

CHAPMAN DRAFT
DATED NOVEMBER 22, 2021

NOTE PURCHASE AGREEMENT

dated December 17, 2021

between

CITY AND COUNTY OF DENVER, COLORADO,
for and on behalf of its Department of Aviation

and

BANK OF AMERICA, N.A.

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NOTE PURCHASE AGREEMENT

December 17, 2021

City and County of Denver, Colorado
201 W. Colfax Avenue, Department 1010
Denver, Colorado 80202
Attention: Manager of Finance

Denver International Airport
8500 Pena Blvd.
AOB 8th Floor – Finance
Denver, Colorado 80249
Attention: SVP of Finance

Ladies and Gentlemen:

The undersigned Bank of America, N.A., offers to enter into this Note Purchase Agreement (as amended, supplemented or otherwise modified from time to time, the “*Agreement*”) with the City and County of Denver, Colorado, for and on behalf of its Department of Aviation (the “*City*”), for the purchase by the Purchaser and sale by the City of the Note specified below. This offer is made subject to the City’s written acceptance on or before 11:00 a.m., Denver, Colorado time, on the date first written above, and upon such acceptance this Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the City and the Purchaser.

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms. Capitalized terms not otherwise defined herein shall have the same meanings as are set forth in the General Ordinances (as defined herein and as applicable). In addition to the terms defined elsewhere in this Agreement, the following terms shall have the indicated meanings:

“*1933 Act*” means the Securities Act of 1933, as the same shall from time to time be supplemented or amended.

“*Affiliate*” means a corporation, partnership, association, joint venture, business trust, governmental entity or similar entity organized under the laws of any state that directly, or indirectly through one (1) or more intermediaries, Controls or is Controlled by, or is under common Control with, the City, the Department of Aviation or Purchaser, as may be applicable.

“*Airport*” means the Denver International Airport.

“*Airport System*” has the meaning set forth in the General Bond Ordinance.

“*Applicable Law*” means all applicable provisions of all constitutions, statutes, rules, regulations and all orders, judgments and decrees of all governmental bodies, courts and arbitrators.

“*Applicable Spread*” means 11 basis points (0.11%).

“*Authorized Officer*” means the Manager, the Acting Manager of Aviation, the Manager of Finance, the Chief Financial Officer, ex-officio Treasurer of the City, the Debt Administrator of the City or the City Attorney.

“*Base Rate*” means, for any day, a fluctuating rate of interest per annum equal to the greatest of (i) the Prime Rate in effect at such time *plus* one percent (1.00%), (ii) the Federal Funds Rate in effect at such time *plus* two percent (2.00%), and (iii) seven percent (7.00%).

“*Business Day*” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the states where the principal corporate office of the City is located are authorized by Law to close, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal offices of the Purchaser is closed.

“*Capital Fund*” has the meaning set forth in the General Subordinate Bond Ordinance.

“*Capital Lease*” means any lease of Property by any Person which in accordance with GAAP would be required to be capitalized on the balance sheet of such Person.

“*Change in Law*” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any Law, rule, regulation or treaty, (b) any change in any Law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “*Change in Law*”, regardless of the date enacted, adopted or issued.

“*City*” means the City and County of Denver, Colorado, for and on behalf of its Department of Aviation.

“*Code*” means the Internal Revenue Code of 1986, as amended, and, where appropriate any statutory predecessor or any successor thereto.

“*Commitment*” means the agreement of the Purchaser pursuant to Section 2.1 hereof to fund the Purchase Price under the terms hereof for the account of the City.

“*Computation Date*” means Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day.

“*Control*” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, through the right to elect not less than a majority of the members of its board of directors or other governing board, by contract or otherwise, “Controlling” and “Controlled” have meanings correlative thereto.

“*Debt*” means, for any Person (without duplication), (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property, except trade accounts payable arising in the ordinary course of business, (d) all Capital Leases of such Person, (e) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property), (f) all deferred obligations of such Person to reimburse any bank or other Person in respect of amounts paid or advanced under a letter of credit or other instrument, (g) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, (h) all Guarantees by such Person of Debt of other Persons and (i) all obligations of such Person under any Swap Agreement; *provided* that in no event shall the term “*Debt*” as used herein include any indebtedness of the City, for and on behalf of its Department of Aviation, which is payable solely from payments to be made by a Person other than the City, for and on behalf of its Department of Aviation.

“*Default*” means any condition or event that constitutes an Event of Default or that, with the giving of notice or lapse of time or both, would constitute an Event of Default.

“*Default Rate*” means the lesser of (i) the sum of the Base Rate from time to time in effect *plus* 4.00% per annum, and (ii) subject to Section 2.10 hereof, the Maximum Interest Rate, payable on demand.

“*Designated Jurisdiction*” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“*Determination of Taxability*” means and shall be deemed to have occurred on the first to occur of the following:

(i) on the date when the City files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(ii) on the date when a Noteholder or any former Noteholder notifies the City that it has received a written opinion by a nationally recognized firm of attorneys of

substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within two hundred seventy (270) days after receipt by the City of such notification from such Noteholder or such former Noteholder, the City shall deliver to such Noteholder or such former Noteholder, as applicable, a ruling or determination letter issued to or on behalf of the City by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(iii) on the date when the City shall be advised in writing by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time, including an employee subordinate to one of these officers who has been authorized to provide such advice) that, based upon filings of the City, or upon any review or audit of the City or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(iv) on the date when the City shall receive notice from a Noteholder or any former Noteholder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Noteholder or such former Noteholder the interest on any Note due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subparagraph (iii) or (iv) hereunder unless the City has been afforded the reasonable opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided further, however*, that upon demand from a Noteholder or former Noteholder, the City shall promptly reimburse such Noteholder or former Noteholder for any payments, including any taxes, interest, penalties or other charges, such Noteholder (or former Noteholder) shall be obligated to make as a result of the Determination of Taxability.

“Dollar” and “\$” mean lawful money of the United States.

“Effective Date” means December 17, 2021, subject to the satisfaction of the conditions set forth in Article V hereof.

“Energy Capital or Debt Financing” means that certain lease to be entered into by the City, for and on behalf of its Department of Aviation, in an amount not to exceed \$85,000,000.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from

time to time. References to Sections of ERISA shall be construed also to refer to any successor Sections.

“*Escrow Account*” has the meaning set forth in the General Bond Ordinance.

“*Event of Default*” has the meaning set forth in Section 7.1 hereof.

“*Event of Taxability*” means (i) a change in Law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the City, or the failure to take any action by the City, or the making by the City of any misrepresentation herein or in any certificate required to be given in connection with this Agreement or the issuance, sale or delivery of the Note) which has the effect of causing interest paid or payable on any Note to become includable, in whole or in part, in the gross income of a Noteholder or any former Noteholder for federal income tax purposes or (ii) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the Department of the Treasury, which decree, judgment or action shall be final under applicable procedural Law, in either case, which has the effect of causing interest paid or payable on any Note to become includable, in whole or in part, in the gross income of such Noteholder or such former Noteholder for federal income tax purposes with respect to any Note.

“*Excess Interest*” has the meaning set forth in Section 2.10 hereof.

“*FAA*” means the Federal Aviation Administration of the United States Department of Transportation and any successor thereto.

“*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 Bank of America, N.A. on such day on such transactions as determined by Bank of America, N.A.

“*Fiscal Year*” has the meaning set forth in the General Bond Ordinance.

“*Fitch*” means Fitch, Inc., and its successors and assigns.

“*FRB*” means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“*Funds*” means (i) all funds established under the General Bond Ordinance and the General Subordinate Bond Ordinance (except for moneys and securities held in any Escrow Account and except as otherwise provided in the General Bond Ordinance or the General

Subordinate Bond Ordinance as funds available and pledged exclusively to the payment of any Senior Bonds, any Senior Obligations, any Subordinate Bonds or any Subordinate Obligations other than the Purchaser Obligations) and, (ii) to the extent pledged to the payment of the Purchaser Obligations, all funds and accounts established under the Ordinance.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or any successor authority) that are applicable as of the date of determination, consistently applied.

“*General Bond Ordinance*” means Ordinance No. 0777, Series of 2018, adopted by the City, for and on behalf of its Department of Aviation, cited as the “*2018 Amended and Restated Airport System General Bond Ordinance*,” as amended and supplemented prior to the Effective Date and as it may be further amended and supplemented from time to time in accordance with the provisions of Section 6.8 hereof and the provisions thereof.

“*General Junior Lien Bond Ordinance*” means Ordinance No. 17-0972, Series of 2017 cited as the “*Airport System General Junior Lien Bond Ordinance*,” as amended and supplemented prior to the Effective Date hereof and as it may be amended and supplemented from time to time in accordance with the provisions thereof.

“*General Ordinances*” means the General Bond Ordinance, the General Subordinate Bond Ordinance, and the General Junior Lien Bond Ordinance.

“*General Subordinate Bond Ordinance*” means Ordinance No. 302, Series of 2013, titled as the “*Amended and Restated Airport System General Subordinate Bond Ordinance*,” as amended and supplemented prior to the Effective Date hereof and as it may be amended and supplemented from time to time in accordance with the provisions thereof.

“*Governmental Authority*” means any nation or government, any state, department, agency or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government, and any corporation or other entity owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing.

“*Gross-Up Rate*” means, for each day, an interest rate per annum equal to the product of (i) the interest rate on the Note during such period and (ii) the Gross-Up Rate Factor.

“*Gross-Up Rate Factor*” means, for each day that the Gross-Up Rate is determined, the quotient of (i) one divided by (ii) one minus the Maximum Federal Corporate Tax Rate in effect as of such day, rounded upward to the second decimal place.

“*Gross Revenues*” has the meaning set forth in the General Subordinate Bond Ordinance on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the General Subordinate Bond Ordinance. For purposes of clarity, the General Subordinate Bond Ordinance definition is as follows: “Gross Revenues” has the meaning set forth

in the General Bond Ordinance; provided, for purposes of this Instrument, the term does not include any Subordinate Bond proceeds or any money received in respect of any Subordinate Credit Facility, unless otherwise provided by Supplemental Subordinate Bond Ordinance.

“*Guarantee*” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Debt or other obligation payable or performable by another Person (the “*primary obligor*”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Debt or other obligation of any other Person, whether or not such Debt or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Debt to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “*Guarantee*” as a verb has a corresponding meaning.

“*Interest Payment Date*” means the Maturity Date.

“*Junior Lien Bonds*” has the meaning set forth in the General Junior Lien Bond Ordinance.

“*Junior Lien Obligations*” has the meaning set forth in the General Junior Lien Bond Ordinance.

“*Junior Lien Obligation Cross-Default Provision*” means a provision in a Purchaser Agreement, pursuant to which the Provider is supporting bonds or other securities secured senior to or on a parity with the Note, which provides for an event of default under such Purchaser Agreement upon the occurrence of (i) a failure by the City, for and on behalf of its Department of Aviation, to pay when due the principal, interest or redemption price of any Junior Lien Obligations or (ii) any event, default or event of default with respect to any Junior Lien Obligations which, pursuant to the provisions of any contract related to such Junior Lien Obligations, permits the holders of such Junior Lien Obligations to accelerate such Junior Lien Obligations or require such Junior Lien Obligations to be prepaid prior to the stated maturity date thereof.

“*Laws*” means such federal, state and local laws, statutes, rules, ordinances, regulations, codes, licenses, authorizations, decisions, injunctions, interpretations, orders or decrees of any court or other Governmental Authority having jurisdiction as may be in effect from time to time.

“*Lien*” means any mortgage, deed of trust, lien, security interest, assignment, pledge, charge, hypothecation or encumbrance of any kind in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

“*Majority Holder*” means the Holders owning a majority of the aggregate principal amount of the Note from time to time; *provided* that, the Majority Holder shall at all times be Bank of America, N.A. or any Affiliate of Bank of America, N.A.. As of the Effective Date, the Purchaser shall be the Majority Holder; *provided further* that any subsequent Majority Holder shall not be entitled to any greater amounts or costs assessed under Section 2.5 hereof, Section 3.1 hereof, Section 3.2 hereof, or Section 8.15 hereof than the Purchaser would have been entitled to receive as provided for herein.

“*Manager*” has the meaning set forth in the General Bond Ordinance.

“*Material Adverse Effect*” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, performance, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Department of Aviation of the City or the Airport System or the transactions contemplated by this Agreement or the Related Documents; (b) a material impairment of the ability of the City, for and on behalf of its Department of Aviation, to perform its obligations under any Related Document to which it is a party; or (c) a material adverse change in, or a material adverse effect upon, the legality, validity, binding effect or enforceability against the City, for and on behalf of its Department of Aviation, of any Related Document to which it is a party.

“*Maturity Date*” means June 30, 2022, unless extended pursuant to the terms of Section 2.6 hereof.

“*Maximum Federal Corporate Tax Rate*” means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time (or, if as a result of a change in the Code, the rate of income taxation imposed on corporations generally shall not be applicable to the Purchaser, the maximum statutory rate of federal income taxation which could apply to the Purchaser).

“*Maximum Interest Rate*” means the lesser of (i) twelve percent (12%) per annum and (ii) the maximum non-usurious lawful rate of interest permitted by law.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors and assigns.

