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 9 UNITED STATES BANKRUPTCY COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION

12
 13 In re:
 14 CITY OF STOCKTON, CALIFORNIA,
 15 Debtor.

Case No. 12-32118
 D.C. No. OHS-1
 Chapter 9

16 **STIPULATION AND [PROPOSED]**
 17 **SCHEDULING ORDER REGARDING**
 18 **EVIDENTIARY HEARING ON**
 19 **OBJECTIONS TO THE CITY'S**
 20 **ELIGIBILITY FOR RELIEF UNDER**
 21 **CHAPTER 9 OF THE BANKRUPTCY**
 22 **CODE**

23 IT IS HEREBY STIPULATED AND AGREED by the undersigned parties in interest in the
 24 above-captioned bankruptcy case (collectively, the "Parties"), namely the City of Stockton,
 25 California (the "City"), Assured Guaranty Corp., Assured Guaranty Municipal Corp. (with Assured
 26 Guaranty Corp., "Assured"), Wells Fargo Bank, National Association as Indenture Trustee,
 27 National Public Finance Guarantee Corporation ("National"), and Franklin High Yield Tax-Free
 28 Income Fund and Franklin California High Yield Municipal Fund (collectively, the "Objecting
Parties"), that the following provisions shall govern the evidentiary hearing concerning the
 objections to the City's eligibility for relief under chapter 9 of the Bankruptcy Code filed in this

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March 08, 2013

CLERK, U.S. BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA
 0004694831

1 bankruptcy case (the “Evidentiary Hearing”). To the extent the procedures set forth herein conflict
2 with the Local Rules, these procedures shall govern.

3 **EVIDENTIARY HEARING**

4 1. The Evidentiary Hearing shall commence on March 25, 2013, at 9:30 a.m. and
5 continue through March 28, 2013 (unless extended by the Court), before United States Bankruptcy
6 Judge Christopher M. Klein in Courtroom 35, located on the 6th floor of the United States
7 Courthouse, 501 I Street, Sacramento, California, 95814. Trial time, which will total 1400 minutes,
8 shall be divided evenly between the City and the Objecting Parties. Any opening and closing
9 arguments, direct, cross, and redirect examination of witnesses, and any other matters which the
10 Court deems attributable to a specific Party, shall be counted against that Party’s allotted trial time.
11 To the extent CalPERS seeks to present any evidence at the Evidentiary Hearing through oral
12 testimony or make any argument at the Evidentiary Hearing, the Court will determine how such
13 trial time is allocated. To the extent CalPERS seeks to present documentary evidence at or before
14 the Evidentiary Hearing, the same rules shall apply to CalPERS as apply to the Parties. CalPERS
15 shall be entitled to object to the admissibility of any evidence, including without limitation,
16 testimony presented by declaration, documents presented as exhibits and deposition testimony, at
17 the same time and in the same manner as the Parties may do so pursuant to this Stipulation and
18 Order. The Parties shall serve upon CalPERS all pleadings and materials which are exchanged by
19 the Parties pursuant to this Stipulation and Order, including without limitation, witness lists, exhibit
20 lists, copies of exhibits, direct testimony declarations, deposition designations and objections
21 thereto.

22 **COMPLETION OF DISCOVERY**

23 2. The date by which the Objecting Parties may conduct discovery relating to the
24 responsive briefing, declarations and the expert report filed by the City on February 15, 2013, as set
25 forth in the Stipulation and Order Modifying Eligibility Scheduling Order [Dkt. No. 677], shall be
26 continued from March 1, 2013 to March 15, 2013, and the City shall produce all documents
27 responsive to the Objecting Parties’ document requests that are not subject to objection by the City
28 by March 8, 2013.

WITNESS AND EXHIBITS LISTS

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2 3. Unless otherwise ordered by the Court, evidence at the Evidentiary Hearing may be
3 submitted (1) in written form by declaration, consistent with the Alternate Direct Testimony
4 procedure provided for in Local Rule 9017-1¹ (each a “Direct Testimony Declaration”), (2) in the
5 form of oral testimony, and/or (3) by deposition designation pursuant to Rule 32 of the Federal
6 Rules of Civil Procedure. On or before March 8, 2013, each Party shall serve on all Parties and
7 CalPERS a list of witnesses (other than rebuttal witnesses) whose testimony they may submit at the
8 Evidentiary Hearing. Such list shall include the names of the witnesses and a statement indicating
9 whether the Party intends to present such testimony in writing by a Direct Testimony Declaration
10 (subject to live cross-examination) and/or orally at the Evidentiary Hearing. The City’s Direct
11 Testimony Declarations shall be limited to the declarations and accompanying exhibits filed and
12 served by the City in accordance with the Eligibility Scheduling Order. The Objecting Parties’
13 Direct Testimony Declarations shall be limited to the expert declarations and accompanying
14 exhibits filed and served by the Objecting Parties in accordance with the Eligibility Scheduling
15 Order, except that, on or before March 15, 2012, Assured and National each may file an offer of
16 proof under Federal Rule of Evidence 103 in support of any declaration, other than a Direct
17 Testimony Declaration, they wish to submit. Only witnesses so listed (other than rebuttal
18 witnesses) will be permitted to testify at the Evidentiary Hearing (the Parties acknowledge that the
19 Court narrowly construes the “solely for impeachment” exception to Fed. R. Civ. P. 26(a) (3) (A),
20 incorporated by Fed. R. Bankr. P. 7026), and witness testimony at the Evidentiary Hearing shall be
21 limited to issues covered in the witness declarations submitted to the Court as set forth in this
22 paragraph, or to evidence which directly responds to new issues raised by the City’s Reply and
23 accompanying evidence, filed February 15, 2013.

