is accruing interest; (ii) for the period from and including the 31st day immediately following such Purchase Date to and including the 60th day following the related Purchase Date, the greater of (x) the Base Rate then in effect plus one percent (1%) and (y) the highest interest rate at which any Bond is accruing interest; and (iii) for each day from, including and after the 61st day immediately following such Purchase Date, the greater of (x) the Base Rate then in effect plus two percent (2%) and (y) the highest interest rate at which any Bond is accruing interest; provided, that from and after the occurrence of a Termination Event, a Suspension Event, an Event of Default or a Ratings Event, the Bank Rate shall equal the Default Rate.

“Base Rate” means on any day the greater of (a) the Federal Funds Rate for such day plus three percent (3%) per annum and (b) the rate of interest in effect for such day as publicly announced from time to time by the Bank as its “prime rate” plus two percent (2%) per annum. The “prime rate” is a rate set by the Bank based upon various factors including the Bank’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Each change in the Base Rate shall take effect at the time of such change in the Federal Funds Rate in the case of clause (a) above or at the opening of business on the day specified in the public announcement of such change in the Bank’s “prime rate” in the case of clause (b) above. All calculations are on the basis of actual days elapsed and a year of 365/366 days, as the case may be.

“Bond Legislation” means, collectively, Ordinance 14463, Ordinance 14745, Ordinance 14992, Ordinance 15285, Ordinance 15604 and Ordinance 16361 of the County, and Motion \_\_\_\_\_ of the County Council.

“Bond Registrar” has the meaning specified in the Bond Legislation.

“Bonds” has the meaning specified in the recitals to this Agreement, and shall include, unless the context otherwise requires, all Bank Bonds.

“Business Day” means any day other than (a) a Saturday or a Sunday, (b) any other day on which banks located in the State of Washington, the State of New York or the State in which (i) the principal corporate trust office of the Bond Registrar is located, (ii) the Presentation Office of the Bank is located and (iii) the principal office of the Remarketing Agent is located, are authorized or required by executive order or law to remain closed and (d) a day on which The New York Stock Exchange is closed; provided, however, that the Bank shall not be deemed to have notice of any day banks located in the State in which the principal office of the Remarketing Agent is located are authorized or required by executive order or law to remain closed unless the Bank has received written notice thereof from the County, the Bond Registrar and/or the Remarketing Agent.

“Code” means the Internal Revenue Code of 1986 and the rules and all promulgated (including temporary) regulations thereunder.

“Commitment Fee” has the meaning specified in Section 2.03.

“Commitment Fee Rate” has the meaning specified in Section 2.03.

“Conversion Date” means the date on which the interest rate borne by the Bonds has been converted to a Mode other than a Covered Mode.

“County” has the meaning specified in the introductory paragraph hereto.

“Covered Modes” means (a) the Daily Mode, (b) the Weekly Mode and (c) any Flexible Mode for which the interest on the Bonds is payable no less frequently than once each calendar month.

“Custodian” has the meaning specified in Section 2.02(c).

“Daily Mode” has the meaning specified in the Bond Legislation.

“Debt” of any Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all non-contingent obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit or similar instrument, (c) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (d) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (e) all obligations of such Person as lessee under capital leases, (f) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, and (g) all obligations, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person including, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement condition or otherwise), or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part).

“Default Rate” means, at any time, the Base Rate then in effect plus three percent (3%).

“Differential Interest Amount” means, with respect to any Bank Bond, the excess of (a) interest which has accrued and could actually be paid on such Bank Bond at the Bank Rate, as determined in accordance with Section 2.05, up to but excluding the Business Day on which such Bank Bond is purchased from the Bank Bondholder of such Bank Bond pursuant to Section 2.06, less (b) the interest accrued on such Bank Bond and received by the Bank Bondholder of such Bank Bond as part of the Sale Price.

“Dollars,” “US\$,” “\$” and “U.S. Dollars” means the lawful currency of the United States of America.

“DTC” means The Depository Trust Company, New York, New York.



“DTC Book-Entry Account” has the meaning specified in Section 2.02(c).

“Effective Date” means February 26, 2009.

“Eligible Bonds” has the meaning specified in Section 2.01(a).

“Event of Default” means an event specified in Section 9.03.

“Event of Insolvency” means the occurrence and continuance of one or more of the following events: (a) the County shall become insolvent or admit in writing its inability to pay its debts as they mature or shall declare a moratorium on the payment of its debts or apply for, consent to or acquiesce in the appointment of a trustee, custodian, liquidator or receiver for itself or any substantial part of its property, or shall take any action to authorize or effect any of the foregoing, or in the absence of any such application, consent or acquiescence, a trustee, custodian, liquidator or receiver shall be appointed for it or for a substantial part of its property or revenues and shall not be discharged within a period of sixty (60) days; (b) the State of Washington or any other governmental authority having jurisdiction over the County imposes on the County a debt moratorium, debt restructuring, or comparable restriction on repayment when due and payable of the principal of or interest on the debts of the County; (c) the property of the County shall be condemned, seized, or otherwise appropriated, if such condemnation, seizure or appropriation could have a material adverse effect on the ability of the County to perform its obligations hereunder, under any Bank Bond or under any Related Document; or (d) any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding shall be instituted by or against the County, in respect of the County (or any action shall be taken to authorize or effect the institution by it of any of the foregoing) and if instituted against it, shall be consented to or acquiesced in by it, or shall not be dismissed within a period of sixty (60) days.

“FAST Eligible Bonds” has the meaning specified in Section 2.02(c).

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Bank on such day on such transactions as determined by the Bank.

“Fees” means, collectively, the Commitment Fee and the Termination Fee (if any).

“Fitch” means Fitch, Inc.

“Flexible Mode” has the meaning specified in the Bond Legislation.

“Interest Component” has the meaning specified in Section 2.01(a).

“Maximum Bank Rate” means the maximum non-usurious lawful rate of interest permitted by applicable law.

“Maximum Bond Interest Rate” means the maximum rate applicable to Bonds which are not Bank Bonds as provided in the Bond Legislation.

“Mode” has the meaning specified in the Bond Legislation.

“Moody’s” means Moody’s Investors Service, Inc.

“Multi-Modal Bond Interest Payment Date” has the meaning specified in the Bond Legislation.

“Notice” means any notice by facsimile or other telecommunication device given to the other parties thereto. Such notice is deemed given only when actually received by such other parties.

“Notice of Presentation” means a Notice of Presentation, in the form of Exhibit A attached hereto, with all blanks appropriately filled in and duly executed by the Bond Registrar. Any such notice may be given by facsimile or other telecommunication device at the appropriate facsimile numbers or other telecommunication address information herein provided.

“Other Taxes” has the meaning specified in Section 3.01(b).

“Participant” means any Person to which the Bank or any participant has granted, directly or indirectly, a participation in the Bank’s commitment to purchase Eligible Bonds hereunder or in any Bonds so purchased and held by or for the account of the Bank and to receive amounts payable with respect to such Bonds; provided that any such participant shall take such participation subject to the terms of this Agreement.

“Payment Account” means, with respect to (a) the Bank, Bank of America, N.A., ABA No. 0260-0959-3, Account No. 109360-1001000, Reference: King County, or such other account as may be designated by the Bank in writing to the County and the Bond Registrar and (b) the Bond Registrar, Bank of New York Mellon, ABA No. 021000018, GLA/111565, Cust A/C 471131, King Cty SEW09 Liq Fac Fac Pur Acct, or such other account as may be designated by the Bond Registrar in writing to the Bank and the County.

“Person” means any individual, partnership, limited liability company, firm, corporation, association, joint venture, trust or other entity, or any government (or political subdivision or agency, department or instrumentality thereof).

“Presentation Office” means, for the Bank, Bank of America, N.A., WA1-501-34-03, 800 Fifth Avenue, Floor 34, Seattle, WA 98104, Attention: Nancy D. Nuerenberg, Senior Vice President, or such other address as may be designated by the Bank in writing to the Bond Registrar in accordance with Section 10.02.

“Purchase Date” means each date upon which any Notice of Presentation is received by the Bank pursuant to Section 2.01(a).

“Purchase Price” means, with respect to any Eligible Bond to be purchased on a Purchase Date, the unpaid principal amount thereof plus accrued interest thereon from and including the Multi-Modal Bond Interest Payment Date therefor next preceding such Purchase Date to but excluding such Purchase Date, in each case without premium; provided that accrued interest will not be included in the Purchase Price if the applicable Purchase Date is a Multi-Modal Bond Interest Payment Date; and provided further the aggregate amount of Purchase Price constituting the Interest Component shall not exceed the amount specified in Section 2.01(a).

“Rating” has the meaning specified in Section 2.03.

“Rating Agency” means each of Moody’s, S&P and Fitch and “Rating Agencies” means all of them.

“Ratings Event” means the withdrawal or suspension for credit related reasons related to the County by any of Moody’s, S&P and/or Fitch of the long term unenhanced ratings (i.e., any rating that is assigned to a Bond or any other indebtedness of the County senior to or on a parity with the Bonds without regard to the provision of credit enhancement such as a letter of credit, bond insurance policy or other financial guarantee) of the Bonds or any other indebtedness of the County senior to or on a parity with the Bonds or the reduction in any such rating below “A2” (or its equivalent) by Moody’s, “A” (or its equivalent) by S&P or “A” (or its equivalent) by Fitch, respectively.

“Reimbursement Obligation” means, with respect to each payment made by the Bank hereunder in connection with the purchase of Bonds, the obligation of the County to repay the same, and the principal amount of each such Reimbursement Obligation shall be equal to the principal component of the Purchase Price of Bonds so purchased by the Bank pursuant to such payment.

“Related Documents” means, collectively, this Agreement, the Bonds, the Bank Bond Custody Agreement and the Remarketing Agreement.

“Remarketing Agent” means Merrill Lynch, Pierce, Fenner & Smith Incorporated, and its successors.

“Remarketing Agreement” means the Remarketing Agreement dated as of February 26, 2009 between the County and the Remarketing Agent, as amended, supplemented or otherwise modified from time to time in accordance with its terms and this Agreement.

“Sale Price” has the meaning specified in Section 2.06(a).

“S&P” means Standard & Poor’s Ratings Service, a division of The McGraw-Hill Companies, Incorporated.

“Substitution Date” means the date on which an Alternate Liquidity Facility is to be substituted for this Agreement.

“Suspension Event” means an event specified in Section 9.02.

“Taxes” has the meaning specified in Section 3.01(a).

“Termination Event” means an event specified in Section 9.01.

“Termination Fee” has the meaning specified in Section 2.04(d).

“Weekly Mode” has the meaning specified in the Bond Legislation.

**1.02 Incorporation of Certain Definitions by Reference.** Each capitalized term used herein and not defined herein has the meaning provided therefor in the Bond Legislation.

**1.03 Construction.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof and (d) all references herein to Sections and Exhibits shall be construed to refer to Sections of, and Exhibits to, this Agreement.

## ARTICLE II. PURCHASE OF THE BONDS

### 2.01 Commitment to Purchase Bonds.

(a) Commitment. Subject to Section 2.01(b), at any time and from time to time during the Availability Period upon receipt by the Bank of a Notice of Presentation from the Bond Registrar pursuant to and in accordance with Section 2.02, the Bank agrees, on the terms and conditions specified herein, to purchase by 2:30 p.m. New York City time on the Purchase Date specified in the Notice of Presentation, at the Purchase Price, with immediately available funds, Bonds that bear interest at any Covered Mode and which are not Bank Bonds or Bonds owned by or held on behalf of, for the benefit of or for the account of, the County (herein referred to as “Eligible Bonds”) which are specified for purchase in the Notice of Presentation; provided that in no event shall the aggregate outstanding principal amount of all Bonds held by or for the account of the Bank and all such Bonds so to be purchased by the Bank at any time exceed the Available Principal Commitment at such time. The aggregate amount of the Purchase Price comprising interest on Bonds (the “Interest Component”) purchased on any Purchase Date shall not exceed the lesser of (i) the Available Interest Commitment at such time and (ii) the actual aggregate amount of unpaid interest accrued on such Bonds to such Purchase Date. The Bank agrees that it will use its own funds in making any such purchases. Any Bonds so purchased shall thereupon constitute Bank Bonds and shall, from the date of such purchase and

while they are Bank Bonds, bear interest at the Bank Rate and have other characteristics of Bank Bonds as set forth herein and in the Bond Legislation.

(b) Minimum Denominations. The Bank shall not be required to purchase Eligible Bonds unless the principal amount tendered for purchase is in a minimum denomination of \$100,000 and multiples of \$5,000 in excess thereof.