“*Net Revenues*” has the meaning set forth in the General Subordinate Bond Ordinance on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the General Subordinate Bond Ordinance. For purposes of clarity, the General Subordinate Bond Ordinance definition is as follows: “*Net Revenues*” means the Gross Revenues remaining after the deduction of Operation and Maintenance Expenses.

“*Noise Law*” means, collectively, the Noise Statute and the Noise Regulations.

“*Noise Regulations*” means 14 Code of Federal Regulations Part 161, as amended.

“*Noise Statute*” means the Federal Airport Noise and Capacity Act of 1990, as amended.

“*Note*” means the “Airport System Interim Note Subordinate Obligation, Tax-Exempt Series A”, in the form attached as Exhibit A hereto.

“*Note Counsel*” means the law firm of Hogan Lovells or any nationally recognized bond counsel selected by the City and acceptable to the Purchaser.

“*Note Documents*” means the Ordinance and the Note.

“*Noteholder*” or “*Holder*” means the Purchaser and each Purchaser Transferee or Non-Purchaser Transferee pursuant to Section 8.2 hereof so long as such Purchaser Transferee or Non-Purchaser Transferee is an owner of the Note; *provided* that any subsequent Noteholder or Holder shall not be entitled to any greater amounts or costs assessed under Section 2.5 hereof, Section 3.1 hereof, Section 3.2 hereof, or Section 8.15 hereof than the Purchaser would have been entitled to receive as provided for herein.

“*Obligations*” has the meaning set forth in the General Bond Ordinance.

“*OFAC*” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“*Operation and Maintenance Expenses*” has the meaning set forth in the General Bond Ordinance.

“*Ordinance*” means that certain Interim Note Supplemental Subordinate Bond Ordinance No. [_____] Series of 2021 adopted on [_____] , 2021 and as otherwise amended and supplemented.

“*Participant*” means any entity to which the Purchaser has granted a participation in the obligations of the Purchaser hereunder and of the City hereunder and under the Note.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56 (signed into law October 26, 2001).

“*Paying Agent*” means Zions Bancorporation, National Association, as Paying Agent under the Ordinance and any successor paying agent for the Note.

“*Paying Agent Agreement*” means that certain Interim Note Paying Agent and Registrar Agreement dated as of December 17, 2021, between the City and the Paying Agent, as amended, supplemented, modified or restated from time to time in accordance with the provisions of Section 6.8 hereof and thereof.

“*Person*” means an individual, a corporation, a partnership, an association, a limited liability company, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

“*PFCs*” means the passenger facility charge imposed by the City, for and on behalf of its Department of Aviation, on passengers enplaned at the Airport pursuant to the PFC Regulations.

“*PFC Regulations*” means 14 CFR Part 158 of the Federal Aviation Regulations, as amended and supplemented, and any successor regulations of the FAA relating to PFCs.

“*Pledged Funds*” means the Subordinate Bond Fund and, to the extent pledged to the payment of Subordinate Obligations, any other funds and accounts established under the General Bond Ordinance, the General Subordinate Bond Ordinance and Ordinance, but not including any funds and accounts pledged exclusively to the payment of any Senior Bond, any Senior Obligation or any Subordinate Bonds.

“*Prime Rate*” means on any day, the rate of interest in effect for such day as publicly announced from time to time by Bank of America, N.A. as its “prime rate.” The “*prime rate*” is a rate set by Bank of America, N.A. based upon various factors including Bank of America, N.A.’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. Any change in such rate announced by Bank of America, N.A. shall take effect at the opening of business on the day specified in the public announcement of such change.

“*Property*” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

“*Provider*” has the meaning set forth in Section 4.1(w) hereof.

“*Purchaser*” means Bank of America, N.A., and its respective successors and assigns, and upon the receipt from time to time by the Paying Agent and the City of a notice described in Section 8.2 from time to time means the Person designated in such notice as the Purchaser, as more fully provided in Section 8.2 hereof.

“*Purchaser Agreement*” has the meaning set forth in Section 4.1(w) hereof.

“*Purchaser Obligations*” means (i) the Subordinate Note Obligations and (ii) the obligations of the City, for and on behalf of its Department of Aviation, under this Agreement to repay (a) all expenses and charges payable or reimbursable hereunder to the Purchaser, the Majority Holder or the other Holders arising under or in relation to this Agreement (including, without limitation, any amounts to reimburse the Purchaser, the Majority Holder or the other Holders for any advance or expenditures by it under any of such documents) and (b) all other payment obligations of the City, on behalf of its Department of Aviation, to the Purchaser, the Majority Holder or any other Holders arising under or in relation to this Agreement or the other Related Documents, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

“*Rating Agencies*” means S&P, Moody’s and Fitch.

“*Related Documents*” means this Agreement, the Note Documents and any other documents related to any of the foregoing or executed in connection therewith, and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing permitted hereunder and thereunder.

“*Sanction(s)*” means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

“*S&P*” means S&P Global Ratings, and any successor rating agency.

“*Senior Bond Rating*” means each long-term unenhanced rating assigned by Moody’s, S&P and/or Fitch to the Senior Bonds (each, a “*Senior Bond Rating*”).

“*Senior Bonds*” means “Bonds” as defined in the General Bond Ordinance.

“*Senior Obligations*” means “*Obligations*” as defined in the General Bond Ordinance.

“*SIFMA*” means the Securities Industry & Financial Markets Association (formerly the Bond Market Association).

“*SIFMA Accrual Period*” means Thursday of each calendar week to but not including Thursday of the immediately succeeding calendar week.

“*SIFMA Index*” means, for any Computation Date, the level of the index which is issued weekly and which is compiled from the weekly interest rate resets of tax-exempt variable rate issues included in a database maintained by Municipal Market Data which meet specific criteria established from time to time by the Securities Industry and Financial Markets Association and issued on Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day. If the SIFMA Index is no longer published, then “*SIFMA Index*” shall mean the S&P Municipal Bond 7-Day High Grade Index. If the S&P Municipal Bond 7-Day High Grade Index is no longer published or is otherwise not available at such time for any reason, then the Purchaser may replace the SIFMA Index with an alternate interest rate and adjustment, if applicable, as reasonably selected by the Purchaser, giving due consideration to any evolving or then existing conventions for such interest rate and adjustment (any such successor interest rate, as adjusted, the “*Successor Rate*”). If at any time the SIFMA Index or Successor Rate is less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“*SIFMA Index Interest Period*” means, while the Note bear interest at the SIFMA Index Rate, the period from (and including) the Effective Date to and including the day prior to the next succeeding SIFMA Rate Reset Date, and thereafter shall mean the period from (and including) the applicable SIFMA Rate Reset Date through and including the day prior to the next succeeding SIFMA Rate Reset Date.

“*SIFMA Index Rate*” means a rate per annum of interest established on each Computation Date equal to the sum of (a) the Applicable Spread plus (b) the SIFMA Index.

“*SIFMA Rate Reset Date*” means Thursday of each week.

“*State*” means the State of Colorado.

“*Subordinate Bonds*” has the meaning set forth in the General Subordinate Bond Ordinance.

“*Subordinate Contract Obligations*” has the meaning set forth in the General Subordinate Bond Ordinance.

“*Subordinate Note Obligations*” means the obligations of the City to pay principal of and interest on the Note.

“*Subordinate Obligations*” has the meaning set forth in the General Subordinate Bond Ordinance.

“*Swap Agreement*” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “*Master Agreement*”), including any such obligations or liabilities under any Master Agreement.

“*Tax Certificate*” means the tax certificate delivered by the City, for and on behalf of its Department of Aviation, in connection with the delivery of the Note substantially in such form as Bond Counsel may require and which shall be approved by the Purchaser, as the same may be amended, supplemented or modified from time to time in accordance with the terms hereof and thereof.

“*Taxable Date*” means the date on which interest on the Note is first includable in gross income of any Noteholder thereof (including the Purchaser) as a result of an Event of Taxability as such a date is established pursuant to a Determination of Taxability.

“*Taxable Period*” has the meaning set forth in Section 2.7 hereof.

Section 1.2. Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP. If, after the Effective Date, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Sections 6.3 hereof and such change shall result in a change in the method of calculation of any financial covenant, standard or term found in this Agreement including, without limitation, a recharacterization of operating leases to the effect that certain operating leases are to be treated as capital leases, either the City or the Purchaser may by notice to the other party hereto, require that the Purchaser and the City negotiate in good faith to amend such covenants, standards, and terms so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the City shall be the same as if such change had not been made. No delay by the City or the Purchaser in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section 1.2, financial covenants shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles.

Section 1.3. Interpretation. The following rules shall apply to the construction of this Agreement unless the context requires otherwise: (i) the singular includes the plural, and the plural the singular; (ii) words importing any gender include the other gender; (iii) references to statutes are to be construed as including all statutory provisions consolidating and amending, and all regulations promulgated pursuant to, such statutes; (iv) references to “*writing*” include printing, photocopy, typing, lithography and other means of reproducing words in a tangible visible font; (v) the words “*including*,” “*includes*” and “*include*” shall be deemed to be followed by the words “*without limitation*”; (vi) references to the introductory paragraph, recitals, articles, sections (or clauses or subdivisions of sections), exhibits, appendices, annexes or schedules are to those of this Agreement unless otherwise indicated; (vii) references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent that such amendments and other modifications are permitted or not prohibited by the terms of this Agreement; (viii) 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; (ix) references to Persons include their respective permitted successors and assigns; and (x) in the computation of a period of time from a specified date to a later specified date, the word “*from*” means “*from and including*” and the words “*to*” and “*until*” each means “*to but excluding*.” All references to “*funds*” herein shall include all accounts and subaccounts therein unless the context clearly requires otherwise.

Section 1.4. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Mountain time (daylight or standard, as applicable).

Section 1.5. Relation to Other Documents; Acknowledgment of Different Provisions of Related Documents; Incorporation by Reference. (a) Nothing in this Agreement shall be deemed to amend, or relieve the City of its obligations under, any Related Document to which it is a party. Conversely, to the extent that the provisions of any Related Document allow the City to take certain actions, or not to take certain actions, with regard for example to permitted liens, transfers of assets,

maintenance of financial ratios and similar matters, the City nevertheless shall be fully bound by the provisions of this Agreement.

(b) All references to other documents shall be deemed to include all amendments, modifications and supplements thereto to the extent such amendment, modification or supplement is made in accordance with the provisions of such document and this Agreement.

ARTICLE II

SALE AND PURCHASE; CLOSING

Section 2.1. Purchase and Sale of the Note. On the Effective Date, the City shall deliver to the Purchaser the documents described in Article V hereof. Upon delivery of such documents and based on the representations, warranties and covenants of the City set forth herein, the Purchaser hereby agrees to purchase from the City and the City hereby agrees to sell to the Purchaser, all, but not less than all, of the Note at a par in an aggregate amount equal to \$700,000,000 (the “Purchase Price”).

Section 2.2. Closing. On the Effective Date, the City shall deliver to the Purchaser the documents described in Article V hereof. Upon delivery of such documents and the satisfaction or waiver by the Purchaser of the conditions precedent set forth in Article V hereof, the Purchaser will pay the full Purchase Price for the Note in immediately available federal funds payable to the City. One fully registered Note, in the aggregate principal amount equal to the Purchase Price, shall be issued to and registered in the name of the Purchaser in substantially the form attached hereto as Exhibit A.

Section 2.3. Interest Rate. (a) The Note shall bear interest at a rate per annum equal to the lesser of (1) the Maximum Interest Rate, and (2) the SIFMA Index Rate. The SIFMA Index Rate shall be rounded upward to the fifth decimal place.

(b) Any principal of, and to the extent permitted by State law, any interest on the Note and any other sum payable hereunder, which is not paid when due shall bear interest, from the date due and payable until paid, payable on demand, at a rate per annum equal to the Default Rate.

(c) The Purchaser shall promptly notify the City and the Paying Agent of the interest rate applicable to any SIFMA Index Interest Period for the Note upon determination of such interest rate; *provided, however*, that the failure by the Purchaser to provide notice of the applicable interest rate shall not relieve the City of its obligation to make payment of amounts as and when due hereunder. Each determination by the Purchaser of an interest rate shall be conclusive and binding for all purposes, absent manifest error.

(d) From and after the Taxable Date, each Note shall bear interest at the applicable Gross-Up Rate.

Section 2.4. Payment. (a) Accrued but unpaid interest on the Note shall be due and payable on the Interest Payment Date. All outstanding principal of the Note shall be due and payable on the Maturity Date. Interest due and payable on the Note shall be equal to the amount accrued to, but excluding, the Maturity Date. If the payment date for the principal of or interest on the Note is a day other than a Business Day, the date for payment thereof shall be extended, without penalty, to the next immediately succeeding Business Day, and such extended period of time shall be included in the computation of interest; *provided, however*, the payment of interest on the Note on such extended date shall have the same force and effect as if made on the original payment date.

(b) The City may prepay or redeem the Note, in whole or in part, provided at least three (3) Business Days' prior written notice is given by the City to the Purchaser and the Paying Agent. Each such notice shall specify the date and amount of such prepayment and the Note to be prepaid. Each such notice of optional prepayment shall be irrevocable and shall bind the City to make such prepayment in accordance with such notice. Any prepayment of the Note shall be in a principal amount of \$500,000 or a whole multiple of \$50,000 in excess thereof or, if less, the entire principal amount of the Note then outstanding. All prepayments of principal shall include accrued interest associated with the principal being prepaid to the date of prepayment and all other amounts due and payable at such time pursuant to this Agreement.