24 4. By no later than 12:00 noon (Pacific Time) on March 12, 2013, the Objecting Parties
25 shall file and serve their oppositions to the Daubert motions filed by the City on February 15, 2013.
26 On or before March 13, 2013, the Parties shall file and serve any additional motions in limine,
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28 ¹ To the extent Local Rule 9017-1 is inconsistent with any provision in this Stipulation, the procedures set forth herein shall govern.

1 beyond those provided for in paragraph 5; provided, however, that the Objecting Parties shall have
2 until 12:00 noon (Pacific Time) on March 15, 2013 to file any Daubert motion and objections as to
3 the City's purported expert. Oppositions to any motions in limine, including any Daubert motions
4 filed by the Objecting Parties, shall be filed no later than 12:00 noon (Pacific Time) on March 18,
5 2013. The City's Reply to the Objecting Parties' oppositions to the City's Daubert motions shall
6 also be filed by no later than 12:00 noon (Pacific Time) on March 18, 2013. Copies of motions,
7 oppositions and replies shall ^{NOT} be hand delivered, emailed, or faxed directly to Chambers. On March
8 20, 2013, at 9:30 a.m., the Court shall hear argument on the Daubert motions, any motions in
9 limine, and any objections to the Direct Testimony Declarations, deposition designations, and other
10 exhibits filed and served pursuant to paragraph 5 below. Prior to the start of the Evidentiary
11 Hearing, the Court shall rule on all objections, motions, and other matters raised by the parties prior
12 to the March 20 hearing.

13 5. By March 13, 2013, each Party shall:

14 a) File and serve any written objections to the admission of all or any part of the
15 Direct Testimony Declarations, including exhibits incorporated into and filed with the
16 Direct Testimony Declarations; and

17 b) Serve a list of exhibits (other than those to be used for impeachment or
18 rebuttal) and exchange, but not file, copies of all exhibits the Party intends to introduce into
19 evidence. The list of exhibits provided by each Party shall include the exhibits incorporated
20 into and filed with the Party's Direct Testimony Declarations, as well as any additional
21 exhibits the Party intends to introduce into evidence. The list of exhibits shall expressly
22 identify any new exhibits not included within or filed with the Party's Direct Testimony
23 Declarations, including each discovery item and deposition transcript to be offered into
24 evidence (each Party shall designate by page and line(s) each portion of deposition
25 testimony that shall be offered in evidence at the Evidentiary Hearing); provided, however,
26 that any designations from the March 13, 2013 deposition of V. Burke shall be served by
27 March 15, 2013. Any paper(s) in the Court's file of which a Party intends the Court to take
28 judicial notice must be copied and included as an exhibit(s). Exhibits are to be premarked

1 for identification. Exhibits from the Direct Testimony Declarations or from depositions
2 taken by the Parties shall be jointly marked by the Parties. New exhibits shall be marked by
3 new numbers.

4 Each page of any exhibit that has more than one page is to be numbered
5 consecutively. The Parties shall bring to the Evidentiary Hearing copies of all exhibits for
6 each other Party's counsel, the witnesses and the Court, together with an exhibit list. If a
7 Party has more than ten (10) exhibits, the exhibits shall be placed in a three-ring binder with
8 a tab for each exhibit and the exhibit list placed at the front of the binder;

9 6. No later than 12:00 noon (Pacific Time) on March 18, 2013, each Party shall file and
10 serve any written objections to the admission of all or any part of the exhibits identified on the list
11 of exhibits provided by each Party, excluding the exhibits that were incorporated into and filed with
12 the Direct Testimony Declarations. Also no later than 12:00 noon (Pacific Time) on March 18,
13 2013, each Party shall file and serve any response to the written objections to admission of Direct
14 Testimony Declarations and accompanying exhibits. Parties must meet and confer before the
15 Evidentiary Hearing to attempt to reach agreement regarding admissibility. The Court expects the
16 Parties to make good faith efforts to resolve all evidentiary issues.

17 7. The requirement of advance identification of witnesses and production of exhibits
18 does not apply to witnesses and exhibits presented for purposes of impeachment or rebuttal by any
19 Party.

20 8. To cross-examine any other Party's witnesses at the Evidentiary Hearing, a Party
21 shall so notify the other Party by telephone or email by March 20, 2013, in which case the declarant
22 will be required to attend the Evidentiary Hearing. Any Party who fails to so notify the other Party
23 will not be permitted to cross-examine the other Party's declarant(s). Any Party who requests the
24 right to cross-examine and then does not do so will be expected to reimburse the other Party no less
25 than the expenses incurred in producing the declarant at the Evidentiary Hearing.

26 9. Parties shall serve all demonstratives on one another no later than twenty-four (24)
27 hours before the commencement of the hearing on the date at which such demonstratives are
28 proposed to be used, and any objections thereto will be heard on the morning of the hearing.

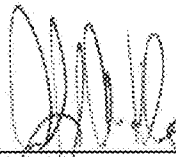
ORDER

PURSUANT TO THE STIPULATION OF THE PARTIES,

IT IS HEREBY ORDERED that the *Stipulation and Scheduling Order Regarding Evidentiary Hearing On Objections To The City's Eligibility For Relief Under Chapter 9 Of The Bankruptcy Code* entered into by the Parties to this action is deemed an Order of the Court.

IT IS SO ORDERED

Dated: March 11, 2013



United States Bankruptcy Judge

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