(c) Termination. Upon the termination of the Availability Period, the Available Commitment shall be terminated and reduced to zero.

## **2.02 Notice of Presentation; Purchase; Registration of Bank Bonds.**

(a) Notice of Presentation. The County will cause the Bond Registrar to give to the Bank in connection with the purchase of Eligible Bonds in accordance with Section 2.01, (i) telephonic notice no later than 12:30 p.m. New York City time on the Purchase Date for such Eligible Bonds, and (ii) a Notice of Presentation at the Presentation Office of the Bank no later than 1:00 p.m. New York City time on the Purchase Date, specifying the Purchase Price of the Eligible Bonds to be purchased by the Bank on that Purchase Date; provided, however, that the failure of the Bond Registrar to give to the Bank telephonic notice on the Purchase Date by the time herein specified with respect to the purchase of Eligible Bonds shall not affect the effectiveness of a Notice of Presentation given on such Purchase Date by the time herein specified with respect to such Eligible Bonds. A duly completed and executed Notice of Presentation received after 1:00 p.m. New York City time but at or before 4:30 p.m. New York City time on a Business Day shall be considered to have been delivered no later than 1:00 p.m. New York City time on the next Business Day.

(b) Method of Purchase. Upon receipt of a Notice of Presentation by the Bank in accordance with Section 2.02(a) and satisfaction of all conditions precedent set forth in Section 7.02, payment shall be made by the Bank, not later than 2:30 p.m. New York City time on the Purchase Date specified in such Notice of Presentation, by wire transfer of immediately available funds to the Payment Account held by the Bond Registrar. The Bank shall have no responsibility for, or incur any liability in respect of any act, or any failure to act, by the Bond Registrar which results in the failure of the Bond Registrar (x) to credit the appropriate account with funds made available by the Bank pursuant to this Section or (y) to effect the purchase for the account of the Bank of Eligible Bonds with such funds pursuant to this Section 2.02.

(c) Registration of Bonds. (i) So long as the Bonds are issued in book-entry form and held by the Bond Registrar as custodian of DTC as part of DTC's fast automated transfer program ("FAST Eligible Bonds"), concurrent with the Bond Registrar's receipt of the purchase price for each purchase of Eligible Bonds by the Bank hereunder, the Bond Registrar, as a participant of DTC (or any other successor securities depository) or an eligible transfer agent, shall make a direct registration electronic book-entry (A) crediting the DTC account designated by the Bank as its account in which to hold Bank Bonds (the "Bank Book-Entry Account") by the principal amount of the Bonds purchased hereunder by the Bank using the CUSIP number for the Bank Bonds; and (B) debiting the book-entry account of DTC for such Bonds (thereby reducing the principal balance of the global certificate representing such Bonds) (the "DTC Book-Entry Account") by the principal amount of the Bonds purchased hereunder by the Bank.

In the event the Bank purchases Bonds hereunder and is not immediately reimbursed therefor, the Bond Registrar shall promptly obtain a CUSIP number for the Bank Bonds so that the Bank Bonds can be separately identified by CUSIP number from all other Bonds. So long as the Bonds are FAST Eligible Bonds, upon a remarketing of Bank Bonds in accordance with the terms of this Agreement and the Bond Registrar's receipt from the Remarketing Agent and/or the County of the amounts set forth in Section 2.06(a), the Bond Registrar, as a participant of DTC (or any other successor securities depository) or an eligible transfer agent, shall make a direct registration electronic book-entry in its records (A) debiting the Bank Book-Entry Account of the Bank by the principal amount of the Bank Bonds so remarketed; and (B) crediting the DTC Book-Entry Account for such Bonds (thereby increasing the principal balance of the global certificate representing such Bonds) by the principal amount of the Bank Bonds so remarketed. The Bond Registrar acknowledges that it is familiar with the procedures and requirements set forth in a notice from The Depository Trust Company, dated April 4, 2008, respecting "Variable Rate Demand Obligations ("VRDO") Failed Remarketings and Issuance of Bank Bonds", as amended, and agrees that, with respect to any and all Bank Bonds, it will follow the procedures and requirements set forth in such notice, as the same may be amended from time to time. To the extent that, following any amendment of such notice, the procedures and requirements therein should become inconsistent with any aspect of the provisions in this clause (i), the Bond Registrar, the County and the Bank shall promptly negotiate in good faith and agree upon amendments of this clause (i) so as to eliminate such inconsistency.

(ii) If the Bonds are no longer FAST Eligible Bonds, concurrent with the Bond Registrar's receipt of the purchase price for each purchase of Eligible Bonds by the Bank hereunder, the Bond Registrar shall cause each Bank Bond to be registered in the name of the Bank and shall be held by the Bond Registrar as the agent, bailee and custodian (in such capacity, the "Custodian") of the Bank for the exclusive benefit of the Bank. The Custodian acknowledges and agrees that it is acting and will act with respect to Bank Bonds at the direction of the Bank for the exclusive benefit of the Bank and is not and shall not at any time be subject in any manner or to any extent to the direction or control of the County or any other Person with respect to such Bank Bonds. The Custodian agrees to act in strict accordance with this Agreement and in accordance with any lawful written instructions delivered to the Custodian from time to time pursuant hereto by the Bank. Under no circumstances shall the Custodian deliver possession of the Bank Bonds to, or cause Bank Bonds to be registered in the name of, the County, the Remarketing Agent or any Person other than the Bank except in accordance with the express terms of this Agreement or otherwise upon the written instructions of the Bank. If, while this Agreement is in effect, the Custodian shall become entitled to receive or shall receive any payment in respect of any Bank Bonds, the Custodian agrees to accept the same as the Bank's agent and to hold the same in trust on behalf of the Bank and to deliver the same forthwith to the Payment Account of the Bank. Upon the remarketing of any Bank Bonds and the Bond Registrar's receipt from the Remarketing Agent and/or the County of the amounts set forth in Section 2.06(a), the Custodian shall release Bank Bonds in a principal amount equal to the principal amount so remarketed to the Remarketing Agent or the County, as the case may be, in accordance with the terms of the Bond Legislation. The Custodian may rely and shall be protected in acting upon any document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Custodian shall not be liable for any error in judgment made in

good faith by its responsible officers, employees and agents unless the Custodian, its responsible officers, employees or agents were grossly negligent or engaged in willful misconduct. Anything herein to the contrary notwithstanding, the Custodian shall have no liability hereunder for any act or omission except as shall result from its gross negligence or willful misconduct. Except as provided above, without the prior written consent of the Bank, the Custodian agrees that it will not sell, assign, transfer, exchange or otherwise dispose of, or grant any option with respect to, the Bank Bonds, and will not create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance or take any other action with respect to the Bank Bonds, or any interest therein, or any proceeds thereof. The Custodian shall deliver to the Bank at the Bank's written request such information as may be in the possession of the Custodian with respect to the Bank Bonds. If the Custodian is holding Bank Bonds, the Custodian, at its own expense, shall maintain and keep in full force and effect: fidelity insurance; theft of documents insurance; forgery insurance; and errors and omissions insurance (which may be maintained by self-insurance). All such insurance shall be in amounts, with standard coverage and subject to deductibles that are customary for insurance typically maintained by a bank or other financial institution acting as custodian.

(d) Return of Excess Funds. Amounts made available hereunder by the Bank which are not so used to purchase Eligible Bonds or which are not required by the Bond Registrar to purchase undelivered Bonds will be returned to the Bank no later than 4:30 p.m. New York City time on the Purchase Date. In the event the Bond Registrar fails to return such funds by 4:30 p.m. New York City time on such date, the County shall pay interest to the Bank for each day until such funds are returned at a rate equal to (i) the Bank's cost of funds for one night overdrafts in New York, New York until the next Business Day; (ii) the Base Rate for the period commencing on the Business Day after the applicable Purchase Date to and including the ninth day after the applicable Purchase Date; and (iii) the Default Rate for the period commencing on the tenth day after the applicable Purchase Date. For purposes of computing such interest, funds returned after 4:30 p.m. New York City time on a Business Day shall be deemed to have been returned on the following Business Day.

**2.03 Commitment Fee.** The County shall pay to the Bank a commitment fee (the "Commitment Fee") at the applicable rate per annum set forth in the grid below (the "Commitment Fee Rate") on the average daily amount of the Available Commitment during each period in respect of which payment is to be made:

<u>Level</u>	<u>Moody's Rating</u>	<u>S&amp;P Rating</u>	<u>Fitch Rating</u>	<u>Commitment Fee Rate</u>
Level 1:	Aa1 or above	AA+ or above	AA+ or above	0.45%
Level 2:	Aa2	AA	AA	0.45%
Level 3:	Aa3	AA-	AA-	0.50%
Level 4:	A1	A+	A+	0.60%
Level 5:	A2	A	A	0.70%
Level 6:	A3	A-	A-	0.80%
Level 7:	Baa1	BBB+	BBB+	1.05%

Level 8:	Baa2	BBB	BBB	1.30%
Level 9:	Baa3	BBB-	BBB-	1.55%

In the event that the long term unenhanced ratings of the Bonds or any other limited tax general obligation Debt of the County senior to, or on a parity with, the Bonds is suspended for credit related reasons or withdrawn by any Rating Agency, the Commitment Fee Rate shall be increased by 1.50% per annum from the Commitment Fee Rate in effect on the date of the occurrence of such event. Upon the occurrence and continuance of an Event of Default, a Suspension Event or a Termination Event the Commitment Fee Rate shall be increased by 1.50% per annum from the Commitment Fee Rate in effect on the date of the occurrence of such event. The term "Rating" as used above shall mean the lowest unenhanced (without regard to bond insurance or any other form of credit enhancement) long-term rating assigned by any of Moody's, S&P or Fitch to the Bonds or any other long-term Debt of the County that is senior to or on a parity with the Bonds. In the event of a split rating (i.e., one of the ratings assigned by a Rating Agency to the County's long-term Debt is at a different level than the rating assigned by the other Rating Agencies), the Commitment Fee Rate shall be based upon the level in which the lower rating appears. Any change in the Commitment Fee Rate resulting from a change in the Rating shall be and become effective as of and on the date of the announcement of the change in the Rating. References to the Rating above is a reference to the rating category of the Rating Agencies as presently determined by the respective Rating Agencies and in the event of adoption of any new or changed rating system by any Rating Agency, the Ratings from the applicable Rating Agency shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The County acknowledges that as of the Effective Date the Commitment Fee Rate is that specified above for Level 1 above.

The Commitment Fee shall accrue for (x) each period ending on March 31, June 30, September 30 and December 31 during the Availability Period, with the first such period beginning on the Effective Date and ending on March 31, 2009, and (y) the period ended on the last day of the Availability Period or, if earlier, the date on which the Available Commitment is terminated or reduced to zero. The Commitment Fee shall be payable in arrears on each April 1, July 1, October 1 and January 1 (or if such day is not a Business Day, on the next following Business Day) beginning April 1, 2009 with respect to the quarterly period or portion thereof ending on the last day of the preceding month, and on the last day of the Availability Period or, if earlier, the date on which the Available Commitment is terminated or reduced to zero. For the purposes of this Section 2.03 only, the Available Commitment shall be deemed not to be reduced during any period the Bank's obligation to purchase Eligible Bonds has been suspended pursuant to Section 9.04(c).

**2.04 Additional Fees; Termination Fee.**

(a) Purchase Fee. Upon each purchase of Eligible Bonds made by the Bank pursuant to Section 2.01(a), the County agrees to pay to the Bank a purchase fee of \$250.00 per drawing, payable on the date of each such purchase or, at the election of the County, the first Business Day of the following calendar month, in arrears.



(b) Amendment Fee. The County shall pay, or cause to be paid, in connection with the written request by the County or the Bond Registrar of any amendment, supplement, modification, waiver or consent relating to this Agreement or any other Related Document requiring any action on the part of the Bank or any transfer of the rights and obligations under this Agreement by the County or the Bond Registrar, an amount equal to \$2,500, plus the reasonable fees of any legal counsel retained by the Bank in connection therewith.

(c) Additional Amounts. The County shall also pay to the Bank when due all amounts payable by the County to the Bank pursuant to Sections 3.02, 10.04 and 10.05 hereof, together with interest thereon at the Bank Rate for each day from the date when due until paid.

(d) Termination Fee. In the event the County terminates this Agreement, whether by replacement or otherwise, prior to the first anniversary of the Effective Date, the County shall pay or cause to be paid to the Bank a non-refundable termination fee (the "Termination Fee") equal to the Commitment Fee that would have been payable to the Bank pursuant to Section 2.03 but for the termination of this Agreement for the period from and including the date on which this Agreement is terminated to and including the first anniversary of the Effective Date assuming (i) a rate per annum equal to the rate per annum at which the Commitment Fee is calculated immediately prior to the termination of this Agreement and (ii) an Available Commitment equal to the Available Commitment in effect immediately prior to the termination of this Agreement.