Section 2.5. Fees. (a) The City, for and on behalf of its Department of Aviation, hereby unconditionally, irrevocably and absolutely agrees to make prompt and full payment of all Purchaser Obligations owing to the Purchaser, the Majority Holder and the Holders, whether now existing or hereafter arising, irrespective of their nature, whether direct or indirect, absolute or contingent, with interest thereon at the rate or rates provided in the Related Documents for such Purchaser Obligations.

(b) The City, for and on behalf of its Department of Aviation, shall pay within thirty (30) days after demand:

(i) *Amendment, Consent or Waiver Fee.* Upon each amendment hereof, consent or waiver hereunder or under any Related Document, the City shall pay or cause to be paid attorneys' fees and expenses, if any, incurred by the Purchaser in processing such amendment, consent or waiver and a fee in a minimum amount of \$3,500.

(ii) *Costs, Expenses and Taxes.* The City will promptly pay on demand (i) the reasonable fees, costs and expenses of the Purchaser incurred in connection with the preparation, negotiation, execution and delivery of this Agreement, the Note and the other Related Documents, (ii) the reasonable fees and disbursements of Chapman and Cutler LLP, special U.S. counsel to the Purchaser, incurred in connection with the preparation, execution, filing and administration and delivery of this Agreement and the other Related Documents, (iii) the reasonable fees and disbursements of counsel or other reasonably required consultants to the Purchaser with respect to advising the Purchaser as to the rights and responsibilities under this Agreement and the other Related Documents after the occurrence of any Default or alleged Default hereunder, or an Event of Default, (iv) all costs and expenses, if any, in connection with any waiver or amendment of, or the giving

of any approval or consent under, or any response thereto or the enforcement of this Agreement, the Related Documents and any other documents which may be delivered in connection herewith or therewith, including in each case the reasonable fees and disbursements of counsel to the Purchaser or other reasonably required consultants and (v) any amounts advanced by or on behalf of the Purchaser to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Related Document, together with interest at the Default Rate. In addition, the City shall pay any and all stamp taxes, transfer taxes, documentary taxes, and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of this Agreement and the security contemplated by the Related Documents (other than taxes based on the net income of the Purchaser).

(c) If the City shall fail to pay any amount payable under this Section 2.5 and which constitutes a Purchaser Obligation as and when due, each such unpaid amount shall bear interest for each day from and including the date it was due until paid in full at the applicable Default Rate.

Section 2.6. Extension of Maturity Date. The City may request an extension of the Maturity Date in writing in the form of Exhibit B hereto not less than sixty (60) days and nor more than ninety (90) days prior to the then current Maturity Date. The Purchaser will make reasonable efforts to respond to such request within thirty (30) days after receipt of all information necessary, in the Purchaser's judgment, to permit the Purchaser to make an informed credit decision. If the Purchaser fails to definitively respond to such request within such 30-day period, the Purchaser shall be deemed to have refused to grant the extension requested. The Purchaser may, in its sole and absolute discretion, decide to accept or reject any such proposed extension and no extension shall become effective unless the Purchaser shall have consented thereto in writing in the form of Exhibit C attached hereto or otherwise. The Purchaser's consent, if granted, shall be conditioned upon the preparation, execution and delivery of documentation in form and substance satisfactory to the Purchaser (which may include, but shall not be limited to the delivery of a "no adverse effect opinion" of Note Counsel to the Purchaser with respect to the tax-exempt status of the Note).

Section 2.7. Taxability. In the event a Taxable Date occurs, the City hereby agrees to pay to the Purchaser or any Noteholder on demand therefor (1) an amount equal to the difference between (A) the amount of interest that would have been paid to the Purchaser or any Noteholder, as applicable, on any Note during the period for which interest on such Note is includable in the gross income of the Purchaser or any Noteholder, if such Note had borne interest at the Gross-Up Rate, beginning on the Taxable Date (the "Taxable Period"), and (B) the amount of interest actually paid to the Purchaser or any Noteholder, as applicable, during the Taxable Period, and (2) an amount equal to any interest, penalties or charges owed by the Purchaser or any Noteholder, as applicable, as a result of interest on the Note becoming includable in the gross income of the Purchaser or any Noteholder, as applicable, together with any and all reasonable attorneys' fees, court costs, or other out-of-pocket costs incurred by the Purchaser or any Noteholder, as applicable, in connection therewith.

Section 2.8. Computation of Interest. All computations of interest payable by the City, for and on behalf of its Department of Aviation, under this Agreement shall be made on the basis of a year of 360 days and actual days elapsed and all computations of interest payable by the City

under this Agreement and under the Ordinance shall be rounded to the fifth decimal place. Interest shall accrue during each period during which interest is computed from and including the first day thereof to but excluding the last day thereof. All computations of fees and other amounts payable by the City, for and on behalf of its Department of Aviation, under this Agreement shall be made on the basis of a year of 360 days and actual days elapsed.

Section 2.9. Special Obligation. Notwithstanding any other provision of this Agreement or any other Related Document to the contrary, the Subordinate Note Obligations are special obligations of the City, for and on behalf of its Department of Aviation, payable solely from the Net Revenues and Pledged Funds of the Airport System subordinate to the Senior Bonds and the Senior Obligations and on parity with all outstanding Subordinate Bonds and other outstanding Subordinate Obligations. The Subordinate Note Obligations and other Purchaser Obligations shall not (i) constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation or (ii) be considered or held to be general obligations of the City. The City does not pledge its full faith and credit and taxing power for the payment of Purchaser Obligations.

Section 2.10. Maximum Rate. If the rate of interest payable on the Note shall exceed the Maximum Interest Rate for any period for which interest is payable, then, to the extent permitted by law, (a) interest at the Maximum Interest Rate shall be due and payable with respect to such interest period, and (b) interest at the rate equal to the difference between (i) the rate of interest calculated in accordance with the terms hereof and (ii) the Maximum Interest Rate (the “*Excess Interest*”), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed the Maximum Interest Rate, at which time the City, for and on behalf of its Department of Aviation, shall pay to the Holders, with respect to amounts then payable to the Holders that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Holders to equal the Maximum Interest Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until the earlier of (i) the date of payment in full of the Note and other Purchaser Obligations (other than Excess Interest which has not been recaptured) and on which this Agreement is no longer in effect, and (ii) the date on which all deferred Excess Interest is fully paid to the Holders. Notwithstanding the foregoing, on the date on which the Note or other Purchaser Obligations remain unpaid, to the extent permitted by law, the City, for and on behalf of its Department of Aviation, shall pay the Holders a fee equal to any accrued and unpaid Excess Interest.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

Section 3.1. Taxes. If any payments to the Purchaser under this Agreement are made from outside the United States, the City will not deduct any foreign taxes from any payments it makes to the Purchaser or any other Holder. If any such taxes are imposed on any payments made by the City (including payments under this paragraph), the City, for and on behalf of its Department of Aviation, will pay the taxes and will also pay to the Purchaser or any other Holder, at the time interest is paid, any additional amount which the Purchaser or any other Holder specifies as

necessary to preserve the after-tax yield the Purchaser or any other Holder would have received if such taxes had not been imposed. As soon as practicable after any payment of taxes by the City to a Governmental Authority, as provided in this Section 3.1, the City will deliver to the Purchaser the original or a certificate copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return reporting such payment or other evidence of such payment reasonably satisfactory to the Purchaser or any other Holder. The City will confirm that it has paid the taxes by giving the Purchaser or any other Holder official tax receipts (or notarized copies) within thirty (30) days after the due date.

Section 3.2. Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by the Purchaser or any other Holder;

(ii) subject the Purchaser or any other Holder to any taxes on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on the Purchaser or any other Holder any other condition, cost or expense affecting this Agreement;

and the result of any of the foregoing shall be to increase the cost to the Purchaser or any other Holder with respect to this Agreement, the Note, or the making, maintenance or funding of the purchase price of the Note, or to reduce the amount of any sum received or receivable by the Purchaser or any other Holder hereunder (whether of principal, interest or any other amount) then, upon request of the Purchaser or any other Holder, the City, for and on behalf of its Department of Aviation, will pay to the Purchaser or any other Holder, such additional amount or amounts as will compensate the Purchaser or any other Holder for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If the Purchaser or any other Holder determines that any Change in Law affecting the Purchaser or any other Holder or the Purchaser's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on the Purchaser's capital or liquidity or on the capital or liquidity of the Purchaser's holding company, if any, as a consequence of this Agreement or the Note to a level below that which the Purchaser or the Purchaser's holding company could have achieved but for such Change in Law (taking into consideration the Purchaser's policies and the policies of the Purchaser's holding company with respect to capital adequacy), then from time to time the City, for and on behalf of its Department of Aviation, will pay to the Purchaser, such additional amount or amounts as will compensate the Purchaser or the Purchaser's holding company for any such reduction suffered.

(c) *Certificates for Reimbursement.* A certificate of the Purchaser or any other Holder setting forth the amount or amounts necessary to compensate the Purchaser or its holding company,

as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the City shall be conclusive absent manifest error. The City, for and on behalf of its Department of Aviation, shall pay the Purchaser the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of the Purchaser to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of the Purchaser's right to demand such compensation; *provided* that the City shall not be required to compensate the Purchaser pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than six (6) months prior to the date that the Purchaser notifies the City of the Change in Law giving rise to such increased costs or reductions and of the Purchaser's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six (6) month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 3.3. Bank Statements; Survival of Obligations. The Purchaser shall deliver a written statement of the Bank to the City, for and on behalf of its Department of Aviation, as to the amount due, if any, under Section 2.5 3.1, 3.2, or 8.15 hereof. Such written statement shall set forth in reasonable detail the calculations upon which the Purchaser determined such amount and shall be final, conclusive and binding on the City, for and on behalf of its Department of Aviation, in the absence of manifest error. Unless otherwise provided herein, the amount specified in the written statement of the Purchaser shall be payable on demand after receipt by the City, for and on behalf of its Department of Aviation, of such written statement within thirty (30) days. The obligations of the City under Sections 3.1 and 3.2 hereof shall survive payment of the Purchaser Obligations and termination of this Agreement.

Section 3.4. No Reduction in Amount. Any and all payments of principal, interest, fees and other sums due hereunder shall be made in the amount required hereunder without any reduction, deduction or setoff, notwithstanding the assertion of any right of recoupment or setoff or of any counterclaim by the City, and without any withholding on account of taxes, levies, duties or any other deduction whatsoever.

Section 3.5. Illegality. If the Purchaser determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Purchaser to maintain the Note with interest determined by reference to SIFMA or the SIFMA Index Rate, or to determine or charge interest rates based upon SIFMA or the SIFMA Index Rate, or any Governmental Authority has imposed material restrictions on the authority of the Purchaser to purchase or sell, or to take deposits of Dollars with respect to SIFMA or the SIFMA Index Rate, then, on notice thereof by the Purchaser to the City, any obligation of the Purchaser to purchase the Note shall be suspended until the Purchaser notifies the City that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the City shall, upon demand from the Purchaser convert the interest on the Note to bear interest at the Successor Rate, either on the last day of the SIFMA Index Interest Period therefor if the Purchaser may lawfully continue to maintain the Note to such day, or on the next Business Day, in the case of the Note and if the Purchaser may not lawfully continue to maintain the Note through the last day of the SIFMA Index

Interest Period therefor, then immediately upon demand. Upon any such conversion, the City shall also pay accrued interest on the amount so converted on the date of such conversion.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1. Representations of the City, for and on behalf of its Department of Aviation. In order to induce the Purchaser to enter into this Agreement, the City, for and on behalf of its Department of Aviation, represents and warrants to the Purchaser of the Note as follows:

(a) *Organization; Power and Authority.* The City is duly organized and validly existing as a municipal corporation and political subdivision under the laws of the State. The City, for and on behalf of its Department of Aviation, has full right and authority to enter into this Agreement, has or had the full right and authority to enter into the other Related Documents to which it is a party on the date of execution of such Related Documents and to perform each and all of the matters and things herein and therein provided for.

(b) *Due Authorization; No Violation.* The execution, delivery and performance by the City, for and on behalf of its Department of Aviation, of this Agreement and the other Related Documents to which it is a party on the date of execution of such Related Documents and the issuance, execution and delivery of the Note were duly authorized by all necessary action, and did not and will not violate any constitutional provisions or any law or any regulation, order, writ, injunction or decree of any court or governmental body, agency or other instrumentality applicable to the City or the Department of Aviation or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any Lien (other than the Lien of the General Subordinate Bond Ordinance) upon any of the assets of the City or the Department of Aviation pursuant to the terms of, any resolution, ordinance, mortgage, indenture, agreement or instrument to which the City or the Department of Aviation is a party or by which it or any of its properties is bound.

