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NATIONAL PUBLIC FINANCE  
10 GUARANTEE CORPORATION

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12 **UNITED STATES BANKRUPTCY COURT**  
13 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

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

) Case No. 12-32118  
) D.C. No. OHS-1  
) Chapter 9  
) **NATIONAL PUBLIC FINANCE**  
) **GUARANTEE CORPORATION'S**  
) **OFFER OF PROOF PURSUANT TO**  
) **FEDERAL RULE OF EVIDENCE 103**  
)  
) Date: March 25, 2013  
) Time: 9:30 a.m.  
) Dept: Courtroom 35  
) Judge: Hon. Christopher M. Klein

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1 Pursuant to the *Stipulation and Scheduling Order Regarding Evidentiary Hearing on*  
2 *Objections to the City's Eligibility for Relief under Chapter 9 of the Bankruptcy Code* [Dkt No. 742],  
3 entered on March 11, 2013, National Public Finance Guarantee Corporation ("National"), a creditor  
4 and party in interest,<sup>1</sup> hereby submits the following Offer of Proof pursuant to Federal Rule of  
5 Evidence 103: the Declaration of Matthew A. Cohn (the "Cohn Declaration"), attached hereto as  
6 Exhibit A.

7 This testimony is important and relevant evidence because (i) it is within the scope of  
8 evidence specifically contemplated for consideration in the evidentiary trial on the City of  
9 Stockton's (the "City") eligibility by the *Order Granting Joint Motion To Modify Order On Motion*  
10 *For Leave To Introduce Evidence Relating To Neutral Evaluation Process Under California*  
11 *Government Code § 53760.3(Q)* dated November 11, 2012 [Dkt. No. 608]; and (ii) it pertains to the  
12 City's obligation to prove that it negotiated in good faith prior to the commencement of its chapter 9  
13 case, which obligation includes, among other things, that the City show it meaningfully negotiated  
14 with all creditors. *See In re Ellicott Sch. Bldg. Auth.*, 150 B.R. 261, 266 (Bankr. D. Colo. 1992). If  
15 accepted into evidence, this testimony would prove or assist in proving that the City failed to meet  
16 its obligation to negotiate in good faith. Not only is this evidence admissible under Fed. R. Evid.  
17 402, but given the brevity of this evidence, admission would not cause undue delay, waste time, or  
18 confuse the issues before the Court. *See* Fed. R. Evid. 403.

19 To the extent the Court desires to hear the evidence set forth in the Cohn Declaration in  
20 question-and-answer format as permitted by Fed. R. Evid. 103(c), the expected testimony would be  
21 as follows:

22 Q. Would you please state your full name for the record?  
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25 <sup>1</sup> As detailed in National's Joinder of Creditor National Public Finance Guarantee Corporation to  
26 Indenture Trustee's Limited Objection to the Debtor's Emergency Motion for Leave to Introduce  
Evidence Relating to Neutral Evaluation Process under Government Code Section 53760.3(Q) [Dkt.  
No. 78], National is a secured creditor and party in interest of the City.

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A. Matthew A. Cohn

Q. Where are you employed?

A. I am Director of Optinuity Alliance Resources, an affiliate of creditor National Public Finance Guarantee Corporation.

Q. In that capacity, were you involved in the mediation process called by the City of Stockton, California in 2012 pursuant to the California state statute generally known as “AB 506?”

A. Yes.

Q. Tell us about your involvement.

A. Prior to the commencement of the mediation process, I, along with National’s counsel and financial advisors, attended due diligence meetings held by the City of Stockton on April 30 and May 1, 2012 and also participated in certain organizational conference calls.

Q. Did you attend any of the actual AB 506 mediation sessions?

A. Yes.

Q: How many?

A: Along with National’s counsel and financial advisors, I attended two mediation sessions.

Q: When were those?

A: On May 15 and 16, 2012.

Q. [Show Mr. Cohn a copy of the Ask]: Do you recognize this document?

A: Yes.

Q: What is it?

A: The City’s “Proposals for Modification to Obligations Under AB 506 Process,” colloquially referred to as the City’s “Ask.”

Q: When did National first receive this from the City?

A. On May 7, 2012, the City delivered the Ask to National, its counsel and its financial advisors.

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Q. Tell us what happened at the first mediation session National attended on May 15, 2012.

A. National by then had reviewed the Ask, and expressed its position to the City that the Ask (i) was discriminatory among unsecured creditors because it failed to address the City's pension liabilities, and (ii) was not a feasible plan because, even if the City obtained all the concessions it requested, the City would still remain insolvent.

Q: How did the City respond to that?

A: Counsel to the City responded that he would discuss National's concerns with the City.

Q: Did National hear back from the City before the second mediation session on May 16, 2012?

A: No.

Q. What transpired at that second mediation session?

A. Officials from the City attended the mediation session and reported that (i) at a closed meeting the previous evening the City Council had reaffirmed unanimously its decision not to seek concessions from CalPERS or any other party relating to its pension liability, and (ii) the City had no other changes or additions to the Ask. After the City's presentation, the mediator declared that there did not appear to be much more to discuss and the mediation session ended.

Q. Was National invited to participate in any other AB 506 mediation sessions?

A. No.

Dated: March 15, 2013

WINSTON & STRAWN LLP

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and  
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