

To: SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION  
401 B Street, Suite 800  
San Diego, California 92101

Attn: Gallegos, Gary  
Telephone: (619) 595-5300  
Fax: (619) 595-5305

From: Bank of America, N.A.  
233 South Wacker Drive – Suite 2800  
Chicago, Illinois 60606

Department: Swaps Operations  
Telephone: (+1) 312 234 2732  
Fax: (+1) 866 255 1444

Date: 22<sup>nd</sup> November 2005, as amended and restated as of May 23, 2012

Our reference No. 4374415  
Reference Name: James Hargrove  
Internal Tracking: 13535000

Dear Sir/Madam,

The purpose of this letter agreement is to amend and restate as of May 23, 2012, the terms and conditions of the Transaction originally entered into between SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION and Bank of America, N.A. (each a “party” and together “the parties”) on the Trade Date specified below (the “Transaction”) in order to partially terminate the Transaction. This letter agreement constitutes a “Confirmation” as referred to in the Agreement specified below.

The definitions and provisions contained in the 2000 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. (the “Definitions”) are incorporated into this Confirmation. In the event of any inconsistency between the Definitions and this Confirmation, this Confirmation will govern.

1. This Confirmation supplements, forms part of, and is subject to, the ISDA Agreement dated as of November 22, 2005, as amended and supplemented from time to time, between the parties (the “Agreement”). All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

In this Confirmation, "Party A" means Bank of America, N.A. and "Party B" means SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION.

**2. General Terms:**

The terms of the particular Transaction to which this Confirmation relates are as follows:

**Notional Amount:** As per Schedule A attached hereto.

**Trade Date:** 22<sup>nd</sup> November 2005

**Effective Date:** 1<sup>st</sup> April 2008

**Amended Effective Date:** 23<sup>rd</sup> May 2012

**Termination Date:** 1<sup>st</sup> April 2038

**Fixed Amounts:**

**Fixed Rate Payer:** Party B

**Fixed Rate Payer Payment Dates:** The 1<sup>st</sup> of each Month, commencing on 1<sup>st</sup> May 2008 and ending on the Termination Date, subject to adjustment in accordance with the following Business Day Convention.

**Fixed Rate Payer Period End Dates:** The 1<sup>st</sup> of each Month, commencing on 1<sup>st</sup> May 2008 and ending on the Termination Date. No adjustment.

**Fixed Rate:** 3.4100 per cent

**Fixed Rate Day Count Fraction:** 30/360

**Floating Amounts:**

**Floating Rate Payer:** Party A

**Floating Rate Payer Payment Dates:** The 1<sup>st</sup> of each Month, commencing on 1<sup>st</sup> May 2008 and ending on the Termination Date, subject to adjustment in accordance with the Following Business Day Convention

**Floating Rate for initial Calculation Period:** to be determined

**Floating Rate Option:** USD-LIBOR-BBA

**Floating Rate:** A rate, expressed as a percentage, equal to 65.00 per cent of the Relevant Rate for a Reset Date

**Designated Maturity:** 1 Month

**Spread:** None

**Floating Rate Day Count Fraction:** Actual/360

**Reset Dates:** First day of each Calculation Period

**Business Days:** New York

**Calculation Agent:** Party A; provided, however, that if an Event of Default has occurred and is continuing with respect to Party A as the Defaulting Party, Party B shall appoint a Substitute Dealer to act as alternate Calculation Agent for so long as such Event of Default continues. Following any such designation of an alternate Calculation Agent, if no Event of Default in respect of Party A is then continuing, the Calculation Agent shall again be Party A.

“Substitute Dealer” means a leading dealer in the relevant market that is not an Affiliate of either party having a long-term senior unsecured debt rating ascribed to it by each of Standard & Poor's Rating Services, a Division of the McGraw-Hill Companies, Inc. and Moody's Investors Service, Inc., no lower than the equivalent ratings of Party A immediately prior to the applicable Event of Default.