(c) *Enforceability.* This Agreement, and each Related Document to which the City, for and on behalf of its Department of Aviation, is a party constitute the legal, valid and binding obligations of the City, for and on behalf of its Department of Aviation, enforceable against the City, for and on behalf of its Department of Aviation, in accordance with their respective terms, except as such enforceability may be subject to and limited by (w) applicable bankruptcy, reorganization, insolvency, liquidation, readjustment of debt, moratorium or other similar laws affecting the enforcement of the rights of creditors generally, (x) the exercise of judicial discretion, procedural and other defenses based on particular factual circumstances and equitable principles in appropriate cases, (y) the reasonable exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State, and (z) the exercise by the United States of powers delegated to it by the United States Constitution; *provided* that, while certain remedies and other

provisions of this Agreement and each Related Document are subject to the aforesaid exceptions and limitations and, therefore, may not be enforceable in accordance with their respective terms, such unenforceability would not preclude the enforcement of the obligations of the City, for and on behalf of its Department of Aviation, to pay the Subordinate Note Obligations from the Net Revenues and Pledged Funds as provided in the Ordinance. The Note has been duly issued, executed and delivered in conformity with the General Subordinate Bond Ordinance and the Ordinance and constitutes a legal, valid and binding obligation of the City, for and on behalf of its Department of Aviation, enforceable in accordance with its terms, except as such enforceability may be subject to and limited by (w) applicable bankruptcy, reorganization, insolvency, liquidation, readjustment of debt, moratorium or other similar laws affecting the enforcement of the rights of creditors generally, (x) the exercise of judicial discretion, procedural and other defenses based on particular factual circumstances and equitable principles in appropriate cases, (y) the reasonable exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State, and (z) the exercise by the United States of powers delegated to it by the United States Constitution; provided that, while certain remedies and other provisions of this Agreement and each other Related Document are subject to the aforesaid exceptions and limitations and, therefore, may not be enforceable in accordance with their respective terms, such unenforceability would not preclude the enforcement of the obligations of the City, for and on behalf of its Department of Aviation, to pay the Subordinate Note Obligations from the Net Revenues and Pledged Funds as provided in the Ordinance, and in all events the Subordinate Note Obligations shall be entitled to the benefit and security of the General Subordinate Bond Ordinance, the Ordinance, the Net Revenues and the Pledged Funds as provided in the Ordinance.

(d) *Status.* Under the terms of the General Bond Ordinance, the General Subordinate Bond Ordinance and the General Junior Lien Bond Ordinance, the Net Revenues cannot secure any Debt of the City (including Debt for and on behalf of its Department of Aviation) other than as provided in or permitted by the General Bond Ordinance, the General Subordinate Bond Ordinance, and the General Junior Lien Bond Ordinance. As of the Effective Date, the Note constitutes the only Debt of the City or the City, for and on behalf of its Department of Aviation, that is secured by a Lien on the Net Revenues other than the Senior Bonds, Obligations, Subordinate Bonds, and Subordinate Obligations (all as defined in the General Bond Ordinance or the General Subordinate Bond Ordinance, as applicable) and Junior Lien Obligations and Junior Lien Bonds issued or incurred prior to the Effective Date. Under the terms of the General Ordinances, the Net Revenues cannot secure any Debt of the City (including Debt for and on behalf of its Department of Aviation) other than Senior Bonds, Obligations, Subordinate Bonds, and Subordinate Obligations (including the Note) (as defined in the General Bond Ordinance or the General Subordinate Bond Ordinance, as applicable), and Junior Lien Obligations and Junior Lien Bonds. The Net Revenues cannot be used to pay any obligations of the City (including Debt for and on behalf of its Department of Aviation) other than the foregoing described Debt, Operation and Maintenance Expenses and any other lawful purposes.

(e) *Disclosure.* Except as provided by the City to the Purchaser in writing (or in a form otherwise acceptable to the Purchaser) on or before the Effective Date, no representation, warranty or other statement made by the City, for and on behalf of its Department of Aviation in this Agreement or any other Related Document to which it is a party or any other document or financial statement provided by the City, for and on behalf of its Department of Aviation, to the Purchaser or any Holder in connection with this Agreement, contains any untrue statement of a material fact or omits (as of the date made or furnished) any material fact necessary to make the statements herein or therein not misleading in light of the circumstances under which they are made. To the best of the knowledge of the City, for and on behalf of its Department of Aviation, there is no fact, which the City, for and on behalf of its Department of Aviation, has not disclosed to the Purchaser in writing which materially adversely affects or, so far as the City, for and on behalf of its Department of Aviation, can now reasonably foresee, is likely to materially adversely affect the ability (financial or otherwise) of the City, for and on behalf of its Department of Aviation, to perform its obligations hereunder or under the Related Documents to which it is a party.

(f) *No Litigation.* There is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the best knowledge of the City, for and on behalf of its Department of Aviation, threatened against or affecting the City, for and on behalf of its Department of Aviation or the Airport System, wherein an unfavorable decision, ruling or finding could reasonably be expected to result in a Material Adverse Effect.

(g) *No Defaults.* The City, for and on behalf of its Department of Aviation, is not in default under (i) any order, writ, injunction or decree of any court or governmental body or agency applicable to the Airport System, or (ii) any law or regulation, or (iii) any bonds or other Debt or obligations payable from or secured by the Net Revenues or amounts on deposit in the Funds, or (iv) any contract, agreement or instrument to which the City, for and on behalf of its Department of Aviation, is a party or by which it or its property is bound, in each case, which default could reasonably be expected to result in a Material Adverse Effect; and no event has occurred which with the giving of notice or the passage of time or both would constitute such a default.

(h) *Financial Statements and Condition.* Except as provided by the City to the Purchaser in writing (or in a form otherwise acceptable to the Purchaser) on or before the Effective Date, the audited balance sheet of the City as of December 31, 2020 and the related audited statements of earnings, changes in fund equity and cash flows of the City for the Fiscal Years then ended, and the accompanying footnotes thereon, dated December 31, 2020, reported on by BKD, LLP (“BKD”) independent certified public accountants, have been delivered to the Purchaser. Consistent with BKD’s opinion dated June 25, 2021, the City believes these financial statements, as of the Effective Date, fairly present the financial condition of the City as at such dates and the results of the operations of the Airport System, for the periods covered by such statements, all in conformity with GAAP. Since December 31, 2020, except as provided by the City to the Purchaser in writing, (or in a form otherwise acceptable to the Purchaser) on or before the Effective

Date, there has been no material adverse change in the condition (financial or otherwise), business or operations of the Airport System or the City.

(i) *Consents.* No authorization, consent, order or other approval of, or registration or filing with, or taking of any other action in respect of or by, any court or governmental body, agency or other instrumentality is required for the valid execution, delivery or performance by the City, for and on behalf of its Department of Aviation, of this Agreement or was required for the valid execution, delivery or performance by the City, for and on behalf of its Department of Aviation, of the Related Documents to which the City, for and on behalf of its Department of Aviation, is a party or the issuance, execution, delivery and performance of the Note, except such as shall have been duly obtained, given or accomplished prior to the execution and delivery hereof or thereof.

(j) *Subordinate Contract Obligations; Security.* (i) The City, for and on behalf of its Department of Aviation, hereby represents that the Subordinate Note Obligations constitute Subordinate Contract Obligations and as Subordinate Contract Obligations are entitled to the benefit and security of the General Subordinate Bond Ordinance. The Purchaser Obligations which are not Subordinate Note Obligations do not constitute Subordinate Contract Obligations and are payable from the Capital Fund and the City, for and on behalf of its Department of Aviation, shall promptly transfer funds to the Capital Fund to pay such Purchaser Obligations.

(ii) The provisions of the General Subordinate Bond Ordinance create an irrevocable Lien (but not necessarily an exclusive Lien) on the Net Revenues and Pledged Funds of the Airport System, which lien is (x) expressly subordinate to the Liens thereon of the Senior Bonds and the Senior Obligations relating thereto, (y) on parity with outstanding Subordinate Bonds and the other Subordinate Obligations, and (z) senior to any Junior Lien Bonds and Junior Lien Obligations, for the benefit of the Purchaser. The provisions of Section 203 of the General Subordinate Bond Ordinance creates, with respect to the Subordinate Note Obligations an irrevocable Lien (but not necessarily an exclusive Lien) on the Net Revenues of the Airport System, which Lien is (x) expressly subordinate to the Liens thereon of the Senior Bonds and Senior Obligations, (y) on parity with the outstanding Subordinate Bonds and the other Subordinate Obligations, for the benefit of the Purchaser and (z) senior to any Junior Lien Bonds and Junior Lien Obligations. Such Liens are prior as against all other Persons having claims of any kind in tort, contract or otherwise, whether or not such Persons have notice thereof. No filing or recording of any instrument and no taking of any other action by any Person is necessary to maintain each such pledge as a valid and enforceable pledge or to maintain the priority thereof as stated in the preceding sentences.

(k) *Note Documents.* The City, for and on behalf of its Department of Aviation, hereby makes to the Purchaser the same representations and warranties made by the City, for and on behalf of its Department of Aviation, in each Note Document to which the City, for and on behalf of its Department of Aviation, is a party, which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated by reference in this subparagraph (k) for the benefit of the Purchaser with the same effect

as if each and every such representation and warranty and defined term were set forth in this subparagraph (k) in its entirety. No amendment, modification, termination or replacement of any such representations, warranties, covenants and definitions contained in the Note Documents shall be effective to amend, modify, terminate or replace the representations, warranties, covenants and definitions incorporated in this subparagraph (k) by this reference, without the prior written consent of the Purchaser.

(l) *No Proposed Legal Changes.* There is no amendment, or to the knowledge of the City, for and on behalf of its Department of Aviation, proposed amendment certified for placement on a statewide ballot, to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the State legislature, or any published judicial decision interpreting any of the foregoing, the effect of which is to materially adversely affect the Note, or the rights of any Holder thereof in its capacity as such, or the ability of the City, for and on behalf of its Department of Aviation, to perform its obligations under this Agreement or the other Related Documents.

(m) *No Sovereign Immunity.* The City, for and on behalf its Department of Aviation, does not enjoy any defense on the grounds of immunity (sovereign or otherwise) with respect to its contractual obligations under this Agreement, the Note, the General Subordinate Bond Ordinance, or the Ordinance.

(n) *Bankruptcy and Insolvency.* Gross Revenues (other than revenues from fuel taxes not derived from the ownership or operation of the Airport System and other components (if any) of Gross Revenues not derived from the ownership or operation or disposition of the Airport System) are “special revenues” (within the meaning of 11 U.S.C. § 902(2)(A)) and, accordingly, such Gross Revenues acquired by the City after the commencement of any case by the City under 11 U.S.C. §§ 901 *et seq.* shall remain subject to the Liens created by and under the General Subordinate Bond Ordinance in favor of the holders of the Note and the Purchaser. Under 11 U.S.C. § 922(d), the filing of a petition under 11 U.S.C. §§ 301 and 901 which commences such a case does not operate as a stay of application of such Gross Revenues to the payment of the Note or any amounts payable under this Agreement in accordance with the provisions of 11 U.S.C. § 928, notwithstanding that such Gross Revenues are received and held by the City. Under 11 U.S.C. §§ 922(d), 927 and 928, the filing of a petition under 11 U.S.C. §§ 301 and 901 which commences such a case does not operate as a stay of the transfer of such Gross Revenues to the holders of the Note or to the Purchaser to the extent of any amounts owing thereunder or hereunder. Pursuant to 11 U.S.C. § 926(b), no transfer of property (including, without limitation, Gross Revenues after payment of the necessary operating expenses of the Airport System pursuant to 11 U.S.C. § 928(b)) by the City, for and on behalf of its Department of Aviation, in respect of the holders of the Note or the Purchaser or as a subrogee thereof is subject to avoidance under 11 U.S.C. § 547.

(o) *Environmental Matters.* Except as disclosed in writing to the Purchaser, the City, for and on behalf of its Department of Aviation, does not have knowledge that the operations of the Airport System are not in compliance with any of the requirements of

applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could reasonably be expected to result in a Material Adverse Effect.

(p) *ERISA.* Neither the City nor the Department of Aviation has ever established nor contributed to, nor is a party to, any “employee benefit plan” within the meaning of Section 3(3) of ERISA 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(d) of the Code or Section 3(32) of ERISA.

(q) *Title to Properties; Liens and Encumbrances.* The City, for and on behalf of its Department of Aviation, has good title in fee simple or valid and enforceable leaseholds to, all of its real property and valid and indefeasible ownership of all of its fixtures, equipment and other assets. No property of the City, for and on behalf of its Department of Aviation, is subject to liens that could individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(r) *Compliance with Rules and Regulations.* The City, for and on behalf of its Department of Aviation, is in compliance with all laws, ordinances, orders, rules and regulations applicable to it, noncompliance with which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and all cash and other assets of the Airport System are invested in accordance with its investment policy, as amended or otherwise modified from time to time. Neither the City nor the Department of Aviation has received any notice of noncompliance from the Federal Equal Employment Opportunity Commission or the Federal Occupational Safety and Health Administration which would have a Material Adverse Effect.

(s) *Tax-Exempt Status of the Note.* Neither the City nor the Department of Aviation has taken any action or knows of any action that any other Person has taken, which would cause interest on the Note to be included in the gross income of the recipients thereof for Federal income tax purposes (excluding treatment of interest on the Note as an item of tax preference for purposes of the federal alternative minimum tax).