#### **2.05 Interest Payable with Respect to Bank Bonds.**

(a) Bank Rate. Any Bond purchased by the Bank pursuant to this Agreement shall upon such purchase by the Bank become a Bank Bond and shall bear interest at the Bank Rate for the period commencing from the date that the Bank shall have purchased such Bond and shall continue bearing interest at the Bank Rate until such Bond is paid in full or remarketed or purchased from the Bank or other Bank Bondholder as provided in Section 2.06(a) or 2.08; provided, however, at no time shall Bank Bonds bear interest in excess of the Maximum Bank Rate.

(b) Default Rate. If the principal amount of any Bank Bond, the interest accrued thereon, or any other obligation of the County under this Agreement or the Bank Bonds (including, to the extent permitted by law, any interest payment required thereunder) is not paid when due (whether by acceleration, redemption or otherwise), such overdue principal payment or other obligation shall bear interest from the date such principal amount or other obligation, as the case may be, was due until paid in full (after as well as before judgment) at a rate per annum (computed on the basis of actual days elapsed and a year of 365/366 days) equal to the Default Rate from time to time in effect. Such interest shall be payable on demand. If at any time an Event of Default, a Ratings Event, a Termination Event or a Suspension Event has occurred and is continuing, the principal amount of any Bank Bond, or any other obligation of the County under this Agreement or the Bank Bonds (including, to the extent permitted by law, any interest payment required thereunder), shall bear interest from the date such principal amount or other obligation, as the case may be, was due until paid in full (after as well as before judgment) at a rate per annum (computed on the basis of actual days elapsed and a year of 365/366 days) equal to the Default Rate from time to time in effect. Such interest shall be payable on demand.

(c) Interest Component. The County agrees to pay the component, if any, of each advance made by the Bank under this Agreement to purchase any Bond which corresponds to accrued interest on such Bond, together with interest on such component accruing at the Bank Rate from and including the date on which the Bank purchased such Bond to but excluding the date on which such component (and accrued interest thereon) is paid in full.

## **2.06 Remarketing of Bank Bonds; Redemption of Bank Bonds.**

(a) Sales by Remarketing Agent. On any Business Day, the County may cause the Bond Registrar to give Notice to the Bank stating that the County elects to remarket the Bank Bonds in a minimum principal amount of \$100,000 and multiples of \$5,000 in excess thereof, and such Notice may state that the Bank Bonds are to be remarketed to the County. Bank Bonds that are purchased by the County in any such remarketing are not extinguished and shall continue to be Bonds subject to this Agreement. Any such Notice that is received by the Bank at or before 12:30 p.m. New York City time on a Business Day shall be effective on the Business Day it is received and any such Notice that is received by the Bank after 12:30 p.m. New York City time on a Business Day shall be effective on the next succeeding Business Day. The Bank and each other Bank Bondholder, by the acceptance by each of a Bank Bond, hereby instructs the Bond Registrar and/or Custodian to release the Bank Bonds, if such Bank Bonds are then held by the Bond Registrar or Custodian, or to tender the Bank Bonds to the Bond Registrar for purchase, if such Bank Bonds are not then held by the Bond Registrar, no later than 3:30 p.m. New York City time on the date designated by the Bond Registrar for remarketing of such Bank Bonds, but only against delivery by wire transfer to the Bond Registrar, the Custodian or the Bank, as the case may be, of the principal amount of the Bonds that are being remarketed plus accrued interest on such Bonds calculated pursuant to Section 2.05 (the "Sale Price"); provided that none of the Bond Registrar, the Custodian, the Bank or any other Bank Bondholder shall be obligated to release or tender Bank Bonds for remarketing and Bank shall have no obligation to sell Bank Bonds unless the County has paid or has duly provided for the payment of the Differential Interest Amount to the Bank or such other Bank Bondholder. If less than all Bank Bonds are remarketed on any date, the Bank Bonds having the highest Differential Interest Amount payable shall be remarketed first. Any sale of a Bank Bond pursuant to this Section 2.06(a) shall be without recourse to the seller and without representation or warranty of any kind. The Bank agrees to deliver and, by its acceptance of a Bank Bond, each other Bank Bondholder agrees to deliver (but only upon receipt by the Bank or such other Bank Bondholder of the Sales Price and the Differential Interest Amount) to the Bond Registrar each certificate representing a Bank Bond sold by it pursuant to this Section 2.06(a); provided that in the event that the Bank or any Bank Bondholder has not delivered the certificates representing the Bank Bond sold by it as provided above and the Sale Price and the Differential Interest Amount therefor has been received by the Bank or such Bank Bondholder as provided above, such certificates shall be deemed to have been delivered and the Bank Bonds represented by such certificates shall no longer be considered Bank Bonds. If Bank Bonds are held in book-entry form, upon receipt by the Bank or such other Bank Bondholder of the Sales Price and the Differential Interest Amount the Bond Registrar shall cause the purchaser of such Bank Bonds to be shown as the beneficial owner of such Bonds on the books and records of the Bond Registrar and DTC.

(b) Sale of Bank Bonds. The Bank expressly reserves the right, and shall have the right, to sell, at any time, Bank Bonds subject, however, to the express terms of this Agreement.

The Bank agrees that such sales will be made only to institutional investors or other entities or individuals which customarily purchase tax-exempt securities in large denominations. The Bank agrees to notify in writing the County, the Bond Registrar and the Remarketing Agent promptly of any such sale and, if such Bank Bond is held in book-entry form, specifying the account at the DTC (or successor securities depository) to which such Bank Bond is to be credited; and to notify the transferee in writing (i) that such Bank Bond is subject to remarketing under Section 2.06(a), (ii) that such Bank Bond may not be tendered for purchase and purchased with amounts advanced under Section 2.01 and (iii) that there may not be a short-term investment rating assigned to such Bond so long as it remains a Bank Bond. Any Bank Bondholder purchasing a Bank Bond from the Bank shall be deemed to have agreed (1) not to sell such Bank Bond to any Person except to the Bank or institutional investors or other entities or individuals which customarily purchase tax-exempt securities in large denominations and (2) in the event of any sale of such Bank Bond to any such institutional investor or other entity or individual, to notify the transferee in writing as to the matters set forth in clauses (i) and (ii) of the preceding sentence.

(c) Mandatory Redemption. Each Bank Bond, together with accrued interest thereon, shall be redeemed in six (6) equal semi-annual installments of principal payable on each Amortization Payment Date for such Bank Bond and with the final installment being due and payable no later than the Amortization End Date for the Bank Bond; provided that if, prior to the Amortization End Date, any of the events set forth in Section 2.08(i) through and including Section 2.08(iv) below shall occur with respect to such Bank Bond, such Bank Bond, together with accrued interest thereon, shall be due and payable in full on the applicable Bank Bond Payment Date. The Bank shall use its best efforts to notify the County of the amount of accrued interest on each Bank Bond on the Business Day prior to the date on which such amount is due.

(d) Optional Redemption. The County may optionally redeem any Bank Bond at any time prior to the date on which such Bank Bond is required to be redeemed under Section 2.06(c) on one Business Day's notice.

**2.07 Rights of Bank Bondholders.** Upon purchasing Bank Bonds, Bank Bondholders shall be entitled to and, where necessary, shall be deemed assigned all rights and privileges accorded the owners (or, in the case of Bank Bonds held in book-entry form, beneficial owners) of the Bonds, except to the extent such rights and privileges otherwise conflict with this Agreement, in which case the terms of this Agreement shall prevail and govern. Upon purchasing Bank Bonds, Bank Bondholders shall be recognized by the County, the Bond Registrar and the Remarketing Agent as the true and lawful owners (or, in the case of Bank Bonds held in book-entry form, beneficial owners) of the Bank Bonds, free from any claims, liens, security interests, equitable interests and other interests of the County, except as such interests might exist under the terms of the Bank Bonds with respect to all owners (or, in the case of Bank Bonds held in book-entry form, beneficial owners) of the Bonds.

**2.08 Maturity; Interest.** The County agrees that, with respect to each Bank Bond, such Bank Bond shall be paid in full no later than the earliest to occur of (i) the Amortization End Date for such Bank Bond, (ii) the Conversion Date for such Bank Bond, (iii) the date on which such Bank Bond is redeemed, defeased or otherwise payable in accordance with its terms, and (iv) the Substitution Date (any one of the foregoing constituting a "Bank Bond Payment")

Date”) if not earlier required to be paid under this Agreement; provided, however, that for purposes of clauses (ii) and (iv), rather than paying such Bank Bond in full, the County may, at its option, purchase or cause such Bank Bond to be purchased from the Bank or other Bank Bondholder on the Conversion Date for such Bank Bond or the Substitution Date, as applicable, for an amount equal to the principal amount of such Bank Bond plus accrued interest on such Bank Bond calculated pursuant to Section 2.05. The County further agrees that, with respect to each Bank Bond, (a) the interest, if any, included in the Purchase Price for such Bank Bond shall be due and payable on the Bank Bond Interest Payment Date immediately following the date on which such Bond became a Bank Bond; (b) the interest on the unpaid amount of each such Bank Bond from and including the applicable Purchase Date shall be computed at a rate per annum equal to the Bank Rate as determined pursuant to Section 2.05(a); and (c) interest payable pursuant to clause (b) shall be payable (i) monthly on the first Business Day of each calendar month, (ii) on the Bank Bond Payment Date, (iii) after the Bank Bond Payment Date on demand, and (iv) on the date on which a Bank Bond is sold pursuant to Section 2.06(a) (any one of the foregoing constituting a “Bank Bond Interest Payment Date”).

## **2.09 Manner and Place of Payment; Interest Calculation.**

(a) Manner of Payment. Unless otherwise specified herein, all payments by the County under this Agreement, including, without limitation, payments of principal of or interest on Bank Bonds, shall be effective only if made in lawful money of the United States and in immediately available funds by wire transfer to the Payment Account of the Bank.

(b) Place of Payment. All payments by or on behalf of the County hereunder shall be made to the Bank not later than 4:30 p.m., New York City time, to its Payment Account. Payment received after 4:30 p.m. New York City time on a Business Day shall be deemed received on the next following Business Day.

(c) Default Rate. If any payment by or on behalf of the County hereunder is not paid when due, such overdue payment shall bear interest from the date such payment was due until paid in full at a rate per annum equal to the Default Rate from time to time in effect. Such interest shall be payable on demand.

(d) Interest Calculation. Interest and fees payable hereunder and interest on each Bank Bond shall be computed on the basis of actual days elapsed and a year of 365/366 days.

(e) Non-Business Days. Except as otherwise provided herein, whenever any payment or action to be made or taken hereunder shall be stated to be or becomes due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day. If the date for any payment hereunder is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

(f) Book Entries. The Bank shall maintain in accordance with its usual practice an account or accounts evidencing the Reimbursement Obligations and the other obligations of the County under this Agreement. In any legal action or proceeding in respect of this Agreement, the entries made in such account or accounts shall, in the absence of manifest error, be

conclusive evidence of the existence and amounts of the Reimbursement Obligations and the other obligations of the County therein recorded.

**2.10 Reduction of Commitment.** On any Business Day after the Effective Date, the County may, but shall not be required to, give Notice to the Bank that the County elects to reduce the Available Commitment in a minimum principal amount of \$5,000,000 and multiples of \$1,000,000 in excess thereof, effective on the day (which day must be a Business Day) specified in such Notice; provided that such Notice is received by the Bank not more than thirty (30) or less than fifteen (15) days prior to the effective date specified in such Notice. Upon any such notice of election to reduce the Available Commitment, the Available Commitment shall be reduced by the amount of such reduction as of said effective date so that the Available Commitment is reduced to the amount specified by the County.