All calculations and determinations by the Substitute Dealer shall be made in good faith and in a commercially reasonable manner.

### **3. Recording of Conversations:**

Each party to this Transaction acknowledges and agrees to the tape recording of conversations between the parties to this Transaction whether by one or other or both of the parties or their agents, and that any such tape recordings may be submitted in evidence in any Proceedings relating to the Agreement and/or this Transaction.

### **4. Optional Termination by Party B:**

Party B shall have the right to terminate this Transaction (provided that no Event of Default or Termination Event has occurred), by providing (i) at least two (2) General Business Days prior written notice to Party A of its election to terminate this Transaction and (ii) evidence reasonably

satisfactory to Party A that any and all amounts owed to Party A in connection with such early termination shall be paid on the due date thereof. On the Optional Termination Date as set forth in such notice, an amount, determined by Party A, shall be payable by Party A or Party B, as the case may be, in respect of such termination. If such amount is not acceptable to Party B, then Party A shall determine such amount in accordance with Section 6 of the Master Agreement, assuming Market Quotation and Second Method apply and Party B is the sole Affected Party. "General Business Days" means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in the City of New York.

## **5. Partial Termination of Transaction.**

In full consideration of the termination of \$50,500,000 of the Notional Amount of the Transaction (the "Terminated Notional Amount"), Party B agrees to pay to Party A the amount of \$7,165,380 (the "Partial Termination Amount") on June 14, 2012, which amount includes accrued but unpaid regularly scheduled payments to but excluding the Amended Effective Date in respect of the Terminated Notional Amount. Notwithstanding the foregoing, the Transaction shall remain in full force and effect with respect to the \$134,100,000 of Notional Amount not terminated hereunder (the "Remaining Notional Amount") and any and all future payment amounts shall be calculated based upon the applicable Notional Amount set forth in Exhibit A. For the avoidance of doubt, accrued but unpaid regularly scheduled payments on the Remaining Notional Amount from and including May 1, 2012 to but excluding May 31, 2012 are not included in the Partial Termination Amount and shall be payable on June 1, 2012.

## **6. Reinstatement of Transaction.**

(a) This Confirmation shall have no force or effect unless Party B's \$420,585,000 aggregate principal amount of Sales Tax Review Bonds (Limited Tax Bonds) 2012 Series A (the "Bonds") are issued on or prior to June 14, 2012 (the "Expected Issuance Date"). In the event that the Bonds are not issued on or prior to the Expected Issuance Date, the terms of the Transaction, as set forth in the Confirmation dated November 22, 2005 (the "Original Confirmation") shall remain in effect and Party A will determine, in good faith on the Expected Issuance Date, the Reinstatement Value, if any, in connection with reinstating the terms thereof. Party A shall notify Party B of the Reinstatement Value no later than 12:00 p.m., New York time, one (1) Business Day following the Expected Issuance Date (the "Reinstatement Election Date"). By 5:00 p.m., New York time, on the Reinstatement Election Date, Party B shall notify Party A of whether it elects for the Reinstatement Value to be paid by: (i) the payment of a lump sum ("Option 1"); or (ii) an adjustment of the Fixed Rate of the Transaction ("Option 2").

(b) If Party B elects Option 1, then: (i) if the Reinstatement Value is a positive number, other than in connection with an Inapplicable Non-Issuance, an amount equal to the Reinstatement Value will be payable by Party A to Party B on the Reinstatement Value Payment Date; and (ii) if the Reinstatement Value is a negative number, an amount equal to the absolute value of the Reinstatement Value will be payable by Party B to Party A on the Reinstatement Value Payment Date.