(t) *Interest.* None of the Related Documents, the Note provide for any payments that would violate any applicable usury laws regarding permissible maximum rates of interest or the calculation or collection upon interest.

(u) *Federal Reserve Regulations.* No part of the proceeds of the Note 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 FRB, 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 the FRB.

(v) *Official Signatures.* The officials of the City, for and on behalf of its Department of Aviation, signing this Agreement and the other Related Documents to which the City, for and on behalf of its Department of Aviation, is a party, have and had full power and authority to execute, deliver and perform under each such Related Document. Any agreement, certificate or request signed by or on behalf of any authorized representative of the City, for and on behalf of its Department of Aviation, and delivered to the Paying Agent or the Purchaser and the Holders shall be deemed a representation and warranty by the City, for and on behalf of its Department of Aviation, to the Purchaser and the Holders as to the truth, accuracy and completeness of the statements made by the City, for and on behalf of its Department of Aviation, therein.

(w) *No Junior Lien Obligation Cross-Default Provision in Purchaser Agreements.* The City, for and on behalf of its Department of Aviation, has not entered into, or otherwise consented to any credit agreement, reimbursement agreement, standby bond purchase agreement (or other similar agreement), liquidity agreement, direct securities purchase agreement or other agreement or instrument (or any amendment, supplement or modification thereto) (each a “*Purchaser Agreement*”) under which, directly or indirectly, any Person or Persons (each a “*Provider*”) undertake(s) to make a loan or provide funds to make payment of, or to purchase or provide liquidity support or credit enhancement, for Senior Bonds or Subordinate Bonds for and on behalf of its Department of Aviation, which Purchaser Agreement includes a Junior Lien Obligation Cross-Default Provision.

ARTICLE V

CONDITIONS

Section 5.1. Conditions to Note Purchase. The obligation of the Purchaser to purchase the Note on the Effective Date is subject to the conditions precedent that the Purchaser shall have received, on or before the Effective Date, the items listed below in this Section, each dated appropriately and in form and substance as is satisfactory to the Purchaser:

(i) The Purchaser shall have received the following documents, each dated and in form and substance as is satisfactory to the Purchaser:

(A) evidence reasonably satisfactory to the Purchaser of the adoption by the City of the Ordinance;

(B) opinions of counsel to the City and of Note Counsel, dated the Effective Date and addressed to the Purchaser, in form and substance reasonably satisfactory to the Purchaser;

(C) an executed copy of this Agreement and the Note;

(D) copies of the General Bond Ordinance and the General Subordinate Bond Ordinance, as supplemented by the Ordinance, authorizing, among other things, the execution, delivery and performance by the City, for and on behalf of its Department of Aviation, of this Agreement and the other Related Documents to which it is a party (on the dates each such Related Document was executed and delivered by the City, for and on behalf of its Department of Aviation), certified by the Clerk and Recorder of the City as being in full force and effect;

(E) a certificate of the Treasurer of the City with respect to authorization and incumbency of the officers of the City, for and on behalf of its Department of Aviation, to execute on behalf of the City, for and on behalf of its Department of Aviation, this Agreement and the other documents to be delivered by the City, for and on behalf of its Department of Aviation, hereunder;

(F) written confirmation provided by the City that to the best of the Chief Financial Officer's knowledge, as of the Closing Date, Subordinate Bonds are rated not less than "A+" by S&P;

(G) a certificate of the Paying Agent, as to such matters as the Purchaser may reasonably request;

(H) a certificate signed by a duly authorized officer of the City, dated the Effective Date and stating that:

(A) the representations and warranties contained in Article IV of this Agreement are true and correct on and as of the Effective Date as though made on such date; and

(B) no Default or Event of Default has occurred and is continuing, or would result from the issuance of the Note or the execution, delivery or performance of this Agreement or any Related Document to which the City is a party; and

(C) except as described in any documents provided by the City to the Purchaser and approved by the Purchaser prior to the Effective Date, no material adverse change shall have occurred in the condition (financial or otherwise), operations, properties, assets or prospects of the City between the date of the City's most recent audited financial statements and the Effective Date; and

(D) no transaction or event shall have occurred and no change shall have occurred in the financial condition of the City between the date of the City's most recent audited financial statements and the Effective Date which materially adversely affects the security for the Note or the Purchaser Obligations owed to the Purchaser hereunder, or the City's ability to repay when due its Purchaser Obligations under this Agreement or the Note;

(I) such other documents, instruments, approvals or opinions as the Purchaser may reasonably request;

(J) an executed Tax Certificate, which shall include a Form of Issue Price Certificate executed by the Purchaser in form and substance satisfactory to the Purchaser; and

(K) a copy of the related IRS Form 8038 duly executed by the City to be filed with the Internal Revenue Service; and

(L) delivery to the Purchaser of a closing memorandum setting forth the transactions to be completed on the Effective Date as set forth in Section 2.2 hereof in form and substance satisfactory to the Purchaser and executed by a signatory set forth on the certificate delivered pursuant to Section 5.1(i)(E) hereof.

(ii) On or before the Effective Date: (i) all conditions precedent to the issuance of the Note shall have occurred; and (ii) the City shall have duly executed, issued, sold and delivered the Note as contemplated by the Ordinance.

(iii) On or before the Effective Date, the City shall have paid all fees that have accrued and are unpaid pursuant to this Agreement (including, but not limited to, any fees of legal counsel to the Purchaser).

Section 5.2. Satisfaction or Waiver of Conditions. All the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Purchaser, and the Purchaser shall have the right to waive any condition set forth in this Article V.

ARTICLE VI

COVENANTS OF THE CITY

The City, for and on behalf of its Department of Aviation, will do the following so long as the Purchaser or any Holder is an owner of the Note and any Purchaser Obligations remain outstanding under this Agreement, unless the Majority Holder shall otherwise consent in writing:

Section 6.1. Performance of This and Other Agreements. The City, for and on behalf of its Department of Aviation, shall punctually pay or cause to be paid all amounts payable on the Note and under this Agreement and the other Related Documents and observe and perform all of the conditions, covenants and requirements of this Agreement and the other Related Documents.

Section 6.2. Further Assurances. The City, for and on behalf of its Department of Aviation, shall execute, acknowledge where appropriate, and deliver, and cause to be executed, acknowledged where appropriate, and delivered, from time to time promptly at the request of the

Majority Holder, all such instruments and documents as in the opinion of the Majority Holder are necessary or advisable to carry out the intent and purpose of this Agreement and the Related Documents or to enable the requesting party to enforce any of its rights hereunder or thereunder and to provide for the payment of the Subordinate Note Obligations and for the perfection of the subordinate Lien on the Net Revenues securing the Note. At any time, and from time to time, upon request by the Majority Holder, the City, for and on behalf of its Department of Aviation, will, at the expense of the City, for and on behalf of its Department of Aviation, correct any defect, error or omission which may be discovered in the form or content of any of the Related Documents.

Section 6.3. Books and Records; Inspection Rights. The City, for and on behalf of its Department of Aviation, shall keep adequate records and books of account, in which complete entries will be made, reflecting all financial transactions of the City, for and on behalf of its Department of Aviation, and the Airport System; and at any reasonable time and from time to time upon reasonable notice thereof, permit the Majority Holder or any agents or representatives thereof, at the expense of the Majority Holder, to examine and make copies of and abstracts from the records and books of account of, and to the extent permitted by Applicable Law, visit the properties of, the City, for and on behalf of its Department of Aviation, and the Airport System and to discuss the affairs, finances and accounts of the Airport System with any of the City's or the Department of Aviation's officers, trustees and, with the consent of the City, for and on behalf of its Department of Aviation, independent auditors, for and on behalf of its Department of Aviation.

Section 6.4. Reporting Requirements. The City, for and on behalf of its Department of Aviation, shall furnish to the Purchaser:

(i) as soon as available and in any event within 270 days after the end of each Fiscal Year, a balance sheet of the Airport System as of the end of such Fiscal Year and the related statements of revenues, expenses, changes in retained earnings and cash flows for such Fiscal Year, all certified as to fairness of presentation and conformity with generally accepted accounting principles by a firm of independent accountants of nationally recognized standing and including supplemental information as required by the General Bond Ordinance or the General Subordinate Bond Ordinance, as applicable, including a statement of compliance with the rate maintenance covenant as defined in the General Bond Ordinance or the General Subordinate Bond Ordinance, as applicable, reported on by such firm of independent accountants as to the fairness of presentation in relation to the financial statements of the Airport System taken as a whole;

(ii) as soon as available and in any event within 90 days after the end of each of the first three fiscal quarters of each Fiscal Year, a balance sheet of the Airport System as of the end of such quarter and the related statement of revenues, expenses and changes in retained earnings for such quarter, all certified (subject to city confirmation) as to consistency of presentation and compliance with generally accepted accounting principles by the Deputy Manager of Aviation/Finance and Administration for the Airport System;

(iii) simultaneously with the delivery of each set of financial statements referred to in clause (i) and (ii) above, a certificate of the City, for and on behalf of its Department

of Aviation, provided by the Manager stating that, to the best knowledge of the Manager, there exists on the date of such certificate no Event of Default or, if any Event of Default then exists, setting forth the details thereof and the action which the City, for and on behalf of its Department of Aviation, is taking or proposes to take with respect thereto;

(iv) promptly after process has been served on the City, for and on behalf of its Department of Aviation, and written notice thereof is received by an Authorized Officer, written notice of (A) the occurrence of any Event of Default, together with a statement of the Manager setting forth the details thereof and the action which the City, for and on behalf of its Department of Aviation, is taking or proposes to take with respect thereto, (B) any material violation or alleged violation by the City, for and on behalf of its Department of Aviation, of the Noise Law or of any other Applicable Law that could result in the termination of the authority of the City, for and on behalf of its Department of Aviation, to impose or collect PFCs, and (C) any commencement by the FAA of proceedings to terminate the authority of the City, for and on behalf of its Department of Aviation, to impose or collect PFCs;

(v) promptly after process has been served on the City, for and on behalf of its Department of Aviation, and written notice thereof is received by an Authorized Officer, notice of any action, suit or proceeding before any court or arbitrator or any governmental body, agency or official in which there is a reasonable probability of an adverse decision which could (A) have a Material Adverse Effect or (B) adversely affect the ability of the City, for and on behalf of its Department of Aviation, to fix, revise, charge and collect rentals, rates, fees and other charges for the use of the Airport System in such amounts and at such times as will enable the City, for and on behalf of its Department of Aviation, to comply with the provisions of General Bond Ordinance or General Subordinate Bond Ordinance, as applicable;

(vi) promptly upon the mailing or other delivery thereof to the holders of Bonds, copies of all notices (including, without limitation, any notices pursuant to Section 1304 of the General Bond Ordinance) to such holders;

(vii) promptly upon the availability thereof, a hyperlink providing access to a copy of each official statement, offering memorandum or other disclosure documents relating to the offering of any Senior Bonds, Subordinate Obligations or Junior Lien Obligations, including a copy of each Report of the Airport Consultant as included in any such official statement, offering memorandum or other disclosure document relating to Senior Bonds, Subordinate Obligations or Junior Lien Obligations; and

(viii) from time to time such additional information regarding the financial position, operations, business or prospects of the Airport System as the Purchaser may reasonably request.

The City, for and on behalf of its Department of Aviation, shall make all financial statements required to be delivered under Section 6.4(i), 6.4(ii), 6.4(vi).and 6.4(vii) available on <http://emma.msrb.org/> (or, upon prior written notice to the Purchaser, any other applicable online

system used by the City for the posting of financial statements), and the posting of any such financial statements on <http://emma.msrb.org> (or such other system) by no later than the deadlines required by Section 6.4(i) and 6.4(ii) shall be deemed to be compliance with these Sections. The City, for and on behalf of its Department of Aviation, may deliver any of the items required to be delivered to the Purchaser pursuant to Section 6.4 hereof by hard copy to the Purchaser at its address specified in Section 8.1 hereof or by e-mail transmission to the Purchaser at brent.riley@bofa.com and glenda.beasley@bofa.com.

Section 6.5. Retirement Plan. The Airport System shall remain at all times in compliance with its obligations to fund the City's pension plan providing benefits for employees of the Department of Aviation of the City, for and on behalf of its Department of Aviation.

Section 6.6. Debt. The City, for and on behalf of its Department of Aviation, will not issue, incur, assume or create any Debt (other than debt to effectuate a refunding) secured by a lien on or payable from Net Revenues or the Funds unless the proceeds of any such Debt shall be used to pay in full the Note and all other amounts owing to the Purchaser hereunder; *provided* that the City, for and on behalf of its Department of Aviation, may issue the Energy Capital or Debt Financing so long as such Energy Capital or Debt Financing does not have any principal repayment (by optional redemption, acceleration or otherwise) prior to the Maturity Date; *provided further* that no Debt of the City shall be repaid, redeemed or otherwise paid off from the proceeds of such additional bonds (other than debt to effectuate a refunding) if such proceeds after such repayment, redemption or pay-off are insufficient to partially pay or pay in full the Note and all other amounts owing to the Purchaser hereunder.