**2.11 Term of Agreement.** This Agreement shall become effective upon satisfaction of all conditions precedent set forth in Section 7.01, and the Available Commitment shall continue in full force and effect for the Bonds until the earlier of (i) the end of the Availability Period; (ii) 12:00 noon (New York City time) on the day (which day must be a Business Day) specified in a Notice given by the County to the Bank and the Bond Registrar that the County elects to terminate the Available Commitment; provided that such Notice is received by the Bank and the Bond Registrar not more than thirty (30) or less than fifteen (15) days prior to the date specified in such Notice; (iii) at the close of business (New York City time) on the Conversion Date; provided that if the Bond Registrar has timely delivered a Notice of Presentation to the Bank in connection with a mandatory purchase of the Bonds on such Conversion Date, the Available Commitment shall remain effective until the Bank has purchased the Bonds in accordance with the terms of such Notice of Presentation; (iv) at the close of business (New York City time) on the Substitution Date; provided that if the Bond Registrar has timely delivered a Notice of Presentation to the Bank in connection with its receipt of an Alternate Liquidity Facility for the Bonds, the Available Commitment shall remain effective until the Bank has purchased the Bonds in accordance with the terms of such Notice of Presentation; (v) the date on which no Bonds are outstanding; or (vi) the occurrence of a Termination Event; provided that any such termination will not affect (x) the County's indemnification obligations set forth in Section 10.05 or its obligation to pay to the Bank any amount to which the Bank may be entitled pursuant to the terms of this Agreement, including, without limitation, any amounts due with respect to any Bonds held by or for the benefit of the Bank; or (y) subject to Section 9.04(b), the obligation of the Bank to purchase Eligible Bonds that are the subject of a Notice of Presentation delivered by the Bond Registrar in accordance with Section 2.02(a) and received by the Bank on or prior to the date of such termination.

**2.12 Extension.** Not less than one hundred eighty (180) days nor more than two hundred forty (240) days prior to the last day of the Availability Period, the County may make a written request to the Bank to extend the Availability Period for a period up to two (2) additional years. The Bank shall respond to such request, in its sole discretion, by written notice to the County, such notice to be given within sixty (60) days after receipt of such request from the County. The failure of the Bank to respond to such a request shall be deemed a denial of that request. If the Bank agrees to such an extension, the Bank will enter into a supplement to this Agreement with the County and the Bond Registrar so extending the Availability Period.

**2.13 Security and Pledge.** The full faith, credit and resources of the County are hereby irrevocably pledged on a limited tax general obligation basis as security for the prompt payment of the Reimbursement Obligations and the other obligations of the County under this Agreement as the same shall become due.

### **ARTICLE III. TAXES; INCREASED COSTS**

#### **3.01 Taxes.**

(a) Payments Free of Taxes. Any and all payments to the Bank by or on behalf of the County hereunder and under the other Related Documents shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges, withholdings or liabilities imposed thereon, excluding, however, taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein solely as a result of a connection between the Bank and such jurisdiction or political subdivision (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as "Taxes"). If the County shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required withholdings or deductions (including withholdings or deductions applicable to additional sums payable under this Section 3.01), the Bank receives an amount equal to the sum it would have received had no such withholdings or deductions been made, (ii) the County shall make such withholdings or deductions and (iii) the County shall pay the full amount withheld or deducted to the relevant taxation authority or other authority in accordance with applicable law.

(b) Payment of Other Taxes. In addition, the County agrees to pay any present or future stamp, recording or documentary taxes and any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America, the State of Washington or any other taxing authority from any payment made hereunder or under any other Related Document or from the execution or delivery or otherwise with respect to this Agreement or any other Related Document (hereinafter referred to as "Other Taxes"). The Bank shall provide to the County within a reasonable time a copy of any written notification it receives with respect to Other Taxes owing by the County to the Bank hereunder; provided that the failure by the Bank to send such notice shall not relieve the County of its obligation to pay such amounts hereunder.

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

not relieve the County of its obligation under this Section 3.01. Payments by the County pursuant to this subsection shall be made within thirty (30) days after the date the Bank makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the Bank's determination of such amounts.

(d) Evidence of Payments. Within thirty (30) days after the date of any payment of Taxes by the County, the County shall furnish to the Bank the original or a certified copy of a receipt evidencing payment thereof. The County shall compensate the Bank for all reasonable losses and expenses sustained by the Bank as a result of any failure by the County to so furnish such copy of such receipt.

### **3.02 Increased Costs, Capital Adequacy.**

(a) Increased Costs. If on or after the date hereof, the adoption of any law, rule or regulation, or any change therein, or in the interpretation or administration thereof by any court, governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank with any request or directive made on or after the date hereof (whether or not having the force of law) of any such authority, central bank or comparable agency:

(i) shall subject the Bank to any tax, charge, fee, deduction or withholding of any kind with respect to this Agreement or any Bonds purchased by the Bank hereunder, or shall change the basis of taxation of payments to the Bank of any amounts due under this Agreement or any Bonds purchased by the Bank hereunder (except for changes in the rate of tax imposed on or measured by the overall net income of the Bank);

(ii) shall impose, modify or deem applicable any reserve (including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System), premium, special deposit or similar requirements against the assets of, deposits with or for the account of, or credit extended by, the Bank or shall impose on the Bank any other condition affecting its obligations under this Agreement;

(iii) change the basis of taxation of payments due the Bank under this Agreement (except for changes in taxation of the overall net income of the Bank); or

(iv) impose upon the Bank any other condition with respect to such amount paid or payable to or by the Bank or with respect to this Agreement;

and the result of any of the foregoing is to increase the cost to the Bank of performing its obligations under this Agreement, or to reduce the amount of any sum received or receivable by the Bank under this Agreement or any Bonds purchased by the Bank hereunder, by an amount deemed by the Bank to be material, then within thirty (30) days after demand by the Bank (or, if such increased costs will continue to be incurred by the Bank, in arrears on a monthly basis as agreed between the County and the Bank), the County shall pay to the Bank such an amount or amounts as will compensate the Bank for such additional cost, reduction or payment.

(b) Capital Adequacy. If the Bank shall have determined that, after the date hereof, the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change

therein, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on the capital of the Bank (or of any Person controlling the Bank (a "Parent")) to a level below that which the Bank could have achieved but for such adoption, change or compliance (taking into consideration the policies of the Bank with respect to capital adequacy) by an amount deemed by the Bank to be material, or affects or would affect the amount of capital required or expected to be maintained by the Bank or the Parent by an amount deemed by the Bank to be material, as a consequence of its obligations hereunder, then within thirty (30) days after demand by the Bank (or, if such reduction in the rate of return on capital, or such capital increase, of the Bank will continue to be incurred by the Bank, in arrears on a monthly basis as agreed between the County and the Bank), the County shall pay to the Bank such an amount or amounts as will compensate the Bank for such additional amount or amounts as will compensate the Bank for such reduction or capital increase.

(c) Notice. The Bank will use its best efforts to notify the County within ninety (90) days of the Bank's obtaining knowledge of any event occurring after the date hereof which will entitle the Bank to compensation pursuant to this Section; provided that the failure of the Bank to notify the County within such 90-day period shall relieve the County from any liability for payment of such compensation for any increased costs to the extent (and only to such extent) that such increased costs are incurred during the period commencing after the date the Bank obtains such knowledge and ending on the date the Bank notifies the County of such event. A certificate of the Bank claiming compensation under this Section and setting forth the additional amount or amounts to be paid to it hereunder and attaching such information in reasonable detail as may be reasonably requested by the County shall be conclusive in the absence of manifest error. In determining such amount, the Bank may use any reasonable average and attribution methods.

(d) No Greater Payment. No Participant or other transferee of the Bank's rights shall be entitled to receive any greater payment under this Section than the Bank would have been entitled to receive with respect to the rights transferred, unless such transfer is made with the County's prior written consent.

**3.03 Survival.** All rights and responsibilities under this Article III shall survive the termination of this Agreement.

#### **ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF COUNTY**

The County represents, warrants and agrees with the Bank as follows:

**4.01 Power and Authority.** The County is a political subdivision of the State of Washington and has all requisite power and authority to (a) own its properties and to carry on its business as now being and hereafter proposed to be conducted, (b) adopt, execute, deliver and perform all of its obligations hereunder and under the other Related Documents, (c) incur the indebtedness evidenced by the Bonds, (d) levy an *ad valorem* tax within the constitutional and



statutory tax limitations provided by law without a vote of the people, for as long as any Bonds, any Reimbursement Obligations or any other obligations of the County under this Agreement are outstanding and unpaid upon all the property within the County subject to taxation in an amount that will be sufficient, together with all other revenues, taxes and money of the County legally available for such purposes, to pay the principal of and the interest on the Bonds as the same shall become due, and to pay the Reimbursement Obligations and the other obligations of the County under this Agreement, and (e) adopt, execute and deliver any and all instruments and documents required to be adopted, executed or delivered pursuant to or in connection herewith or therewith and to perform each and all of the matters and things provided for herein and therein.

**4.02 No Violation.** The execution, delivery and performance by the County of this Agreement and the other Related Documents and any and all instruments or documents required to be adopted or executed in connection herewith or therewith have been or will by the Effective Date be duly authorized and do not and will not, in any respect material to the ability of the County to perform its obligations under this Agreement or the remedies of the Bank under this Agreement, (a) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award in effect having applicability to the County or (b) result in a breach of or constitute a default under any indenture, loan, credit agreement or any other agreement, lease or instrument to which the County is a party or by which the County is bound.

**4.03 Authorization.** No authorization, consent, approval, license, exemption from or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, other than those which have been or will by the Effective Date be obtained, will be necessary for the valid adoption, execution, delivery and performance by the County of this Agreement or any of the other Related Documents.

**4.04 Binding Agreements.** This Agreement and each of the other Related Documents constitutes the legal, valid and binding obligation of the County, enforceable against the County in accordance with their respective terms, except as the binding effect and the enforcement thereof may be limited by insolvency, reorganization, liquidation, receivership, conservatorship, moratorium, or other similar laws affecting the enforcement of creditors' rights generally as such laws would apply in the event of the insolvency, reorganization, liquidation, receivership or conservatorship of, or other similar occurrence with respect to, the County, or in the event of any moratorium or similar occurrence affecting the County, and the availability of equitable remedies (including without limitation the remedy of specific performance) may be limited by equitable principles of general applicability, and payment of the Bonds is and shall continue to be an obligation of the County secured by and payable from the sources specified in the Bond Legislation.

**4.05 No Litigation.** There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, arbitrator, governmental or other board, body or official, pending with service of process accomplished or, to the best knowledge of the County after due inquiry, threatened against or affecting the County, which in any manner draws into question the validity or enforceability of this Agreement or any of the other Related Documents or in any way contests the existence, organization or powers of the County or any elected official thereof to

adopt, execute and deliver this Agreement or any of the other Related Documents, to issue the Bonds or to perform the obligations hereunder or thereunder or contemplated hereby or thereby.

**4.06 Accurate Disclosure.** All factual information provided to the Bank by or on behalf of the County is, and all other such factual information hereafter provided will be, to the knowledge of the County, accurate in all material respects on the date as of which such information is certified. The official statement for the Bonds (other than the financial statements included therein), true copies of which have heretofore been delivered to the Bank, and each amendment or supplement thereto prepared subsequent to the Effective Date (a true copy of which shall be furnished to the Bank) do not and will not as of the date thereof contain any untrue statement of a material fact and do not and will not as of the date thereof fail to state a material fact necessary to make the statements therein, in the light of the circumstances under which made, not misleading, except no representation is made as to any information furnished by DTC or the Bank expressly for inclusion therein.

**4.07 Financial Statements.** The audited financial statements of the County for each of its fiscal years ended 2005, 2006 and 2007, including balance sheets as of December 31 of each of said years, all examined and reported on by independent public accountants, prepared by the County, as heretofore delivered to the Bank correctly and fairly present the financial condition of the County as of said dates and the results of the operations of the County for each of such periods, respectively, and have been prepared in accordance with generally accepted accounting principles consistently applied except as stated in the notes thereto; and there has been no material adverse change in the condition, financial or otherwise, of the County since December 31, 2007 from that set forth in said financial statements as of and for the period ended on that date.

**4.08 Sovereign Immunity.** The County is not entitled to immunity from legal proceedings to enforce this Agreement, the Bonds or any other Related Document (including, without limitation, immunity from service of process or immunity from jurisdiction of any court otherwise having jurisdiction).

**4.09 Compliance.** The County is in compliance with the terms and conditions of this Agreement and each of the other Related Documents, and no breach of the terms hereof or thereof nor any Event of Default, Ratings Event, Termination Event or Suspension Event has occurred and is continuing, and no event, act or omission has occurred and is continuing which, with the lapse of time, the giving of notice, or both, would constitute an Event of Default, Ratings Event, Termination Event or Suspension Event or a breach of the terms hereof or thereof.

**4.10 Bonds.** Each Bond will be duly issued under the Bond Legislation, and each such Bond shall be entitled to the benefits thereof.

**4.11 Related Documents.** Each of the Related Documents (other than this Agreement) to which the County is a party is in full force and effect and none of the Related Documents has been amended or supplemented except by such amendments or supplements as have previously been delivered to the Bank.