(c) If Party B elects Option 2, then the Fixed Rate payable by Party B to Party A

under the Transaction shall be increased (in the event that the Reinstatement Value is a negative number) or, other than in connection with an Inapplicable Non-Issuance, decreased (in the event that the Reinstatement Value is a positive number) accordingly for the period from and including the Expected Issuance Date to but excluding the Termination Date (the Transaction, as modified by an adjustment to the Fixed Rate as described in this Paragraph 6(c), the “Adjusted Transaction”). Promptly following the Expected Issuance Date, Party A shall deliver an amended and restated Confirmation to Party B reflecting the adjusted Fixed Rate and the terms of the Adjusted Transaction. Each of the parties hereby agrees to deliver to the other party all documentation related to such revised Confirmation as reasonably requested by the other party, including without limitation, an opinion of outside counsel to such party, in form and substance satisfactory to the other party, with respect to the enforceability of the Adjusted Transaction and the terms of the revised Confirmation against such party.

(d) In the event that the Bonds are not issued by the Expected Issuance Date as a result of an Inapplicable Non-Issuance, the terms of the Transaction shall remain in effect as set forth in the Original Confirmation. No amounts shall be payable by either Party A or Party B and the Fixed Rate shall not be adjusted.

(e) As used in this Paragraph 6:

(i) “Inapplicable Non-Issuance” shall mean that the Bonds are not issued by the Expected Issuance Date for a reason other than one that is beyond the control of Party B (as determined by Party A in consultation with Party B);

(ii) “Reinstatement Value” shall mean an amount that Party A reasonably determines in good faith, in consultation with Party B or its financial advisor, to be its total losses and costs (expressed as a negative number) or gain (expressed as a positive number) in connection with continuing the terms of the Transaction evidenced by the Original Confirmation, including any loss of bargain, cost of funding or, at the election of Party A but without duplication, loss or cost (including without limitation reasonable attorney's fees) incurred by Party A as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting therefrom); and

(iii) “Reinstatement Value Payment Date” shall mean the second (2nd) Business Day following the Expected Issuance Date.

The parties agree that the failure of either party to perform any of its obligations in this Paragraph 6 shall be deemed to be an Event of Default under the Agreement with respect to such party as the Defaulting Party.

## **7. Documents to be Delivered.**

The following documents shall be delivered by Party B to Party A on or prior to June 14, 2012:

(a) an opinion of counsel to Party A with respect to the enforceability of this Transaction, as amended and restated herein against Party A;

(b) evidence reasonably satisfactory to Party B of the authority and genuine signature of the individual signing this Confirmation on behalf of Party A to execute the same;

(c) an opinion of counsel to Party B with respect to the enforceability of this Transaction, as amended and restated herein against Party B;

(d) evidence reasonably satisfactory to Party A of the authority and genuine signature of the individual signing this Confirmation on behalf of Party B to execute the same; and

(e) a certified copy of the resolution or resolutions (or the equivalent thereof) of the governing body of Party B, certified by an appropriate official of Party B, pursuant to which Party B is authorized to enter into this Transaction, as amended and restated herein.

## **8. Additional Agreement of Party B.**

In connection with this Transaction, Party B agrees that (i) Party A is acting and has acted solely as a principal, and not as an agent, advisor or fiduciary of Party B, (ii) Party A has not assumed a fiduciary responsibility in favor of Party B with respect to this Transaction and (iii) nothing in this Transaction or in any prior relationship between Party A and Party B will be deemed to create an advisory, fiduciary or agency relationship between Party A and Party B in respect of this Transaction (whether or not Party A or any affiliate of Party A, has provided or is currently providing other services to Party B on related or other matters). In addition, Party B acknowledges that it has (i) determined, without reliance upon Party A or any of its affiliates, the financial and economic risks and merits, as well as the legal, tax and accounting characterizations and consequences, of this Transaction and it is capable of assuming such risks, (ii) consulted, to the extent it has deemed necessary, with its own legal, tax, accounting and financial advisors to determine whether this Transaction is in its best interest and made an independent analysis and decision to enter into this Transaction based on such advice and (iii) retained PFM Asset Management, LLC (“PFM”) as its swap advisor and has relied on PFM to provide advice to it with respect to this Transaction.