Section 6.7. Liens. (a) The City, for and on behalf of its Department of Aviation, will not create, incur or permit to exist any Lien of any kind on the Net Revenues or the Funds, other than as expressly provided in or permitted by the General Bond Ordinance, the General Subordinate Bond Ordinance and the General Junior Lien Bond Ordinance, as applicable.

(b) In no event shall any Lien on Net Revenues or the Funds securing any swap termination payment under any Swap Agreement entered into by the City, for and on behalf of its Department of Aviation, at any time after the date of issuance of the Note pursuant to the terms hereof, be senior in priority to, or on parity with, the lien on Net Revenues or the payment of the Note or any other Subordinate Obligations. In no event shall the City, for and on behalf of its Department of Aviation, agree to provide any collateral to support the obligations of the City, for and on behalf of its Department of Aviation, under any Swap Agreement entered into by the City, for and on behalf of its Department of Aviation, at any time after the date of a tender of the Note pursuant to the terms hereof, other than a Lien on Net Revenues subordinate to the Lien on Net Revenues securing the Note or the Subordinate Bonds.

Section 6.8. Related Documents. (a) The City, for and on behalf of its Department of Aviation, will not, directly or indirectly, amend, supplement or otherwise modify, or consent to any amendment, supplement or other modification of, any Related Document unless it has notified the Purchaser of the substance of such amendment, supplement or other modification at least ten (10) Business Days prior to the effective date thereof.

(b) The City, for and on behalf of its Department of Aviation, further agrees that, without the prior consent of the Majority Holder, the City, for and on behalf of its Department of Aviation, will not, directly or indirectly, enter into or otherwise consent to any amendment, waiver, supplement, termination or other modification of any such Related Document, and will not accept the benefit of any waiver given thereunder, in any manner that (1) in the case of any such amendment, waiver, supplement, termination or other modification of the General Ordinances, as applicable, adversely affects (A) the ability of the City, for and on behalf of its Department of Aviation, to perform its obligations thereunder or (B) the rights, security or interests of the Purchaser or any other Holder hereunder or thereunder or (2) in the case of any such amendment, waiver, supplement, termination or other modification of any other Related Document, materially and adversely affects (1) the ability of the City, for and on behalf of its Department of Aviation, to perform its obligations hereunder or (2) the rights, security or interests of the Purchaser or any other Holder or under any such Related Document; *provided, however*, that this subsection 6.8(b) shall not prohibit the City, for and on behalf of its Department of Aviation, from issuing additional Senior Bonds, Subordinate Bonds or Junior Lien Bonds or incurring Obligations, or other Subordinate Obligations, or Junior Lien Obligations, if the conditions precedent or otherwise applicable to the issuance of such bonds or the incurrence of such obligations (including, without limitation, under the General Ordinances, as applicable, as the case may be), have been satisfied.

Section 6.9. Insurance. The City, for and on behalf of its Department of Aviation, will maintain or cause to be maintained insurance for all of its Property comprising the Airport System with responsible and reputable insurance companies in such amounts and covering such risks as are required by the General Ordinances, as applicable, and customarily maintained by entities similar to the City and the Department of Aviation. The City, for and on behalf of its Department of Aviation, shall furnish to Purchaser, upon written request, full information as to all insurance carried by it. The City, for and on behalf of its Department of Aviation, will maintain all of its Property comprising the Airport System in good condition and repair (normal wear and tear excepted), and pay and discharge the cost of repairs thereto or maintenance thereof.

Section 6.10. Provisions to Facilitate Payments. The City, for and on behalf of its Department of Aviation, shall cause to be included in each annual budget of the City, for and on behalf of its Department of Aviation, reasonable provisions for the payment of all amounts due and estimated to become due to the Holders with respect to the Subordinate Note Obligations under this Agreement and the other Related Documents during the Fiscal Year covered by such budget. To the extent estimates are used, such estimates shall be made by the Deputy Manager of Aviation/Finance and Administration for the Airport System or any other appropriate official, in consultation with the Manager, in good faith and shall be based upon reasonable estimates of the principal and interest due and owing on the Note, expected to be outstanding, and the interest rates reasonably expected to be charged during the coming Fiscal Year for the remaining term of the Note evidenced thereby. To the extent that amounts actually due and payable to the Holders with respect to the Note under this Agreement and the other Related Documents in any Fiscal Year exceed the amounts estimated and/or available therefor in an annual budget of the City, for and on behalf of its Department of Aviation, for such Fiscal Year, the City, for and on behalf of its Department of Aviation, shall take, or cause to be taken, as promptly as possible, all such actions (including, without limitation, amendments of such annual budget) as may be required to permit

and facilitate the expenditure of additional moneys from all sources legally available for the payment of such amounts.

Section 6.11. Credit Facilities. In the event that the City, for and on behalf of its Department of Aviation shall, directly or indirectly, enter into or otherwise consent to any Purchaser Agreement under which, directly or indirectly, any Person or Persons undertakes to issue a letter of credit or make, loan or provide funds to the City, for and on behalf of its Department of Aviation, to make payment of or to purchase Subordinate Bonds, which Purchaser Agreement (or amendment, supplement or modification thereto) provides such Person with more restrictive and/or different financial covenants, more restrictive and/or more favorable events of default, or additional and/or greater rights and remedies than are provided to the Purchaser in this Agreement, such more restrictive and/or different financial covenants, more restrictive and/or more favorable events of default, and additional and/or greater rights and remedies shall automatically be deemed to be incorporated into this Section 6.11, and the Purchaser shall have the benefit of such more restrictive and/or different financial covenants, more restrictive and/or more favorable events of default, and additional and/or greater rights and remedies as if specifically set forth in this Section 6.11.

Section 6.12. Rate Covenant. The City, for and on behalf of its Department of Aviation, will at all times comply with the rate maintenance covenants set forth in Sections 901 of the General Bond Ordinance.

Section 6.13. Disclosure. To the extent an Authorized Officer has knowledge of the same, the City, for and on behalf of its Department of Aviation, will disclose to the Purchaser in writing any and all facts which result in, or could reasonably be expected to result in, a Material Adverse Effect.

Section 6.14. Compliance with Other Covenants. (a) From and after the date hereof and so long as this Agreement is in effect, except to the extent compliance in any case or cases is waived in writing by the Majority Holder, the City, for and on behalf of its Department of Aviation, agrees that it will, for the benefit of the Holders, comply with, abide by, and be restricted by all the agreements, covenants, obligations and undertakings contained in the provisions of the other Related Documents, regardless of whether any indebtedness is now or hereafter remains outstanding thereunder, together with the related definitions, exhibits and ancillary provisions, which are incorporated herein by reference, *mutatis mutandis*, and made a part hereof to the same extent and with the same force and effect as if the same had been herein set forth in their entirety, and without regard or giving effect to any amendment or modification of any provisions of any of the other Related Documents to which the City, for and on behalf of its Department of Aviation, is a party or any waiver of compliance therewith, no such amendment, modification or waiver to in any manner constitute an amendment, modification or waiver of the provisions thereof as incorporated herein unless consented to in writing by the Majority Holder.

(b) So long as any Purchaser Obligations hereunder remain payable, the City, for and on behalf of its Department of Aviation, shall continue to comply with the covenants and undertakings set forth in the General Bond Ordinance, including, without limitation, Sections 704 and Section 901 of the General Bond Ordinance, notwithstanding anything in the General Ordinances, as

applicable, limiting such compliance to when a “Bond” (as defined in the General Ordinances, as applicable) remains outstanding thereunder.

Section 6.15. Corrective Action. Promptly upon obtaining knowledge of any of the matters described in Section 6.4(iv)(B) or Section 6.4(iv)(C) hereof, the City, for and on behalf of its Department of Aviation, will undertake, and cause to be undertaken, any corrective actions necessary to remedy any such violation or to resolve, by informal resolution, disputes concerning any such alleged violation. The City, for and on behalf of its Department of Aviation, will promptly and vigorously contest any action by the FAA to terminate the authority of the City, for and on behalf of its Department of Aviation, to impose or collect PFCs.

Section 6.16. Taxes and Liabilities; Leases. The City, for and on behalf of its Department of Aviation, will file all required tax returns and pay and discharge, or cause to be paid and discharged, promptly all taxes, assessments and governmental charges or levies imposed upon it or upon its income and profits, or upon any of its Property comprising the Airport System, or upon any part thereof, before the same shall become in default, to the extent such failure to pay or discharge would have a Material Adverse Effect, except for those matters which are being contested in good faith by appropriate action or proceedings or for which the City, for and on behalf of its Department of Aviation, has established adequate reserves in accordance with GAAP applied on a consistent basis and provide evidence of payment thereof to the Purchaser if the Purchaser so requests; *provided, however*, that the City, for and on behalf of its Department of Aviation, shall pay or cause to be paid all such taxes, assessments, charges or levies forthwith whenever foreclosure on any lien which attaches to any of the security for the Purchaser Obligations appears imminent. The City, for and on behalf of its Department of Aviation, shall pay, or cause to be paid, all rent or other sums required by any lease comprising a portion of the Airport System to which the City, for and on behalf of its Department of Aviation, is a party as the same becomes due and payable, perform all its obligations as tenant or lessee thereunder except to the extent that any such obligation is the subject of a good faith dispute and adequate reserves have been set aside on its books for such obligation.

Section 6.17. Maintenance of Rating. The City, for and on behalf of its Department of Aviation, shall cause to be maintained at all times at least two long-term unenhanced ratings on the Subordinate Bonds by any two of Moody’s, S&P or Fitch of at least “Baa1” (or its equivalent) by Moody’s and/or at least “BBB+” (or its equivalent) by S&P and/or Fitch.

Section 6.18. Notice of Litigation or Other Proceedings. The City, for and on behalf of its Department of Aviation, will give notice, as soon as practicable, (and, in any case, the City, for and on behalf of its Department of Aviation, shall use reasonable efforts to provide notice thereof within fifteen (15) Business Days) following receipt of notice thereof by an Authorized Officer, to the Purchaser of (i) the institution of any litigation, administrative proceeding or governmental investigation involving the City, for and on behalf of its Department of Aviation, which is not fully covered by insurance (subject to deductibles maintained by the City, for and on behalf of its Department of Aviation) which is expected to have a Material Adverse Effect or (ii) the entry of any judgment, decree or order against or involving the City, for and on behalf of its Department of Aviation, which in either case is expected to have a Material Adverse Effect. The City, for and on behalf of its Department of Aviation, shall also provide to the Purchaser concurrently with

delivery to any other party, a copy of any notice required to be given by the City, for and on behalf of its Department of Aviation, under the Related Documents.

Section 6.19. Notice of Events of Default. The City, for and on behalf of its Department of Aviation, shall give immediate notice to the Purchaser if the City, for and on behalf of its Department of Aviation, becomes aware of the occurrence of any Event of Default hereunder or any event of default under any other Related Document.

Section 6.20. Proceeds of Notes. The Note is being issued for the purposes of financing capital projects, as described in the Ordinance. None of such proceeds will be used, directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any “margin stock” within the meaning of Regulation U of the Board of Governors of the Federal Reserve System. The City, for and on behalf of its Department of Aviation, shall use the proceeds of the Note in compliance with all applicable legal and regulatory requirements of any Governmental Authority (including, without limitation, Regulations U and X of the Board of Governors of the Federal Reserve System and the Securities Exchange Act of 1934 and the Securities Act of 1933 and any regulations thereunder).

Section 6.21. No Sovereign Immunity. To the fullest extent permitted by law, the City, for and on behalf of its Department of Aviation, agrees not to assert any current or future right of sovereign immunity as a defense to any claim or cause of action based solely in contract under this Agreement or any other Related Document or, with respect to this Agreement or any other Related Document, or under the General Ordinances, as applicable.

Section 6.22. Tax Exemption. Neither City nor the Department of Aviation shall, directly or indirectly, take any action or omit to take any actions or permit to be taken or omitted on its behalf any action, that if taken or omitted, would adversely affect the excludability of interest on the Note from the gross income of the Purchaser thereof for Federal income tax purposes (excluding treatment of interest on the Note as an item of tax preference for purposes of the federal alternative minimum tax).

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.1. Events of Default and Remedies. If any of the following events shall occur, each such event shall be an “Event of Default”:

- (a) any material representation or warranty made by the City, for and on behalf of its Department of Aviation, in this Agreement (or incorporated herein by reference) or any material representation or warranty made by the City, for and on behalf of its Department of Aviation, in any of the other Related Documents or in any certificate, document, instrument, opinion or financial or other statement contemplated by or made or delivered pursuant to or in connection with this Agreement or with any of the other Related

Documents, shall prove to have been incorrect, incomplete or misleading in any material respect when made;

(b) failure of the City for and on behalf of its Department of Aviation, to pay when due (i) the principal or purchase price of or interest or premium on the Note or (ii) any other Purchaser Obligation;

(c) default in the due observance or performance by the City, for and on behalf of its Department of Aviation, of any covenant set forth in Section 6.6, 6.7(b), 6.8(b), 6.10, 6.12, 6.14(a) (after any applicable grace period under any Related Document), 6.14(b), 6.16, 6.17, 6.20, 6.21 or 6.22 hereof;

(d) default in the due observance or performance by the City, for and on behalf of its Department of Aviation, of any term, covenant or agreement set forth in this Agreement (other than as set forth in any other Event of Default set forth in this Section 7.1) and the continuance of such default for 30 days after the earlier to occur of (i) written notice thereof from the Majority Holder or (ii) an Authorized Officer obtains actual knowledge of such default;

(e) any “*event of default*” under any Related Document (as defined respectively therein) shall have occurred.