**4.12 Prospective Change in Law.** To the best knowledge of the County, there is no amendment, or proposed amendment certified for placement on a statewide ballot, to the Constitution of the State of Washington or any published administrative interpretation of the Constitution of the State of Washington or any State of Washington law, or any legislation which has passed either house of the State legislature, the effect of which is to materially adversely affect the ability of the County to perform its obligations under this Agreement or any of the other Related Documents.

**4.13 Bond Registrar and Remarketing Agent.** The fiscal agency of the State of Washington (currently The Bank of New York Mellon) is the duly appointed and acting Bond Registrar, and Merrill Lynch, Pierce, Fenner & Smith Incorporated (or a successor or assign approved in writing by the Bank) is the duly appointed and acting Remarketing Agent as to the Bonds.

**4.14 Security.** The pledge in favor of the Bank contained in Section 2.13 is a valid and binding pledge of the full faith, credit and resources of the County on a limited tax general obligation basis as security for the payment of the Reimbursement Obligations and the other obligations of the County under this Agreement.

**4.15 Compliance.** The County is in compliance with all laws, ordinances, orders, rules regulations applicable to it, noncompliance with which could, individually or in the aggregate, reasonably be expected to have (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the County; (b) a material impairment of the ability of the County to perform its obligations hereunder or under any other Related Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the County of this Agreement or any other Related Document to which it is a party. All cash and other assets of the County are invested in accordance with established investment policy guidelines (a true and correct copy of which guidelines in effect as of the Effective Date are available to the public), as amended, supplemented or otherwise modified from time to time.

**4.16 No ERISA Plans.** The County has never established, is not a party to and has never contributed to any "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, or any other form of bonus, incentive compensation, deferred compensation or other similar plan or arrangement, other than a "governmental plan" within the meaning of Section 414(b) of the Code or Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended.

**4.17 Tax Exempt Status of Bonds.** The County has not taken any action, and knows of no action that any other Person has taken, which would cause interest on the Bonds to be includable in the gross income of the recipients thereof for Federal income tax purposes.

**4.18 Use of Proceeds.** No part of the proceeds made available hereunder will be used for the purpose, whether immediate, incidental, or ultimate, to purchase or carry any margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, as amended from time to time), or to extend credit to others for the purpose of

purchasing or carrying any margin stock, or for any other purpose which would violate any of the regulations of said Board of Governors.

**4.19 Incorporation of Representations and Warranties by Reference.** The County hereby makes to the Bank the same representations and warranties as are set forth in the Related Documents (in each case, as in effect on the Effective Date), which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated by reference with the same effect as if each and every representation and warranty and defined term were set forth herein in its entirety.

#### **ARTICLE V. REPRESENTATIONS AND WARRANTIES OF BANK**

The Bank represents and warrants to the County as follows:

**5.01 Due Organization, Etc.** The Bank is duly organized, validly existing and (to the extent applicable) in good standing under the laws of the jurisdiction under which it is organized, with all requisite organizational power to authorize, execute and deliver this Agreement and carry out its obligations hereunder.

**5.02 Binding Agreement, Etc.** This Agreement constitutes the valid and binding agreement of the Bank, enforceable against the Bank in accordance with its terms, except as the binding effect and the enforcement thereof may be limited by insolvency, reorganization, liquidation, receivership, conservatorship, moratorium, or other similar laws affecting the enforcement of creditors' rights generally as such laws would apply in the event of the insolvency, reorganization, liquidation, receivership or conservatorship of, or other similar occurrence with respect to, the Bank, or in the event of any moratorium or similar occurrence affecting the Bank, and the availability of equitable remedies (including without limitation the remedy of specific performance) may be limited by equitable principles of general applicability.

#### **ARTICLE VI. REPRESENTATIONS AND WARRANTIES OF BOND REGISTRAR**

The Bond Registrar represents and warrants to the Bank as follows:

**6.01 Due Organization, Etc.** The Bond Registrar is duly organized, validly existing and (to the extent applicable) in good standing under the laws of the jurisdiction under which it is organized, with all requisite organizational power to authorize, execute and deliver this Agreement and carry out its obligations hereunder.

**6.02 Binding Agreement, Etc.** This Agreement constitutes the valid and binding agreement of the Bond Registrar, enforceable against the Bond Registrar in accordance with its terms, except as the binding effect and the enforcement thereof may be limited by insolvency, reorganization, liquidation, receivership, conservatorship, moratorium, or other similar laws affecting the enforcement of creditors' rights generally as such laws would apply in the event of the insolvency, reorganization, liquidation, receivership or conservatorship of, or other similar occurrence with respect to, the Bond Registrar, or in the event of any moratorium or similar occurrence affecting the Bond Registrar, and the availability of equitable remedies (including

without limitation the remedy of specific performance) may be limited by equitable principles of general applicability.

**ARTICLE VII.  
CONDITIONS PRECEDENT**

**7.01 Conditions To Bank's Obligations Under Agreement.** The obligations of the Bank under this Agreement have been undertaken in reliance upon the due performance by the County of its obligations and agreements to be performed hereunder and under the other Related Documents and the accuracy of and compliance with the representations, warranties, covenants, agreements and duties of the County contained herein, in each case on and as of the Effective Date. The obligations of the Bank hereunder are also subject to the fulfillment of the following conditions precedent on or before the Effective Date, in a manner satisfactory to the Bank:

(a) Related Documents, Etc. The Bank shall have received (i) true and complete originals of this Agreement and the other Related Documents duly executed by each of the parties thereto, (ii) a copy of the official statement for the Bonds, (iii) a specimen bond of the Bonds and (iv) a copy of the County's investment policy;

(b) Legal Opinion; Reliance Letter. The Bank shall have received (i) an opinion, addressed to the Bank, dated the Effective Date and in form and substance satisfactory to the Bank, of Gottlieb Fisher PLLC, bond counsel to the County, as to the due authorization, execution, delivery and enforceability of this Agreement and the Related Documents against the County, and covering such other matters as the Bank may reasonably request; and (ii) a reliance letter from Gottlieb Fisher PLLC permitting the Bank to rely upon the bond opinion of Gottlieb Fisher PLLC;

(c) Incumbency Certificate. The Bank shall have received a certificate of the County signed by a duly authorized officer of the County, dated the Effective Date, certifying the names and true signatures of the officers of the County authorized to execute this Agreement and the other Related Documents to which the County is a party;

(d) Bond Legislation. The Bank shall have received copies of the Bond Legislation, certified by a duly authorized officer of the County;

(e) Bond Registrar Certificates. The Bank shall have received such certificates of resolutions or other action, incumbency certificates and/or other certificates of officers of the Bond Registrar as the Bank may reasonably request to establish the identities of and verify the authority and capacity of the officers of the Bond Registrar authorized to execute this Agreement and the other Related Documents to which the Bond Registrar is a party;

(f) Bond Ratings. (i) The Bank shall have received confirmation from each Rating Agency that the short-term and long-term ratings of the Bonds will not be lower than those of the Bank and (ii) the County shall not have received notice that any Rating Agency has lowered its rating of the County's long-term Debt from the rating in effect on \_\_\_\_\_, 2009;

(g) Certificate of County. The Bank shall have received a certificate of the County signed by an authorized officer of the County, stating that the representations and warranties set

forth in Article IV of this Agreement and in all other Related Documents are true and correct in all material respects as of the Effective Date;

(h) Remarketing Agreement. The Bank shall have received a certificate of the County signed by a duly authorized officer, dated the Effective Date, acknowledging that the Remarketing Agreement is in full force and effect and that the Remarketing Agent is obligated thereunder to use reasonable best efforts to remarket the Bonds (including Bank Bonds) up to and including the Maximum Bond Interest Rate;

(i) Custody Agreement. On the Effective Date, the Bank Bond Custody Agreement shall have been duly executed and delivered by each of the parties thereto and shall be in force and effect;

(j) No Default, Etc. On the Effective Date (and after giving effect to the issuance of the Bonds and the effectiveness hereof), (i) there shall exist no Event of Default, Ratings Event, Termination Event or Suspension Event, (ii) all representations and warranties made by the County herein or in any of the other Related Documents to which it is a party shall be true and correct with the same effect as though such representations and warranties had been made at and as of such time and (iii) each of the Related Documents to which the County is a party is in full force and effect and has not been amended, modified or changed;

(k) No Material Adverse Change. Since the date of the most recent financial statements of the County, no material adverse change shall have occurred in the status of the business, operations or conditions (financial or otherwise) of the County or its ability to perform its obligations under the Bonds, the other Related Documents or hereunder;

(l) Other Legal Matters. All other legal matters pertaining to the execution and delivery of this Agreement, the other Related Documents and the issuance of the Bonds shall be reasonably satisfactory to the Bank and its counsel;

(m) Financial Statements and Budgets. The Bank shall have received copies of the audited financial statements of the County for the fiscal years ending December 31, 2005, 2006 and 2007, the budget of the County for the current fiscal year, any financial projections for the current fiscal year and such other financial information that the Bank may reasonably request from the County.

(n) Payment of Fees. The County shall have made payment of all amounts due under Section 10.04 hereof as of the Effective Date; and

(o) Other Documents. The Bank shall have received such other documents, certificates, opinions, approvals and filings with respect to this Agreement and the other Related Documents as the Bank may reasonably request.

**7.02 Conditions To Purchasing Bonds.** The obligation of the Bank to purchase Eligible Bonds pursuant to Section 2.01 hereof is subject to the satisfaction of the following conditions on such date:

(a) No Termination Event. No Termination Event shall have occurred;

(b) No Suspension Event. No Suspension Event shall have occurred and be continuing; and

(c) Notice of Presentation. The Bank shall have received the required Notice of Presentation with respect to such purchase provided for in Section 2.02 hereof and as provided in the Bond Legislation.

## **ARTICLE VIII. COVENANTS**

So long as this Agreement is outstanding and until all Bank Bonds and all amounts payable hereunder shall have been paid in full, the County shall comply with the following covenants:

**8.01 Notice.** The County will promptly give written notice to the Bank of the occurrence of any Event of Default, Ratings Event, Termination Event or Suspension Event known to the County or any event known to the County which, upon a lapse of time or notice or both, could reasonably be expected to become an Event of Default, a Ratings Event, a Termination Event or a Suspension Event and shall provide a written statement signed by a duly authorized officer of the County setting forth the details of each such Event of Default, Ratings Event, Termination Event or Suspension Event or potential Event of Default, Ratings Event, Termination Event or Suspension Event and the action which the County proposes to take with respect thereto.

**8.02 Accounting Records; Information.** The County will maintain adequate books, accounts and records in order to present its financial statements as required by the laws of the State of Washington. The County shall provide to the Bank or shall make available to the public on the County's website:

(a) a copy of its annual audited Comprehensive Annual Financial Report (CAFR) prepared in accordance with Generally Accepted Accounting Principles (GAAP) and with statements issued by Governmental Accounting Standards Board (GASB) as soon as it is available (and in no event later than 270 days after the end of each fiscal year of the County), together with a certificate of the County signed by a duly authorized officer certifying that as of the date of such certificate no Event of Default, Ratings Event, Termination Event or Suspension Event has occurred and is continuing;

(b) as soon as practicable and in any event within sixty (60) days after adoption, a copy of the annual budget of the County for each fiscal year of the County; and

(c) a copy of any supplement, amendment or modification to the Bond Legislation as soon as it is available (and in no event later than thirty (30) days after the effectiveness thereof).

**8.03 Maintenance of Tax-Exempt Status.** The County shall not take any action or fail to take any action that, if taken or not taken, would adversely affect the excludability of interest on the Bonds from the gross income of the holders thereof for purposes of Federal income taxation.

**8.04 Access to Books and Records.** To the extent permitted by law and with reasonable notice, the County will permit any person designated by the Bank to visit the offices of the County to examine the books and financial records, including minutes of meetings of any relevant governmental committees or agencies, and make copies thereof or extracts therefrom, and to discuss the affairs, finances and accounts of the County with its principal officials, all at such reasonable times and as often as the Bank may reasonably request.

**8.05 Compliance with Documents.** The County will take any and all actions necessary or reasonably requested by the Bank to assure that all Bonds will be issued in compliance with the Bond Legislation. The County agrees that it will perform and comply with each and every covenant and agreement required to be performed or observed by it herein and in the other Related Documents.

**8.06 Security; Tax Levy.** The County will take any and all actions necessary or reasonably requested by the Bank to preserve and maintain the pledge in favor of the Bank contained in Section 2.13. The County irrevocably covenants and agrees, for as long as any Bonds, any Reimbursement Obligations or any other obligations of the County under this Agreement are outstanding and unpaid, that each year it will include in its budget and levy an *ad valorem* tax, within and as a part of the tax levy permitted to counties without a vote of the people, upon all the property within the County subject to taxation in an amount that will be sufficient, together with all other revenue and money of the County legally available for such purposes, to pay the principal of and the interest on the Bonds and to pay the Reimbursement Obligations and the other obligations of the County under this Agreement as the same shall become due.