## **9. Account Details.**

As advised under separate cover with reference to this Confirmation, each party shall provide appropriate payment instructions to the other party in writing and such instructions shall be deemed to be incorporated into this Confirmation.

## **10. Offices.**

The Office of Party A for this  
Transaction is: Charlotte – NC, United States

The Office of Party B for this  
Transaction is: San Diego, California

## **11. Amended and Restated Transaction.**

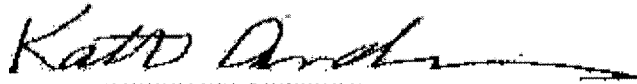
This Transaction amends and restates the Transaction evidenced by the Original Confirmation to effect the partial termination specified herein. Subject to paragraph 6 hereof and receipt by Party A of the Partial Termination Amount, neither Party A nor Party B shall have any other or further obligations under the Transaction in connection with the Terminated Notional Amount.

Please confirm that the foregoing correctly sets forth the terms and conditions of our agreement by returning via telecopier an executed copy of this Confirmation to the attention of Global FX and Derivative Operations (fax no. (+1) 866 255 1444). Failure by Party B to respond to this Confirmation within 2 Local Business Days, either confirming agreement hereto or requesting a correction of any error(s) herein, shall not affect the validity or enforceability of this Transaction. Absent manifest error, there shall be a presumption that the terms contained herein are the terms of the Transaction.

Accepted and confirmed as of the date first written:

Bank of America, N.A.

SAN DIEGO COUNTY REGIONAL  
TRANSPORTATION COMMISSION



Authorized Signatory  
Katherine Andrews  
Managing Director  
TRADE: 4374415

By:  
Name: Gary L. Gallegos  
Title: Executive Director

Our Reference Number: 4374415  
Internal Tracking No. 13535000



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Accepted and confirmed as of the date first written:

Bank of America, N.A.

SAN DIEGO COUNTY REGIONAL  
TRANSPORTATION COMMISSION

Authorized Signatory



By:



Name: Gary L. Gallegos

Title: Executive Director

Our Reference Number: 4374415

Internal Tracking No. 13535000

## SCHEDULE A

<u>From and including*</u>	<u>To and excluding*</u>	<u>Notional Amount*</u>
Effective Date	April 1, 2009	\$ 200,000,000
April 1, 2009	April 1, 2010	196,400,000
April 1, 2010	April 1, 2011	192,600,000
April 1, 2011	April 1, 2012	188,700,000
April 1, 2012	May 1, 2012	184,600,000
May 1, 2012	April 1, 2013	134,100,000
April 1, 2013	April 1, 2014	134,100,000
April 1, 2014	April 1, 2015	134,100,000
April 1, 2015	April 1, 2016	134,100,000
April 1, 2016	April 1, 2017	134,100,000
April 1, 2017	April 1, 2018	134,100,000
April 1, 2018	April 1, 2019	134,100,000
April 1, 2019	April 1, 2020	134,100,000
April 1, 2020	April 1, 2021	134,100,000
April 1, 2021	April 1, 2022	134,100,000
April 1, 2022	April 1, 2023	134,100,000
April 1, 2023	April 1, 2024	127,900,000
April 1, 2024	April 1, 2025	121,500,000
April 1, 2025	April 1, 2026	114,800,000
April 1, 2026	April 1, 2027	107,900,000
April 1, 2027	April 1, 2028	100,700,000
April 1, 2028	April 1, 2029	93,200,000
April 1, 2029	April 1, 2030	85,400,000
April 1, 2030	April 1, 2031	77,300,000
April 1, 2031	April 1, 2032	68,900,000
April 1, 2032	April 1, 2033	60,200,000
April 1, 2033	April 1, 2034	51,100,000
April 1, 2034	April 1, 2035	41,700,000
April 1, 2035	April 1, 2036	31,900,000
April 1, 2036	April 1, 2037	21,700,000
April 1, 2037	Termination Date	11,100,000