Section 7.2. Remedies. If an Event of Default specified in Section 7.1 hereof shall occur and be continuing, the Majority Holder may:

(a) by written notice to the Paying Agent and the City, for and on behalf of its Department of Aviation, declare the outstanding amount of the Subordinate Note Obligations under this Agreement to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue;

(b) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement or covenant of the City, for and on behalf of its Department of Aviation, under the Related Documents, whether for specific performance of any agreement or covenant of the City, for and on behalf of its Department of Aviation, or in aid of the execution of any power granted to the Purchaser or the Majority Holder in the Related Documents;

(c) cure any Event of Default or event of nonperformance hereunder or under any Related Document; *provided, however,* that the Majority Holder shall have no obligation to effect such a cure;

(d) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity; and

(e) deliver a notice to the Paying Agent and the City, for and on behalf of its Department of Aviation, that an Event of Default has occurred and is continuing and directing the Paying Agent to take such remedial action as is provided for in the Ordinance.

Notwithstanding the provisions of Section 7.2(a), the Majority Holder shall not declare the outstanding amount of the Subordinate Note Obligations to be immediately due and payable until seven (7) days after the occurrence of an Event of Default specified in Section 7.1(b)(i) and 7.1(b)(ii). Notwithstanding the provisions of Section 7.2(a) hereof, the Majority Holder shall notify the City, for and on behalf of its Department of Aviation, of an acceleration at least sixty (60) days prior thereto in the case of any Event of Default not specified in the immediately preceding sentence.

Section 7.3. Remedies Cumulative; Solely for the Benefit of Purchaser, the Majority Holder and the Holders. To the extent permitted by, and subject to the mandatory requirements of, applicable Law, each and every right, power and remedy herein specifically given to the Purchaser, the Majority Holder and the Holders in the Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Purchaser, the Majority Holder or the Holders, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

The rights and remedies of the Purchaser, the Majority Holder and the Holders specified herein are for the sole and exclusive benefit, use and protection of the Purchaser, the Majority Holder and the Holders, and the Purchaser, the Majority Holder and the Holders are entitled, but shall have no duty or obligation to the City, for and on behalf of its Department of Aviation, the Paying Agent or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Purchaser, the Majority Holder or the Holders hereunder or under any of the other Related Documents.

Section 7.4. Waivers or Omissions. No delay or omission by the Purchaser or the Majority Holder in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right remedy or power or be construed to be a waiver of any default on the part of the Purchaser or the Majority Holder or to be acquiescence therein. No express or implied waiver by the Purchaser or the Majority Holder of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default.

Section 7.5. Discontinuance of Proceedings. In case the Purchaser or the Majority Holder shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Purchaser or the Majority Holder shall have the unqualified right so to do and, in such event, the

City, for and on behalf of its Department of Aviation, and the Purchaser or the Majority Holder shall be restored to their former positions with respect to the Subordinate Note Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Purchaser, the Majority Holder and the Holders hereunder shall continue as if the same had never been invoked.

ARTICLE VIII

GENERAL

Section 8.1. Notices. Any notice or other communication to be given to the City under this Agreement may be given by delivering the same in writing to the City and County of Denver, Colorado, 201 W. Colfax Avenue, Department 1010, Denver, Colorado 80202, Attention: Manager of Finance with a copy to Denver International Airport, 8500 Pena Boulevard, AOB 8th Floor – Finance, Denver, Colorado 80249, Attention: SVP of Finance, or to such different address for the Purchaser as the Purchaser shall have notified the City as aforesaid. Any notice or other communication to be given to the Purchaser under this Agreement may be given by delivering the same in writing to Bank of America, N.A., 211 North Robinson, Floor 18, OK1-100-18-01, Oklahoma City, Oklahoma 73102, Attention: Brent Riley, or to such different address for the City as the City shall have notified the Purchaser as aforesaid. The approval or other action or exercise of judgment by the Purchaser shall be evidenced by a writing signed on behalf of the Purchaser and delivered to the City.

Section 8.2. Successors and Assigns.

(a) *Successors and Assigns Generally.* This Agreement is a continuing obligation and shall be binding upon the City, its successors, transferees and assigns and shall inure to the benefit of the Noteholders and their respective permitted successors, transferees and assigns. The City may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Purchaser. Notwithstanding anything to the contrary set forth herein, so long as no Event of Default shall have occurred and be continuing hereunder, Bank of America, N.A. may not assign its obligations to purchase the Note pursuant to the terms of this Agreement without the prior written consent of the City (such consent not to be unreasonably withheld). Each Noteholder may, in its sole discretion and in accordance with applicable Law, from time to time assign, sell or transfer in whole or in part, this Agreement, its interest in the Note and the Related Documents in accordance with the provisions of paragraph (b) or (c) of this Section. Each Noteholder may at any time and from time to time enter into participation agreements in accordance with the provisions of paragraph (d) of this Section. Each Noteholder may at any time pledge or assign a security interest subject to the restrictions of paragraph (e) of this Section. Upon acceptance and notification thereof to the City and the Paying Agent, the successor to the Purchaser for such purposes shall thereupon succeed to and become vested with all of the rights, powers, privileges and responsibilities of the Purchaser, and Bank of America, N.A. or any other Person being replaced as the Purchaser shall be discharged from its duties and obligations as the Purchaser hereunder.

(b) *Sales and Transfers by Noteholder to a Purchaser Transferee.* Without limitation of the foregoing generality, a Noteholder may at any time sell or otherwise transfer to one or more transferees all or a portion of the Note to a Person that is (i) an Affiliate of the Purchaser or (ii) a trust or other custodial arrangement established by the Purchaser or an Affiliate of the Purchaser, the owners of any beneficial interest in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the 1933 Act, or “accredited investors” as defined in Rule 501 of Regulation D under the 1933 Act (each, a “*Purchaser Transferee*”). From and after the date of such sale or transfer, Bank of America, N.A. (and its successors) shall continue to have all of the rights of the Purchaser hereunder and under the other Related Documents as if no such transfer or sale had occurred; *provided, however*, that (A) no such sale or transfer referred to in clause (b)(i) or (b)(ii) hereof shall in any way affect the obligations of the Purchaser hereunder, (B) the City and the Paying Agent shall be required to deal only with the Purchaser with respect to any matters under this Agreement, (C) in the case of a sale or transfer referred to in clause (b)(i) or (b)(ii) hereof, only the Purchaser shall be entitled to enforce the provisions of this Agreement against the City, and (D) such Purchaser Transferee shall not be entitled to receive any greater payment or assess any greater costs under Section 2.5, Section 3.1 hereof, Section 3.2 hereof, or Section 8.15 hereof than the Lender would have been entitled to receive hereunder.

(c) *Sales and Transfers by Noteholder to a Non-Purchaser Transferee.* Without limitation of the foregoing generality, a Noteholder may at any time sell or otherwise transfer to one or more transferees which are not Purchaser Transferees but each of which constitutes (i) a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act or an “accredited investor” as defined in Rule 501 of Regulation D under the 1933 Act (each, a “*Non-Purchaser Transferee*”) all or a portion of the Note if (A) written notice of such sale or transfer, including that such sale or transfer is to a Non-Purchaser Transferee, together with addresses and related information with respect to the Non-Purchaser Transferee, shall have been given to the City, the Paying Agent and the Purchaser (if different than the Noteholder) by such selling Noteholder and Non-Purchaser Transferee, and (B) the Non-Purchaser Transferee shall have delivered to the City, the Paying Agent and the selling Noteholder, an investment letter in substantially the form attached as Exhibit D attached hereto (the “*Investor Letter*”).

From and after the date the City, the Paying Agent and the selling Noteholder have received written notice and an executed Investor Letter, (A) the Non-Purchaser Transferee thereunder shall be a party hereto and shall have the rights and obligations of a Noteholder hereunder and under the other Related Documents, and this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to effect the addition of the Non-Purchaser Transferee, and any reference to the assigning Noteholder hereunder and under the other Related Documents shall thereafter refer to such transferring Noteholder and to the Non-Purchaser Transferee to the extent of their respective interests, and (B) if the transferring Noteholder no longer owns any Notes, then it shall relinquish its rights and be released from its obligations hereunder and under the Related Documents; *provided, however*, that (1) the City shall be required to deal only with the Purchaser (and no other Purchaser Transferee or Non-Purchaser Transferee) with respect to any matters under this Agreement, (2) subject to the terms of Section 8.2(a) hereof, only the Purchaser shall be entitled to enforce the provisions of this Agreement and (3) a Non-Purchaser Transferee shall not be entitled to receive any greater payment under Section 3.3 than the Purchaser would have been

entitled to receive with respect to the Note(s) sold to such Non-Purchaser Transferee unless such sale is made with the City's prior written consent.

(d) *Participations.* The Purchaser shall have the right to grant participations in all or a portion of the Purchaser's interest in the Note, this Agreement and the other Related Documents to one or more other banking institutions; *provided, however*, that (i) no such participation by any such participant shall in any way affect the obligations of the Purchaser hereunder and (ii) the City shall be required to deal only with the Purchaser, with respect to any matters under this Agreement, the Note and the other Related Documents, (iii) no such participant shall be entitled to enforce any provision hereunder against the City, and (iv) such participant shall not be entitled to receive any greater payment or assess any greater costs under Section 2.5, Section 3.1 hereof, Section 3.2 hereof, or Section 8.15 hereof than the Purchaser would have been entitled to receive hereunder.

(e) *Certain Pledges.* The Purchaser may at any time pledge or grant a security interest in all or any portion of its rights under the Note, this Agreement and the Related Documents to secure obligations of the Purchaser, including any pledge or assignment to secure obligations to a Federal Reserve Bank or to any state or local governmental entity or with respect to public deposits; *provided* that no such pledge or assignment shall release the Purchaser from any of its obligations hereunder or substitute any such pledgee or assignee for the Purchaser as a party hereto.

Section 8.3. Amendments. Any provision of this Agreement may be amended or modified if, but only if, such amendment or modification is in writing and is signed by the City and the Purchaser.

Section 8.4. Governing Law; Venue; Waiver of Jury Trial. (a) This Agreement shall be governed by and construed in accordance with the internal laws of the State, without giving effect to conflict of law principles.

(b) The City, for and on behalf of its Department of Aviation, and the Purchaser and each Holder hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or any other Related Document or the transactions contemplated thereby.

Section 8.5. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature"

means a manually-signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a “pdf” (portable document format) or other replicating image attached to an e-mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 8.6. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, 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 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 circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

Section 8.7. Survival of this Agreement. All covenants, agreements, representations and warranties made in this Agreement shall continue in full force and effect so long as any Purchaser Obligations shall be outstanding and unpaid. The obligation of the City, for and on behalf of its Department of Aviation, to reimburse the Purchaser or any participant or assignee pursuant to Sections 2.5, 3.1, 3.2, or 8.15 hereof shall survive the payment of the Note and termination of this Agreement.

Section 8.8. Effectiveness. This Agreement shall become effective upon the execution by the Purchaser and the acceptance hereof by the City.

Section 8.9. Headings. The headings of the Sections of this Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

Section 8.10. No Personal Liability. None of the City’s officers, employees, or agents (including, without limitation, any person executing this Agreement) shall be liable personally for any Purchaser Obligation or be subject to any personal liability or accountability by reason of the City’s issuance of any Note or for entering into this Agreement.

Section 8.11. Patriot Act. The Purchaser, on behalf of the Holders, hereby notifies the City, for and on behalf of its Department of Aviation, that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Patriot Act”), the Holders are required to obtain, verify and record information that identifies the City, for and on behalf of its Department of Aviation, which information includes the name and address of the City, for and on behalf of its Department of Aviation, and other information that will allow the Holders to identify the City, for and on behalf of its Department of Aviation, in accordance with the Patriot Act. The City, for and on behalf of its Department of Aviation, shall, promptly following a request by the Purchaser, provide all documentation and other information that the Purchaser reasonably requests in order to comply with its ongoing obligations under applicable law or regulation, including, without limitation, “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, and shall comply with all applicable Bank Secrecy Act (“BSA”) laws and regulations, as amended.

Neither the City, for and on behalf of its Department of Aviation, nor, to the knowledge of the City, any Related Party, (a) is currently the subject of any Sanctions or (b) is located, organized or residing in any Designated Jurisdiction. The City, for and on behalf of its Department of Aviation, has conducted its business in compliance with anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

Section 8.12. Notice of Final Agreement. THIS IS THE FINAL EXPRESSION OF THE AGREEMENT BETWEEN THE PURCHASER AND THE CITY AND SUCH WRITTEN AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR ORAL AGREEMENT OR OF A CONTEMPORANEOUS ORAL AGREEMENT BETWEEN THE PURCHASER AND THE CITY.