**8.07 Compliance With Laws.** The County shall comply with all laws, rules and regulations, and with all final orders, writs, judgments, injunctions, decrees or awards to which it may be subject; provided, however, that the County may contest the validity or application thereof and appeal or otherwise seek relief therefrom, and exercise any and all of the rights and remedies which it may have with regard thereto, so long as such acts do not affect the County's power and authority to execute and deliver this Agreement and the other the Related Documents, to perform its obligations hereunder and thereunder and to pay all amounts payable by it hereunder and thereunder.

**8.08 Amendments.** The County shall not amend, modify, terminate or grant, or permit the amendment, modification, termination or grant of, any waiver under, or consent to, or permit or suffer to occur any action or omission which results in, or is equivalent to, an amendment, termination, modification, or grant of a waiver under the Bond Legislation or any Bond without the prior written consent of the Bank. The County shall not amend or modify, or grant any waiver of, any material provision of the Remarketing Agreement without the prior written consent of the Bank.

**8.09 Official Statement.** The County shall not change any reference to the Bank or include any additional reference to the Bank in the Official Statement without the Bank's prior written consent thereto, which the Bank shall not unreasonably withhold based upon customary business practices at the time such consent is requested.



**8.10 Voluntary Redemption.** Without the prior written consent of the Bank, the County shall not cause the optional redemption pursuant to the Bond Legislation of any Bonds bearing interest at a variable rate (other than Bank Bonds) prior to redeeming such Bank Bonds in full; provided that if notice of redemption of Bonds has been mailed when no Bank Bonds are outstanding, such redemption of Bonds may be completed even if Bank Bonds arise after the mailing of such notice but prior to the redemption.

**8.11 Certain Notices.** The County will promptly give written notice to the Bank of:

(a) the existence and status of any investigation or other inquiry by the Internal Revenue Service or the Securities and Exchange Commission regarding the Bonds;

(b) any action, suit or proceeding known to it at law or in equity or by or before any governmental instrumentality, entity or other agency which, if adversely determined, could reasonably be expected to have a material adverse effect on (i) the financial condition or operations of the County, (ii) the Bonds, (iii) the County's ability to pay and perform its obligations under this Agreement and the other Related Documents, (iv) the County's ability to levy or collect *ad valorem* taxes, or (v) the enforceability or validity of this Agreement or any other Related Document;

(c) any announcement by any Rating Agency of any lowering, withdrawal or suspension of the then existing rating on the Bonds or possible lowering, withdrawal or suspension of its rating on the Bonds;

(d) any material dispute which may exist between the County on the one hand and the Bond Registrar or the Remarketing Agent on the other hand or any dispute in connection with any transaction contemplated under this Agreement or any other Related Document; and

(e) the occurrence of any other event which, in the reasonable judgment of the County, could reasonably be expected to have a material adverse effect on (i) the financial condition or operations of the County, (ii) the Bonds, (iii) the County's ability to pay and perform its obligations under this Agreement and the other Related Documents, (iv) the County's ability to levy or collect *ad valorem* taxes, or (v) the enforceability or validity of this Agreement or any other Related Document.

**8.12 Existence.** The County shall (a) use its reasonable efforts to preserve and maintain its legal existence as a political subdivision of the State of Washington, and (b) use its best efforts to preserve and maintain its rights, franchises and privileges material to the ownership of its properties and the conduct of its business as now being and hereafter proposed to be conducted.

**8.13 Liquidity.** The County agrees that any Alternate Liquidity Facility will require, as a condition to the effectiveness of the Alternate Liquidity Facility, that the County or the issuer of the Alternate Liquidity Facility, as the case may be, will provide immediately available funds, on the date of such termination or provision, which funds, when taken together with funds available to the Bank under the Bond Legislation, will be sufficient to ensure the payment of all Bank Bonds then outstanding (at par plus accrued and unpaid interest thereon at the Bank Rate) and all other amounts due to the Bank hereunder, including, without limitation, payment of any

fees due hereunder and interest accrued thereon and payment of any Differential Interest Amount.

**8.14 Removal and Appointment of Successors.** The County shall not, without prior consultation with the Bank in good faith, remove the Bond Registrar or appoint a successor thereto; provided, however, that the removal and replacement of the Bond Registrar as the fiscal agent by the State of Washington shall not be deemed to be a violation of this Section if (a) the removal of the Bond Registrar and the appointment of a replacement fiscal agent are substantially concurrent events and (b) the replacement fiscal agent assumes the obligations of the Bond Registrar hereunder and under the Bank Bond Custody Agreement. The County shall not, without prior consultation with the Bank in good faith, remove the Remarketing Agent. If the Remarketing Agent is removed or resigns, the County may appoint a Person that is a member of the Financial Industry Regulatory Authority with a minimum net worth of \$100,000,000 (based upon its most recently publicly filed financial statements) without the consent of the Bank. If the County desires to appoint a Person other than a Person that is a member of the Financial Industry Regulatory Authority with a minimum net worth of \$100,000,000 (based upon its most recently publicly filed financial statements) as a successor Remarketing Agent, the County must obtain the prior written consent of the Bank, which consent shall not be unreasonably withheld.

**8.15 Proceeds of Bonds.** The proceeds of the Bonds will be used by the County solely for the purposes described in the Bond Legislation.

**8.16 ERISA.** The County will not establish, become a party to or contribute to any “employee benefit plan” within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, or any other form of bonus, incentive compensation, deferred compensation or other similar plan or arrangement other than a “governmental plan” within the meaning of Section 414(b) of the Code and Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended.

**8.17 Expiration of Availability Period.** If Bonds will remain outstanding on and after the last day of the Availability Period, other than Bonds converted to a Mode not requiring a liquidity facility, the County shall obtain an Alternate Liquidity Facility to become effective on or before such last day.

## ARTICLE IX.

### TERMINATION EVENTS; EVENTS OF DEFAULT; REMEDIES

**9.01 Termination Events.** It shall be a Termination Event hereunder if any of the following events shall occur and be continuing:

(a) Payments. The County shall fail to pay, or cause to be paid, when due (whether by scheduled maturity, redemption or otherwise) the principal of or interest on any Bonds, or shall have declared a moratorium on the payment of, or repudiated, the principal of or interest on any Bonds; or

(b) Cross-Default. The County shall fail to pay, or cause to be paid, when due (whether by scheduled maturity, redemption or otherwise) any unlimited tax general obligation

Debt of the County of the type described in clauses (a), (b), (c) and (e) of the definition thereof or any limited tax general obligation Debt of the County of the type described in clauses (a), (b), (c) and (e) of the definition thereof that is senior to, or on a parity with, the Bonds and such failure shall continue after any applicable grace period, or the County shall have declared a moratorium on the payment of, or repudiated, any such Debt; or

(c) Invalidity. This Agreement or any of the Bonds, or any material provision of this Agreement, any of the Bonds or any of the Bond Legislation, in each case, relating to the payment of the principal of, and interest on, the Bonds, or the pledge in favor of the Bank contained in Section 2.13 or in the Bond Legislation at any time for any reason ceases to be valid and binding on the County in accordance with the terms of this Agreement, such Bonds or such Bond Legislation or is declared or ruled to be null and void, invalid or unenforceable by a court or other governmental agency of appropriate jurisdiction; or

(d) Insolvency. An Event of Insolvency shall have occurred; or

(e) Unsatisfied Judgments. A final and non-appealable judgment or court order for the payment of money in excess of \$10,000,000 shall be rendered against the County, and such judgment or court order shall continue unsatisfied and in effect for a period of sixty (60) consecutive days without being vacated, discharged or satisfied; or

(f) Rating Downgrade. The long-term unenhanced ratings (i.e., any rating that is assigned to a Bond or any other indebtedness of the County senior to, or on a parity with, the Bonds without regard to the provision of credit enhancement such as a letter of credit, bond insurance policy or other financial guarantee) of the Bonds or any other indebtedness of the County senior to or on a parity with the Bonds shall be withdrawn or suspended for credit related reasons by Moody's, S&P and Fitch or reduced below "Baa3" by Moody's, "BBB-" by S&P and "BBB-" by Fitch, respectively.

**9.02 Suspension Event.** It shall be a Suspension Event hereunder if the validity or enforceability of this Agreement or any of the Bonds, or any material provision of this Agreement, any of the Bonds or any of the Bond Legislation, in each case, relating to the payment of the principal of, and interest on, the Bonds, or the pledge in favor of the Bank contained in Section 2.13 is contested in writing by an authorized officer of the County with authority to bind the County.

**9.03 Events of Default.** It shall be an Event of Default hereunder if any of the following events shall occur and be continuing:

(a) Related Document Defaults. A breach by the County of the provisions of, or an event of default by the County shall occur and be continuing under, any Related Document (other than this Agreement) and the expiration of any applicable grace period shall have occurred; or

(b) Covenant Default. The County shall default in the performance of any covenant or agreement contained in this Agreement and such default shall continue for thirty (30) days after written notice of such default shall have been given to the County by the Bank; or

(c) Representations Untrue. Any representation or warranty on the part of the County contained in this Agreement or in any other Related Document shall at any time prove to have been untrue in any material respect when made or when reaffirmed, as the case may be; or

(d) Payments. Nonpayment of any fees or any other amount when due to the Bank hereunder, if such failure to pay when due shall continue for ten (10) Business Days after the County has received written notice thereof from the Bank.

No default by the County under this Agreement shall relieve the Bank from its obligation to purchase Eligible Bonds pursuant to Section 2.01 of this Agreement, subject to the provisions of Sections 2.11, 7.02, 9.04(b) and 9.04(c) of this Agreement.

#### **9.04 Remedies.**

(a) Remedies Generally. In the event of any Event of Default, Ratings Event, Termination Event or Suspension Event, the Bank, so long as such Event of Default, Ratings Event, Termination Event or Suspension Event shall not have been remedied to the sole satisfaction of the Bank, shall be entitled to proceed to enforce all remedies available hereunder and under the other Related Documents (including Section 2.11 of this Agreement) and under applicable law and in equity, including, but not limited to, the right to seek mandamus.

(b) Termination Event. Upon the occurrence of a Termination Event the Available Commitment and the obligation of the Bank to purchase Eligible Bonds pursuant to this Agreement shall be immediately terminated without notice or other action on the part of the Bank and, thereafter, the Bank shall be under no further obligation to purchase Eligible Bonds hereunder.

(c) Suspension Event. Upon the occurrence of a Suspension Event the obligation of the Bank to purchase Eligible Bonds pursuant to this Agreement shall be immediately suspended without notice or other action on the part of the Bank. Upon such a suspension, the Bank shall give written notice thereof to the Bond Registrar and the County; provided, however, the failure of the Bank to give such notice shall not affect the validity of such suspension. The obligation of the Bank to purchase Eligible Bonds shall thereafter be suspended until either the Bank delivers a written notice to the Bond Registrar rescinding such suspension event or a final non-appealable order of a court having jurisdiction in the premises shall be entered declaring that the affected Related Document is upheld in its entirety or all material contested provisions of the affected Related Document relating to the payment of the principal of, and interest on, or security for the Bonds are upheld in their entirety. In the event a final non-appealable order is entered declaring the affected Related Document or any material provision of the affected Related Document relating to the payment of the principal of, and interest on, or security for the Bonds to be invalid, unenforceable or null and void, then the obligation of the Bank to purchase Eligible Bonds under this Agreement shall immediately terminate without any further action by the Bank. In the event a final non-appealable order is entered declaring that the affected Related Document is upheld in its entirety or all material provisions of the affected Related Document relating to the payment of the principal of, and interest on, or security for the Bonds are upheld in their entirety, the obligation of the Bank to purchase Eligible Bonds under this Agreement shall be automatically reinstated and the terms of this Agreement will continue in full force and effect

(unless this Agreement or the Available Commitment shall otherwise have terminated by its terms) as if there had been no such suspension. Notwithstanding the foregoing, if, upon the earlier of the last day of the Availability Period or the date which is two years after the effective date of a suspension of the Bank' obligations pursuant to this Section 9.04(c), such Suspension Event is still continuing, then the Available Commitment and the obligation of the Bank to purchase Eligible Bonds shall at such time terminate without notice or demand and, thereafter, the Bank shall be under no further obligation to purchase Eligible Bonds hereunder.

(d) Event of Default, Etc. Upon the occurrence and during the continuance of an Event of Default or a Ratings Event, the Bank may terminate the Available Commitment and the obligation of the Bank to purchase Eligible Bonds by giving Notice to the County and the Bond Registrar, specifying the date on which at 5:00 p.m. New York City time the Available Commitment and the obligation of the Bank to purchase Bonds shall terminate (the "Termination Date"), which shall be not less than thirty (30) days from the date of receipt of such Notice by the Bond Registrar, and after the Termination Date the Bank shall be under no further obligation to purchase Eligible Bonds hereunder other than Bonds which are the subject of a Notice of Presentation delivered by the Bond Registrar in accordance with Section 2.02 hereof and received by the Bank on or prior to the Termination Date.

## ARTICLE X. MISCELLANEOUS

**10.01 Amendments, Etc.** Any provision of this Agreement may be amended or waived, but only if such amendment or waiver is in writing and is signed by the County and the Bank and, if the rights or duties of the Bond Registrar are affected thereby, by the Bond Registrar.

### **10.02 Notices Etc.**

(a) Notices Generally. Except as otherwise expressly provided herein, all notices and requests to, and consents by, any party hereunder shall be in writing and shall be personally served on an officer of the receiving party or sent by United States mail, registered or certified, return receipt requested, or express mail, postage prepaid and shall be deemed to have been given upon receipt by the party notified. To the extent that any telecommunication notice is permitted hereunder, the parties hereto shall provide appropriate facsimile numbers or other telecommunication address information. For the purposes hereof, the addresses of the County, the Bond Registrar and the Bank (until notice of a change thereof is delivered as provided in this Section 10.02) shall be as specified below:

County:	King County, Washington Department of Finance ADM-FI-0611 500 Fourth Avenue Seattle, WA 98104 Attention: Nigel H. Lewis Facsimile: (206) 296-7345 Telephone: (206) 296-1168
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Bond Registrar: The Bank of New York Mellon  
Global Corporate Trust, Fiscal Agencies Unit  
101 Barclay Street, 7 West  
New York, NY 10286  
Attention: Michael C. Hieb, Vice President  
Facsimile: (212) 815-3466  
Telephone: (212) 815-5120

Bank: Bank of America, N.A.  
WA1-501-34-03  
800 Fifth Avenue, Floor 34  
Seattle, WA 98104  
Attention: Nancy D. Nuereberg, Senior Vice President  
Facsimile: (206) 358-8818  
Telephone: (206) 358-6279

(b) Electronic Communications. The parties hereto may in their discretion agree to accept notices and other communications hereunder by electronic communications pursuant to procedures approved by them; provided that approval of such procedures may be limited to particular notices or communications.

(c) Reliance By Bank. The Bank shall be entitled to rely and act upon any notices purportedly given by or on behalf of the County even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as reasonably understood by the recipient, varied from any confirmation thereof.

**10.03 No Waiver; Cumulative Remedies.** No failure or delay on the part of the County or the Bank or any of them in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof; the remedies herein provided are cumulative and not exclusive of any remedies provided by law. No notice to or demand on the County or any other party hereto in any case shall entitle the County or such other party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Bank to any other or further action in any circumstances without notice or demand.

**10.04 Fees and Expenses.** The County shall pay upon receipt of an invoice the amount of the Bank's legal costs, fees and expenses in connection with the preparation, execution and delivery of this Agreement and the other Related Documents. The County shall also pay (a) all reasonable out-of-pocket expenses of the Bank, including reasonable fees and expenses of counsel retained by the Bank in connection with any waiver or consent hereunder, under the Bonds or under any other Related Document or any amendment hereof or thereof and (b) if any Event of Default, Ratings Event, Termination Event or Suspension Event occurs, all reasonable out-of-pocket expenses incurred by the Bank, including reasonable fees and disbursements of counsel and experts retained by the Bank in connection with such Event of Default, Ratings

Event, Termination Event or Suspension Event and collection and other enforcement proceedings resulting therefrom.

#### **10.05 Indemnification.**

(a) To the extent permitted by law, the County agrees to indemnify and hold the Bank, and each of its officers, directors, employees and their agents, harmless from any and all claims, damages, losses, liabilities and reasonable costs and expenses which the Bank may incur by reason of or in connection with: (i) the offering, sale, remarketing or resale of the Bonds (including, without limitation, by reason of any untrue statement or alleged untrue statement of any material fact contained in any official statement of the County for Bonds or caused by any omission or alleged omission to state therein a material fact necessary to make such statements, in the light of the circumstances under which they were made, not misleading (except as to information provided in writing by the Bank for inclusion in any such official statement of the County)); (ii) the validity of this Agreement (other than a failure thereof resulting from any invalidity on the part of the Bank) or any of the Related Documents; or (iii) the execution, delivery and performance of this Agreement (other than by the Bank), or the making or the failure to make purchases of Bonds under this Agreement; provided, however, that the County shall not be required to indemnify the Bank for any claims, damages, losses, liabilities, costs or expenses to the extent that such claims, damages, losses, liabilities, costs or expenses that are determined by a court of competent jurisdiction by final and nonappealable judgment to have been caused by the willful misconduct or gross negligence of the Bank. Nothing in this Section 10.05 is intended to limit any other obligation of the County contained in this Agreement or in any other Related Document.

(b) The Bank shall, promptly after the receipt of notice of the commencement of any action against the Bank in respect of which indemnification may be sought against the County pursuant to this Section 10.05, notify the County in writing of the commencement thereof. In case any such action shall be brought against the Bank, the Bank shall notify the County of the commencement thereof, the County may, or if so requested by the Bank shall, participate therein or assume the defense thereof, with counsel reasonably satisfactory to the Bank, and after notice from the County to the Bank of an election to so assume the defense thereof, the County will not be liable to the Bank under this subsection for any legal or other expenses subsequently incurred by the Bank in connection with the defense thereof other than reasonable costs of investigation; provided, however, that unless and until the County assumes the defense of any such action at the request of the Bank, the County shall have the right to participate at its own expense in the defense of any such action. If the County shall not have employed counsel to have charge of the defense of any such action or if the Bank shall have reasonably concluded that there may be defenses available to it which are different from or additional to those available to the County (in which case the County shall not have the right to direct the defense of such action on behalf of the Bank), reasonable legal and other expenses incurred by the Bank shall be borne by the County. The County shall not be liable for any settlement of any such action effected without the consent of the County, which consent shall not be unreasonably withheld, but if settled with the consent of the County or if there is a final judgment for the plaintiff in any such action, the County will indemnify and hold harmless the Bank from and against any loss or liability by reason of such settlement or judgment insofar as such settlement or judgment shall relate to any liability in respect of which the Bank is entitled to indemnity hereunder.

(c) To the extent permitted by law, the County agrees to indemnify and hold the Bank, and each of its officers, directors, employees and their agents, harmless (on a net after-tax basis) from any present or future claim or liability for stamp, transfer, documentary, excise or other similar tax and any penalties or interest with respect thereto, which may be assessed, levied or collected by any jurisdiction in connection with the execution, delivery and performance of, or any payment made under, this Agreement, the Bonds and the other Related Documents, or any amendment hereto or thereto.

(d) All amounts due under this Section shall be payable not later than thirty (30) Business Days after demand therefor.

(e) All rights and responsibilities under this Section 10.05 shall survive the termination of this Agreement and apply to claims, damages, losses, liabilities and costs and expenses incurred or claimed thereafter.

#### **10.06 Successors and Assigns.**

(a) This Agreement shall be binding upon and inure to the benefit of the County, the Bank, the Bond Registrar and their respective successors and assigns, except that (i) the County may not assign its rights or obligations hereunder or under the other Related Documents or any interest herein or therein without the prior written consent of the Bank, (ii) the Bond Registrar may assign its rights and obligations hereunder only in accordance with the terms and conditions of Section 8.14, provided, however, any corporation or association into which the Bond Registrar in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Bond Registrar in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Bond Registrar in its individual capacity may be sold or otherwise transferred, shall be the Bond Registrar under this Agreement without further act and (iii) so long as no Event of Default has occurred and is continuing, the Bank may not, except as provided in this Section 10.06, assign its rights or obligations hereunder or under any of the other Related Documents or any interest herein or therein without the prior written consent of the County.

(b) The Bank shall have the right to grant participations from time to time in this Agreement and the other Related Documents to one or more Participants; provided that the grant of any such participation shall not terminate or otherwise affect any obligation of the Bank hereunder; and provided, further, that the County shall continue to deal solely with the Bank for all purposes hereunder. Each Participant purchasing such a participation shall have all rights of the Bank hereunder to the extent of the participation purchased.

(c) The Bank may assign and pledge all or any portion of the County's obligations owing to the Bank hereunder and under the other Related Documents to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank; provided that any payment in respect of such assigned obligations made by the County to the Bank in accordance with the terms of this Agreement shall satisfy the County's obligations hereunder and under the other Related Documents in respect of such assigned



obligation to the extent of such payment. No such assignment shall release the Bank from its obligations hereunder.

**10.07 Confidentiality.** The Bank agrees to maintain the confidentiality all information received from the County regarding the books and records of the County which is not available to the Bank on a nonconfidential basis prior to disclosure by the County; provided, however, that the Bank shall not be precluded from disclosing such information or the contents of such books and records (a) to its affiliates and to its and its affiliates' respective officers, directors, employees and agents (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and contents and instructed to keep such information and contents confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Related Document or any action or proceeding relating to this Agreement or any other Related Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (g) with the consent of the County or (h) to the extent such information or the contents of such books and records (1) becomes publicly available other than as a result of a breach of this Section or (2) becomes available to the Bank or any of its affiliates on a nonconfidential basis from a source other than the County.

**10.08 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

**10.09 Severability.** If any provision of this Agreement shall be held to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions because it conflicts with any provisions of any constitution, statute, rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

**10.10 Governing Law.**

(a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington without regard to choice of law rules.

(b) Jurisdiction and Venue. Any and all disputes or legal actions or proceedings arising out of, under and/or pertaining to this Agreement and the other Related Documents or any document related thereto shall be brought in the courts of the State of Washington located in the County of King or of the courts of the United States of America for the Western District of Washington and, by execution and delivery of this Agreement, the parties hereto consent to and hereby accept for themselves and in respect of their property, generally and unconditionally, the jurisdiction of the aforesaid courts. To the extent permitted by law, the parties hereto hereby

irrevocably waive any objection, including, without limitation, any objection to the laying of venue or based on the grounds of *forum non conveniens* which they may now or hereafter have to the bringing of any such action or proceeding in such respective jurisdictions. The provisions of this Section 10.10(b) shall not limit the rights of any parties hereto to bring any such action or proceeding against the Bank in any jurisdiction where such action or proceeding is legally permissible.

(c) Service of Process. The parties hereto further irrevocably consent, to the extent permitted by law, to the service of process of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to such parties at their respective notice address pursuant to Section 10.02 hereof, such service to become effective thirty (30) days after such mailing.

(d) Waiver of Jury Trial. The parties hereto hereby waive to the extent permitted by applicable law, any right they may have to a trial by jury in any legal actions or proceedings arising out of, under and/or pertaining to this Agreement or any of the other Related Documents or the transactions contemplated thereby (whether based on contract, tort or other theory). Each party hereby (i) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other parties hereto have freely and voluntarily entered into this agreement to waive trial by jury and have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section.

**10.11 Complete Statement of Agreement.** This Agreement, together with the documents referred to in this Agreement, is the complete and exclusive statement of the terms of the agreement among the parties hereto.

**10.12 Headings.** Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

**10.13 Liability of the Bank.** The County agrees that none of the Bank or its officers, directors, employees and agents shall have any liability or responsibility for the acts or omissions of either the Bond Registrar or the Remarketing Agent in respect of their use of this Agreement or any amounts made available by the Bank hereunder. The Bank and its officers, directors, employees and agents shall have no responsibility for, nor incur any liability in respect of, any act, or any failure to act, by the Bond Registrar which results in the failure of the Bond Registrar to effect the purchase of Bonds for the account of the Bank with funds provided by the Bank pursuant to Section 2.02 hereof or to comply with the applicable provisions of the Bond Legislation. None of the Bank and its officers or directors shall be liable or responsible for: (a) the use which may be made of this Agreement or any amounts made available by the Bank hereunder or for any acts or omissions of the Bond Registrar or the Remarketing Agent in connection therewith; (b) the validity, sufficiency or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respect invalid, insufficient, fraudulent or forged; or (c) any other circumstances whatsoever in making or failing to make payment under this Agreement, other than the Bank's gross negligence or

willful failure to purchase Bonds when required under the terms and conditions of this Agreement.

**10.14 Obligations Absolute.** The obligations of the County under this Agreement shall be absolute, unconditional and irrevocable, and shall be paid and performed strictly in accordance with the terms of this Agreement, under all circumstances whatsoever, including, without limitation, the following circumstances:

- (a) any lack of validity or enforceability of all or any of the Related Documents;
- (b) any amendment or waiver of or any consent to or departure from all or any of the Related Documents;
- (c) any exchange, release or non-perfection of any collateral or lien or any release or amendment or waiver of or consent to departure from any guaranty and insurance documents;
- (d) the existence of any claim, set-off, defense, or other right which the County may have at any time against the Bond Registrar, the Remarketing Agent or the Bank (other than the defense of the payment to the Bank in accordance with the terms of this Agreement) or any other Person, whether in connection with this Agreement, the Related Documents or any unrelated transactions; or
- (e) any certificate, notice or any other document presented under this Agreement proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever.

**10.15 USA Patriot Act Notice.** The Bank hereby notifies the County that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107 56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the County, which information includes the name and address of the County and other information that will allow the Bank to identify the County in accordance with the Act.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

[remainder of page intentionally left blank]

*IN WITNESS WHEREOF*, the County has caused this Agreement to be signed in its name by a duly authorized officer, and the Bond Registrar and the Bank have caused this Agreement to be signed in their respective names by one or more officers, all as of the day and year first above written.

**KING COUNTY, WASHINGTON**

By: \_\_\_\_\_  
Name: Ken Guy  
Title: Director, Finance and Business  
Operations Division, King County  
Department of Executive Services

**THE BANK OF NEW YORK MELLON, as  
Bond Registrar**

By: \_\_\_\_\_  
Name: Michael C. Hieb  
Title: Vice President

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

By: \_\_\_\_\_  
Name: Nancy D. Nuereberg  
Title: Senior Vice President

**EXHIBIT A**

**FORM OF NOTICE OF PRESENTATION**

\$50,000,000  
King County, Washington  
Multi-Modal Limited Tax General Obligation Bonds  
Series 2009 A

Bank of America, N.A.  
WA1-501-34-03  
800 Fifth Avenue, Floor 34  
Seattle, WA 98104

Ladies and Gentlemen:

Pursuant to the Standby Bond Purchase Agreement, dated as of February 26, 2009 (the "Agreement"), among King County, Washington, a political subdivision of the State of Washington (the "County"), The Bank of New York Mellon, a New York State chartered bank (the "Bond Registrar"), and Bank of America, N.A., a national banking association (the "Bank"), you are hereby given notice that you will be required, pursuant to Section 2.01 of the Agreement, to purchase on the date hereof, the Purchase Date, the Bonds or portions thereof identified below having the principal amounts and accrued interest thereon at either a Daily Mode, a Weekly Mode or a Flexible Mode in the respective amounts set forth below:

<u>Principal Amount (1)</u>	<u>Accrued Interest (2)</u>	<u>Purchase Price ((1)+(2))</u>
\$	\$	\$

The purchase of the Bonds or portions thereof by you is subject (among other things) to delivery of this Notice of Presentation (the "Notice") to you. Any capitalized term not herein defined shall have the meaning assigned thereto in the Agreement.

In connection with the presentation of this Notice, the undersigned, as Bond Registrar, hereby certifies that (i) this Notice is being delivered to you at your Presentation Office during the Availability Period and (ii) the undersigned has not received notice from the Bank that the Agreement has been terminated.

Payments made in respect of the purchase of Bonds in accordance with this Notice shall be made by wire transfer of immediately available funds to the account of the undersigned at \_\_\_\_\_.

Promptly following the purchase of Bonds by you pursuant to this Notice, the undersigned will [*register*] [*hold*] Bonds in an aggregate principal amount equal to the principal amount set forth above in accordance with Section 2.02(c) of the Agreement].

*IN WITNESS WHEREOF*, this Notice has been executed this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

**THE BANK OF NEW YORK MELLON**, as  
Bond Registrar

By \_\_\_\_\_  
Authorized Officer

## EXHIBIT B

### FORM OF BANK BOND CUSTODY AGREEMENT

This BANK BOND CUSTODY AGREEMENT ("Agreement") is entered into as of February 26, 2009, by and between THE BANK OF NEW YORK MELLON, a New York State chartered bank, in its capacity as custodian (the "Custodian") and BANK OF AMERICA, N.A., a national banking association (the "Bank").

#### RECITALS

A. King County, Washington, a political subdivision of the State of Washington (the "County"), The Bank of New York Mellon, a New York State chartered bank, in its capacity as bond registrar (the "Bond Registrar"), and Bank have entered into a certain Standby Bond Purchase Agreement dated as of the date hereof (as amended, supplemented or otherwise modified from time to time, the "Purchase Agreement") pursuant to which the Bank has agreed to purchase in certain circumstances the County's Multi-Modal Limited Tax General Obligation Bonds, 2009, Series A (the "Bonds").

B. The Bonds were issued pursuant to Ordinance 14463, Ordinance 14745, Ordinance 14992, Ordinance 15285, Ordinance 15604 and Ordinance 16361 of the County, and Motion \_\_\_\_ of the County Council (collectively, the "Bond Legislation").

C. The Bond Legislation requires that the Bonds delivered by the holders thereof to the Bond Registrar pursuant to the Bond Legislation shall be purchased under certain circumstances by the Bank under the Purchase Agreement.

D. It is a condition to the effectiveness of the obligations of the Bank under the Purchase Agreement that the Custodian shall have entered into this Agreement.

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

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Custodian and the Bank hereby agree as follows:

1. **Defined Terms.** All capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Purchase Agreement.

2. **Appointment and Acceptance.** The Bank appoints the Custodian as its agent and bailee for the purpose of receiving Bank Bonds under the Purchase Agreement and holding such Bank Bonds for and on behalf of the Bank. Bank Bonds shall be held and registered as provided in Section 2.02 of the Purchase Agreement. The Custodian hereby agrees to hold the Bank Bonds for such purpose, as the Bank's agent and bailee. As used herein, the term "Bank Bonds" means, unless the context otherwise requires, the beneficial ownership of Bank Bonds during any period that the book entry system with DTC or any other securities depository is used with respect to the registration and transfer of the Bank Bonds.

3. **No Disposition, Etc.** Except at the written direction of the Bank, the Custodian shall not pledge, hypothecate, transfer or release possession of Bank Bonds held by or registered in the name of the Custodian on behalf of the Bank to any Person or in any manner not in accordance with this Agreement and shall not enter into any other agreement, other than this Agreement, regarding possession of the Bank Bonds without the prior written consent of the Bank. The Custodian will not release Bank Bonds to the purchaser of such Bank Bonds unless the Bank has delivered to the Custodian, in addition to its written direction contemplated above in this paragraph, written notice (which may be by telex, answerback received) that a portion of the Available Principal Commitment in an amount equal to the principal amount of such Bank Bonds has been reinstated.

4. **Termination.** Upon written notice to the Bank, and release and delivery to the Bank or its designee of any Bank Bonds then held by the Custodian on behalf of the Bank pursuant to this Agreement, the Custodian shall have the right to terminate its obligations with respect to such Bank Bonds under this Agreement. The Bank shall have the option to terminate this Agreement at any time upon written notice to the Custodian and, upon such termination, the Custodian will release and deliver to the Bank or its designee any Bank Bonds then held by the Custodian hereunder. The Bank may also from time to time request that the Custodian release and deliver to the Bank all or a portion of the Bank Bonds then held by the Custodian on behalf of the Bank without termination of this Agreement, and upon receipt of any such request in writing, the Custodian will release and deliver such Bank Bonds to the Bank or its designee then held by the Custodian.

5. **Information Regarding Bank Bonds.** The Custodian shall deliver to the Bank at the Bank's request such information as may be in the possession of the Custodian with respect to Bank Bonds.

6. **Standard of Care.** In acting under this Agreement the Custodian shall not be liable to the Bank except for gross negligence or willful misconduct in the performance of its obligations hereunder.

7. **Exculpatory Provisions.** The Custodian's duties are only such as are specifically provided herein, and the Custodian shall incur no fiduciary or other liability whatsoever to the Bank or any other Person, except to the extent the Bank incurs any loss or liability due to the Custodian's gross negligence or willful misconduct. Anything in this Agreement to the contrary notwithstanding, in no event shall the Custodian be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Custodian has been advised of such loss or damage and regardless of the form of action. The Custodian may consult with counsel and shall be fully protected in any action taken, suffered or omitted in good faith in accordance with such advice. The Custodian may rely conclusively and shall be fully protected in acting upon any written instructions given to it hereunder and believed by it to have been properly executed.

8. **Resignation.** The Custodian may resign at any time by giving written notice thereof to the Bank. In the event that the Custodian is removed and replaced as the fiscal agent by the State of Washington, the Custodian shall resign upon the written request of the Bank. No such resignation shall become effective until a successor Custodian shall have been appointed by



the Bank and such successor shall have accepted such appointment in writing. The resigning Custodian may, at the reasonable expense of the County, petition any court of competent jurisdiction, including without limitation the Supreme Court of the State of New York, for the appointment of a successor Custodian.

**9. Notices.** Except as otherwise expressly provided herein, all notices and requests to, and consents by, any party hereunder shall be in writing and shall be personally served on an officer of the receiving party or sent by United States mail, registered or certified, return receipt requested, or express mail, postage prepaid and shall be deemed to have been given upon receipt by the party notified. For the purposes hereof, the addresses of the Bank and the Custodian (until notice of a change thereof is delivered as provided in this Section 9) shall be as specified below:

Bank: Bank of America, N.A.  
WA1-501-34-03  
800 Fifth Avenue, Floor 34  
Seattle, WA 98104  
Attention: Nancy D. Nuerenberg, Senior Vice President  
Facsimile: (206) 358-8818  
Telephone: (206) 358-6279

Custodian: The Bank of New York Mellon  
Global Corporate Trust, Fiscal Agencies Unit  
101 Barclay Street, 7 West  
New York, NY 10286  
Attention: Michael C. Hieb, Vice President  
Facsimile: (212) 815-3466  
Telephone: (212) 815-5120

**10. Payment of Expenses.** By countersigning this Agreement, the County acknowledges and agrees that the transactions contemplated by this Agreement are for the benefit of the County and the County agrees to pay or cause to be paid all reasonable out-of-pocket fees, costs, disbursements, taxes and expenses (including, without limitation, the reasonable attorney's fees and expenses) incurred by the Custodian in connection with the performance by the Custodian of its obligations hereunder.

**11. Further Assurances.** The Custodian and by countersigning this Agreement, the County, each agree that at any time upon the written request of the Bank and at the expense of the County, such party will execute and deliver or cause to be executed and delivered any and all such further documents and do any and all such further acts and things as the Bank may reasonably request in order to effect the purposes of this Agreement.

**12. Waivers, Amendments.** The terms of this Agreement cannot be waived, amended or modified except in a writing signed by the Bank and the Custodian and countersigned by the County.

**13. Successors and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon the Custodian, the Bank and the County, and their respective successors and

assigns except that (a) the County may not assign its rights or obligations hereunder without the prior written consent of the Bank, (b) the Custodian may assign its rights and obligations hereunder only in connection with an assignment of its rights and obligations under the Purchase Agreement in accordance with the terms and conditions of Section 10.06 of the Purchase Agreement or as permitted under Section 8 of this Agreement, provided, however, any corporation or association into which the Custodian in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Custodian in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Custodian in its individual capacity may be sold or otherwise transferred, shall be the Custodian under this Agreement without further act and (c) the Bank may assign its rights and obligations hereunder only in connection with an assignment of its rights and obligations under the Purchase Agreement in accordance with the terms and conditions of Section 10.06 of the Purchase Agreement.

**14. Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable in any jurisdiction, such circumstance shall not have the effect of rendering the provision in question invalid or unenforceable in any other case or circumstances, or of rendering any other provision or provisions of this Agreement invalid or unenforceable to any extent whatever.

**15. Governing Law.** This is the Bank Bond Custody Agreement referred to in the Purchase Agreement, and shall be governed by and construed in accordance with the laws of the State of Washington without regard to choice of law rules.

**16. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[remainder of page intentionally left blank]

*IN WITNESS WHEREOF*, the Custodian and the Bank have caused this Agreement to be signed in their respective names by one or more officers, all as of the day and year first above written.

**THE BANK OF NEW YORK MELLON**, as  
Custodian

By: \_\_\_\_\_  
Name: Michael C. Hieb  
Title: Vice President

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

By: \_\_\_\_\_  
Name: Nancy D. Nuereberg  
Title: Senior Vice President

ACCEPTED AND AGREED TO:

**KING COUNTY, WASHINGTON**

By: \_\_\_\_\_  
Name: Ken Guy  
Title: Director, Finance and Business  
Operations Division, King County  
Department of Executive Services