Section 8.13. No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the City acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) the services regarding this Agreement provided by the Purchaser and any Affiliate thereof are arm's-length commercial transactions between the City, on the one hand, and the Purchaser and its Affiliates, on the other hand, (ii) the City has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the City is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Related Documents; (b) (i) the Purchaser and its Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the City, or any other Person and (ii) neither the Purchaser nor any of its Affiliates has any obligation to the City with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Related Documents; and (c) the Purchaser and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the City, and neither the Purchaser nor any of its Affiliates has any obligation to disclose any of such interests to the City. To the fullest extent permitted by law, the City, hereby waives and releases any claims that it may have against the Purchaser or any of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

Section 8.14. Right of Setoff; Other Collateral. (a) Upon the occurrence and during the continuance of an Event of Default, the Holders are hereby authorized at any time and from time to time without notice to the City, for and on behalf of its Department of Aviation (any such notice being expressly waived by the City, for and on behalf of its Department of Aviation), and to the fullest extent permitted by law, to setoff, to exercise any banker's lien or any right of attachment and apply any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or monies at any time held and other indebtedness at any time owing by a Holder to or for the account of the City, for and on behalf of its Department of Aviation (irrespective of the currency in which such accounts, monies or indebtedness may be denominated and such Holder is authorized to convert such accounts, monies and indebtedness into Dollars) against any and all of the Purchaser Obligations of the City, for and on behalf of its Department of Aviation, whether or not such Holder shall have made any demand for any amount owing to such Holder by the City, for and on behalf of its Department of Aviation.

(b) The rights of the Holders under this Section 8.14 are in addition to, in augmentation of, and, except as specifically provided in this Section 8.14, do not derogate from or impair other rights and remedies (including, without limitation, other rights of setoff) which the Holders may have.

Section 8.15. Reimbursement. In addition to any other amounts payable by the City, for and on behalf of its Department of Aviation, under this Agreement, the City, for and on behalf of its Department of Aviation, hereby agrees, to the extent permitted by law, to reimburse the Holders, promptly upon demand, in respect of all claims, demands, liabilities, damages, losses, reasonable costs, reasonable charges and reasonable expenses (including reasonable attorneys' fees) that the Holders may incur or be subject to solely as a direct consequence of (i) the execution and delivery of this Agreement, (ii) any breach by the City, for and on behalf of its Department of Aviation, or any official of the City, for and on behalf of its Department of Aviation, of any warranty, covenant, term or condition in, or the occurrence of any default under, this Agreement or any Related Document, including all reasonable fees or expenses resulting from the settlement or defense of any claims or liabilities arising as a result of any such breach or default, and (iii) involvement in any legal suit, proceeding, or action as to which a Holder is involved solely as a direct consequence of execution and delivery of this Agreement, the holding or owning of the Note, its execution of this Agreement or any other event or transaction contemplated by any of the foregoing; *provided* that Holders shall not be entitled to reimbursement under this Section to the extent that claims, demands, liabilities, damages, losses, costs, charges and expenses to be reimbursed are the result of the gross negligence or willful misconduct of any such Holder; and *provided, further*, that Sections 2.5, 3.1, 3.2, and 8.15 shall control as to the liabilities, losses, costs, charges and expenses described therein. Nothing in this Section is intended to limit the City's obligations, for and on behalf of its Department of Aviation, contained in Sections 2.4 and 2.5 hereof.

Section 8.16. Obligations Absolute. Subject to Section 2.9 hereof, the obligations of the City, for and on behalf of its Department of Aviation, under this Agreement shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances.

[Signature Pages Follow]

Respectfully submitted,

BANK OF AMERICA, N.A.

By

Name: _____

Title: _____

Accepted this 17th day of December, 2021.

(SEAL)

CITY AND COUNTY OF DENVER, COLORADO, FOR
AND ON BEHALF OF ITS DEPARTMENT OF AVIATION

ATTEST:

Mayor

Debra Johnson,
Clerk and Recorder, *Ex-Officio*
Clerk of the City and County of Denver

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Kristin M. Bronson, Attorney for the
City and County of Denver

Chief Financial Officer/Manager of Finance

By _____
City Attorney

Manager of Aviation

Auditor _____

EXHIBIT A

FORM OF NOTE

**THIS NOTE IS SUBJECT TO CERTAIN TRANSFER RESTRICTIONS AS DESCRIBED
HEREIN.**

**CITY AND COUNTY OF DENVER, COLORADO,
FOR AND ON BEHALF OF ITS DEPARTMENT OF AVIATION
AIRPORT SYSTEM INTERIM NOTE
SUBORDINATE OBLIGATION, TAX-EXEMPT SERIES A**

\$700,000,000

December __, 2021

FOR VALUE RECEIVED, the undersigned CITY AND COUNTY OF DENVER, COLORADO, for and on behalf of its Department of Aviation (the “City”), hereby promises to pay to BANK OF AMERICA, N.A. or registered assigns (the “Purchaser”), the principal outstanding amount of this Note at such time as provided in, and in accordance with, the terms of that certain Note Purchase Agreement, dated as of December __, 2021 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Agreement”) between the City and the Purchaser. Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Agreement.

The obligations under this Note are special obligations of the City, for and on behalf of its Department of Aviation, payable solely from the Net Revenues and the Pledged Funds subordinate to the payment of Senior Bonds and Senior Obligations and on parity with all other outstanding Subordinate Bonds and Subordinate Obligations issued pursuant to the Ordinance and the General Subordinate Bond Ordinance and shall not (i) constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation or (ii) be considered or held to be general obligations of the City. The City does not pledge its full faith and credit and taxing power for the payment of the obligations payable hereunder.

The City, for and on behalf of its Department of Aviation, promises to pay interest on this Note until the principal amount is paid in full, at such interest rates and at such time as provided in the Agreement. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment computed at the per annum rate set forth in the Agreement. This Note constitutes a Subordinate Obligation payable both as to principal and interest solely from Net Revenues of the Airport System and certain Airport System funds and accounts, all as provided in the General Subordinate Bond Ordinance, as supplemented by the Interim Note Supplemental Subordinate Bond Ordinance No. __, Series of 2021.

This Note is the Interim Note referred to in the Agreement and in the Interim Note Supplemental Subordinate Bond Ordinance No. __, Series of 2021, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided

therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement.

The transfer of this Note is subject to certain restrictions as described in the Agreement.

IN WITNESS WHEREOF, the City, for and on behalf of the Department, acting by and through the City Council of the City, has caused this Note to be signed and executed in the name of the City, for and on behalf of the Department, and upon its behalf by the manual or facsimile signature of its Mayor and to be subscribed and executed by the manual or facsimile signature of the City Auditor; has caused a facsimile of the seal of the City to be affixed hereon; and has caused this Note to be executed and attested by the facsimile signature of the City Clerk and Recorder; all as of the date specified above.

CITY AND COUNTY OF DENVER, COLORADO, for
and on behalf of its Department of Aviation

By: _____
Mayor

(SEAL)

Attest:

City Clerk and Recorder

Countersigned:

City Auditor

CERTIFICATE OF AUTHENTICATION

This is the Interim Note described in the within-mentioned Agreement, and this Note has been duly registered on the registration books kept by the undersigned as the Interim Note Paying Agent / Registrar for such Notes.

Date of Authentication: December __, 2020

ZIONS BANCORPORATION, NATIONAL
ASSOCIATION, as Interim Note Paying Agent
/ Registrar

By: _____
Authorized Signatory

EXHIBIT B

[FORM OF REQUEST FOR EXTENSION]

REQUEST FOR EXTENSION

[Date]

Bank of America, N.A., as Purchaser
211 North Robinson, Floor 18
OK1-100-18-01
Oklahoma City, Oklahoma
Attention: Brent Riley
Email: brent.riley@bofa.com

With a copy to:

glenda.beasley@bofa.com

Ladies and Gentlemen:

Reference is made to the Note Purchase Agreement dated December 17, 2021 (together with any amendments or supplements thereto, the "*Agreement*") by and between the undersigned, the City and County of Denver, Colorado, for and on behalf of its Department of Aviation (the "*City*") and Bank of America, N.A. (the "*Purchaser*"). All terms defined in the Agreement are used herein as defined therein.

The City hereby requests, pursuant to Section 2.6 of the Agreement, that the Maturity Date be extended by ____ to _____, _____. Pursuant to such Section 2.6, we have enclosed with this request the following information:

1. a reasonably detailed description of any and all Defaults that have occurred and are continuing;
2. confirmation that all representations and warranties of the City as set forth in Article IV of the Agreement and each Related Document are true and correct as though made on the date hereof and that no Default or Event of Default has occurred and is continuing on the date hereof; and
3. any other pertinent information previously requested by the Purchaser.

The Purchaser is asked to notify the City of its decision with respect to this request within 30 days of the date of receipt hereof. If the Purchaser fails to notify the City of the Purchaser's decision within such 30-day period, the Purchaser shall be deemed to have rejected such request.

Very truly yours,

CITY AND COUNTY OF DENVER, COLORADO, FOR
AND ON BEHALF OF ITS DEPARTMENT OF
AVIATION

By: _____
Name: _____
Title: _____

EXHIBIT C

[FORM OF NOTICE OF EXTENSION]

NOTICE OF EXTENSION

[Date]

City and County of Denver, Colorado
201 W. Colfax Avenue, Department 1010
Denver, Colorado 80202
Attention: Manager of Finance

Denver International Airport
8500 Pena Blvd.
AOB 8th Floor – Finance
Denver, Colorado 80249
Attention: SVP of Finance

Ladies and Gentlemen:

We hereby notify you that pursuant to Section 2.6 of the Note Purchase Agreement dated December 17, 2021, by and between the City and County of Denver, Colorado, for and on behalf of its Department of Aviation (the “*City*”) and the undersigned, Bank of America, N.A. (the “*Purchaser*”), the Maturity Date shall be extended _____ to _____, _____. Your acknowledgment hereof shall be deemed to be your representation and warranty that all your representations and warranties contained in Article IV of the Agreement and each other Related Document are true and correct and will be true and correct as of the date hereof and that no Default or Event of Default has occurred and is continuing.

Very truly yours,

BANK OF AMERICA, N.A.

By _____
Name: _____
Title: _____

Acknowledged as of _____, _____ by

CITY AND COUNTY OF DENVER, COLORADO,
FOR AND ON BEHALF OF ITS DEPARTMENT OF AVIATION

By _____

Name: _____

Title: _____

EXHIBIT D

FORM OF INVESTOR LETTER

_____, 2021

City and County of Denver, Colorado
201 West Colfax, Dept 1010
Denver, Colorado 80204
Attention: Manager, Department of Finance

City and County of Denver, Colorado
8500 Pena Boulevard
Denver, Colorado 80249
Attention: Manager of Aviation

Airport System Interim Subordinate Obligation Note,
Tax-Exempt Series A

Ladies and Gentlemen:

Bank of America, N.A. (the "*Purchaser*") has agreed to purchase the above-referenced note (the "*Note*") in an amount equal to \$700,000,000 to be issued by the City and County of Denver, Colorado (the "*City*"), for and on behalf of its Department of Aviation (the "*Department*"), pursuant to the General Subordinate Bond Ordinance, as supplemented and amended (the "*General Subordinate Bond Ordinance*") and an Interim Notes Supplemental Subordinate Bond Ordinance No. [_____] Series of 2021 adopted on [_____] , 2021 ("*Supplemental Ordinance*") and the Note Purchase Agreement entered into by the City and the Purchaser ("*Agreement*"). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Agreement.

The undersigned, an authorized representative of the Purchaser, hereby represents that:

1) The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits represented by the purchase of the Note.

2) The Purchaser has authority to purchase the Note and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Note.

3) The Purchaser understands that an official statement, prospectus, offering circular, or other comprehensive offering statement has not been provided with respect to the Note. The Purchaser has made its own inquiry and analysis with respect to the City,

the Department, the Note and the security therefor, and other material factors affecting the security for and payment of the Note.

4) The Purchaser acknowledges that it has reviewed information, including financial statements and other financial information regarding the City and the Department and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City and the Department, the Note and the security therefor, so that it has been able to make an informed decision to purchase the Note; *provided, however*, that this letter shall not constitute a waiver of any rights or remedies the Purchaser may have with respect to any untrue information it may have received or any material information which was withheld from its review.

5) The Purchaser understands that the Note: (a) are not registered under the 1933 Act and are not registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) are not listed on any stock or other securities exchange, and (c) have not been rated by any credit rating agency.

6) The Note is being acquired by the Purchaser for its own account and not with a present view toward resale or distribution, however, the Purchaser reserves the right to sell, transfer or redistribute the Note, but agrees that any such sale, transfer or distribution by the Purchaser shall be to a Person that is:

(a) an Affiliate of the Purchaser;

(b) a trust or other custodial arrangement established by the Purchaser or an Affiliate of the Purchaser, the owners of any beneficial interest in which are limited to "qualified institutional buyers" as defined in Rule 144A promulgated under the 1933 Act, or "accredited investors" as defined in Rule 501 of Regulation D under the 1933 Act;

(c) that is a secured party, custodian or other entity in connection with a pledge by the Purchaser to secure public deposits or other obligations of the Purchaser or one of its affiliates to state or local governmental entities;

(d) a commercial bank; or

(e) a "qualified institutional buyer" as defined in Rule 144A promulgated under the 1933 Act, or an "accredited investor" as defined in Rule 501 of Regulation D under the 1933 Act.

BANK OF AMERICA, N.A.

By: _____
Name:
Title: