



## **Special Meeting Agenda April 12, 2022**

Placentia City Council  
Placentia City Council Acting as Successor Agency to the  
Placentia Redevelopment Agency

### **SPECIAL PROCEDURES NOTICE**

On March 4, 2020, pursuant to California Government Code Section 8625, Governor Newsom declared a State of Emergency as a result of the threat of the COVID-19 virus.

On September 17, 2021, Governor Newsom signed AB 361, which went into immediate effect as urgency legislation. AB 361 added subsection (e) to Section 54953 to authorize legislative bodies to conduct remote meetings provided the legislative body makes specified findings. As of September 19, 2021 the COVID-19 pandemic has killed more than 67,612 Californians. Social distancing measures decrease the chance of the spread of COVID-19.

Given the health risks associated with COVID-19, please be advised that while the City Council Chambers are open to the public, some or all of the Placentia City Council Members may attend this meeting via teleconference. Those locations are not listed on the agenda and are not accessible to the public.

#### **How to Observe the Meeting**

To maximize public safety while maintaining transparency and public access, in addition to being open to the public, all City Council meetings are available to view live on AT&T U-verse (Channel 99), Spectrum (Channel 3), and online at [www.placentia.org/pctv](http://www.placentia.org/pctv).

#### **How to Submit Public Comment**

Members of the public may provide public comment in person or comments may be sent for City Council consideration by email to the City Clerk at [cityclerk@placentia.org](mailto:cityclerk@placentia.org). Please limit submitted comments to 200 words or less. Comments received before or during a Council meeting, until the close of the **Oral Communications** portion of the agenda, may not be read during the City Council meeting but will be summarized in the public record and are subject to the regular time limitations per speaker. Longer submittals will be included in the public record. If you are unable to provide your comments in writing, please contact the City Clerk's Office for assistance at (714) 993-8231.

#### **Americans with Disabilities Act Accommodation**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at [cityclerk@placentia.org](mailto:cityclerk@placentia.org) or by calling (714) 993-8231. Notification 48 hours prior to the meeting will generally enable City Staff to make reasonable arrangements to ensure accessibility while maintaining public safety. (28 CFR 35.102.35.104 ADA Title II)

Until further notice the City will implement the guidelines of the California Department of Public Health regarding social distancing.

The City of Placentia thanks you in advance for taking all precautions to prevent the spread of the COVID-19 virus.



**City of Placentia**  
401 E. Chapman Avenue  
Placentia, CA 92870

**NOTICE OF  
SPECIAL MEETING OF THE  
CITY COUNCIL OF THE CITY OF PLACENTIA  
PLACENTIA CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE  
PLACENTIA REDEVELOPMENT AGENCY**

**NOTICE IS HEREBY GIVEN** that a Special Meeting of the City Council of the City of Placentia and the Placentia City Council Acting As Successor Agency to the Placentia Redevelopment Agency is hereby called to be held in the Council Chambers of Placentia City Hall, 401 E. Chapman Avenue, Placentia, CA 92870, on **Tuesday, April 12, 2022** at 4:30 p.m.

**SAID SPECIAL MEETING AGENDA SHALL BE AS FOLLOWS:**

**CALL TO ORDER:**

**ROLL CALL:** Councilmember Green  
Councilmember Smith  
Councilmember Yamaguchi  
Mayor Pro Tem Wanke  
Mayor Shader

**INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

**CITY ADMINISTRATOR REPORT:**

**ORAL COMMUNICATIONS:**

At this time, the public may address the City Council and Boards of Directors concerning any agenda item, which is not a public hearing item, or on matters within the jurisdiction of the City Council and Boards of Directors. There is a five (5) minute time limit for each individual addressing the City Council and Boards of Directors.

**CITY COUNCIL/BOARD MEMBER COMMENTS:**

**1. CONSENT CALENDAR (Item 1.a.)**

- 1.a. **Consideration to Waive Reading in Full of all Ordinances and Resolutions**  
Fiscal Impact: None  
Recommended Action: Approve

## 2. REGULAR AGENDA:

- 2.a. **City Approving the Terms of a Private Placement, Approving the Form of and Authorizing the Execution and Delivery of a Site Lease, a Lease Agreement, Amendment to Amended and Restated Reimbursement Agreement and an Escrow Deposit and Trust Agreement, and Authorizing Other Matters Relating Thereto; Successor Agency Approving an Amendment to an Existing Enforceable Obligation, Requesting Oversight Board Approval of the Amendment to an Existing Enforceable Obligation, and Providing for Other Matters Properly Relating Thereto**

Fiscal Impact: Release Certain City Properties from Existing Lease Obligations; Create Budget Savings by Reducing Debt Service Payments

Recommended Action: It is recommended that the City Council:

- 1) Approve Resolution R-2022-18, a Resolution of the City Council of the City of Placentia approving the terms of a private placement, approving the form of and authorizing the execution and delivery of a site lease, a lease agreement, amendment to amended and restated reimbursement agreement and an escrow deposit and trust agreement, and authorizing other matters relating thereto.

Recommended Action: It is recommended that the Successor Agency Board:

- 1) Approve Resolution RSA-2022-02, a Resolution of the Successor Agency to the Redevelopment Agency of the City of Placentia approving an amendment to an existing Enforceable Obligation, requesting Oversight Board approval of the amendment to an existing Enforceable Obligation, and providing for other matters properly relating thereto.

### **CITY COUNCIL/BOARD MEMBERS REQUESTS:**

Council/Board Members may make requests or ask questions of Staff. If a Council/Board Member would like to have formal action taken on a requested matter, it will be placed on a future Council or Board Agenda.

### **ADJOURNMENT:**

The City Council will adjourn to its Regular Meeting on Tuesday, April 19, 2022, at 5:30 p.m.

### **CERTIFICATION OF POSTING**

I, Karen O'Leary, Deputy City Clerk for the City of Placentia, hereby certify that the agenda for the April 12, 2022 Special Meeting of the City Council was posted on April 11, 2022.

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Karen O'Leary, Deputy City Clerk



# Placentia City Council/ Successor Agency to the Redevelopment Agency to the City of Placentia **AGENDA REPORT**

TO: CITY COUNCIL/SUCCESSOR AGENCY

FROM: CITY ADMINISTRATOR/EXECUTIVE DIRECTOR

DATE: APRIL 12, 2022

SUBJECT: **CITY APPROVING THE TERMS OF A PRIVATE PLACEMENT, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, A LEASE AGREEMENT, AMENDMENT TO AMENDED AND RESTATED REIMBURSEMENT AGREEMENT AND AN ESCROW DEPOSIT AND TRUST AGREEMENT, AND AUTHORIZING OTHER MATTERS RELATING THERETO; SUCCESSOR AGENCY APPROVING AN AMENDMENT TO AN EXISTING ENFORCEABLE OBLIGATION, REQUESTING OVERSIGHT BOARD APPROVAL OF THE AMENDMENT TO AN EXISTING ENFORCEABLE OBLIGATION, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO**

FISCAL

IMPACT: Release Certain City Properties from Existing Lease Obligations; Create Budget Savings by Reducing Debt Service Payments

## **SUMMARY:**

In 2003, the City of Placentia ("City") issued \$11,145,000 of Refunding Certificates of Participation ("COPs") to refinance a previously outstanding financing. The current amount of COPs outstanding is \$2,495,000. The original use of proceeds was for property acquisitions and improvements related to a Street Improvement Project and other projects. The City is responsible for the debt service, but the Successor Agency reimburses the City for 87.52% of the annual debt service payments under the terms of a reimbursement agreement (the "Reimbursement Agreement") originally entered into by the City and the City's former Redevelopment Agency. The Reimbursement Agreement is an approved item on the Successor Agency's Recognized Obligation Payments Schedule (ROPS). Refinancing the 2003 COPs will enable certain leased properties encumbered by the COPs, specifically the City's Corporate Yard, to be released from the lease obligations that underlie the COPs. Refinancing will also generate general fund savings for the City, as well as provide the Affected Taxing Entities (the other jurisdictions that lose property tax revenue each year to the Successor Agency) to realize savings as well. The City has received an offer from an interested lender (as discussed below) to refinance these obligations for debt service savings.

**2. a.**  
**Apr. 12, 2022**

**RECOMMENDATION:**

It is recommended that the City Council take the following action:

1. Approve Resolution R-2022-18, a Resolution of the City Council of the City of Placentia approving the terms of a private placement, approving the form of and authorizing the execution and delivery of a site lease, a lease agreement, amendment to amended and restated reimbursement agreement and an escrow deposit and trust agreement, and authorizing other matters relating thereto.

It is recommended that the Successor Agency Board take the following action:

1. Approve Resolution RSA-2022-02, a Resolution of the Successor Agency to the Redevelopment Agency of the City of Placentia approving an amendment to an existing Enforceable Obligation, requesting Oversight Board approval of the amendment to an existing Enforceable Obligation, and providing for other matters properly relating thereto.

**DISCUSSION:**

**Current Refunding of the 2003 COPs**

The City's previously issued \$11,145,000 of Refunding Certificates of Participation ("COPs") that were issued in 2003 to refinance a previously outstanding financing and that have an outstanding balance of \$2,495,000, are "in the money" to be refinanced for savings. This means that once the transaction is completed, the City's annual payments will be lower. Additionally, the other taxing agencies that annually lose property tax revenue to the Successor Agency through the Redevelopment Property Tax Trust Fund (RPTTF), will also benefit because the Successor Agency reimburses the City's General Fund for 87.52% of the debt service payments. The COPs have a final maturity of January 1, 2028 and had a True Interest Cost ("TIC") of 5.83% at the time of their issuance. The payment of the annual debt service on the COPs is made from RPTTF Revenues through the Reimbursement Agreement (87.52%) and the City's General Fund (12.48%).

The City has received an offer from First Foundation Public Finance, a Delaware statutory trust and a wholly-owned subsidiary of First Foundation Bank, to refinance these obligations at a rate of 2.35% which would create debt service savings for the City and the Affected Taxing Entities (as described below) by replacing the 2003 COP's debt service payments with the lower payments to be made on the 2022 Lease Agreement. The 2.35% interest rate is "locked in" until June 7, 2022. The final maturity on this 2022 refinancing will be January 1, 2027, one (1) year sooner than the 2003 COPs' maturity date. This Lease Agreement may also be prepaid without penalty three years after the closing, or 2025.

**FISCAL IMPACT:**

The Gross Savings have been estimated by the City's Municipal Advisor, Kosmont Transactions Services, to be estimated to be approximately \$21,853 per year to be shared by all the Affected

Taxing Entities, including the City, with estimated Net Present Value savings of approximately \$98,369.

### **Other Benefits**

While generating savings for the City and the Affected Taxing Entities is important, the real driver behind this transaction is to release certain properties from the current lease agreement underlying the 2003 COPs (the "2003 Lease Agreement"). There are presently four (4) City properties encumbered by the 2003 Lease Agreement: the City's Corporate Yard, Kraemer Park, McFadden Park, and a 3.2 acre vacant parcel owned by the City. Seeing as the City's Corporate Yard is the site currently under consideration for the construction of a new Police Evidence Facility, releasing the Corporate Yard from the 2003 Lease Agreement will afford the City better financing terms and more flexibility if and when the City determines to undertake a financing for the Police Evidence Facility Project. Considering the recent rise in interest rates, time is running out to refinance the 2003 COPs for savings and achieve the administrative goal of unencumbering the Corporate Yard without any cost to do so. This proposed 2022 Lease Financing will use McFadden Park as the new leased asset, releasing the other three properties, including and specifically the Corporate Yard, from the current 2003 Lease Agreement.

As Successor Agency to the Former Redevelopment Agency, the City is also charged with acting on behalf of the Affected Taxing Entities' interests. This transaction will generate savings to the following entities: City of Placentia General Fund (including the City Street Lighting District); Orange County; Orange County Beaches, Harbors and Parks District; Placentia-Yorba Linda Unified School District; North Orange County Community College District; Placentia Library District; Orange County Sanitation District #2; Orange County Flood Control District; Orange County Department of Education; Orange County Water District; Orange County Mosquito and Vector Control District; and Orange County Transportation Authority.

### **Process**

Because the Successor Agency pays such a large share (87.52%) of the debt service, the City, and the Successor Agency each must take a separate actions to approve an amendment to the Reimbursement Agreement to identify this new 2022 Lease Financing in place of the current 2003 COPs. That action of the Successor Agency must then be approved by the Orange County Oversight Board. The next Orange County Oversight Board Meeting is scheduled for Tuesday, April 19, 2022.

In addition to approving the amendment to the Amended and Restating Reimbursement Agreement, the City's actions will also include the authorization of the 2022 Lease Financing, including approval of a Site Lease, a Lease Agreement, and an escrow deposit and trust agreement to effectuate the refinancing transaction.

Prepared by:



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Robert S. Torrez  
Financial Consultant

Reviewed and approved:



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Damien R. Arrula  
City Administrator/Executive Director

Attachments:

1. Authorizing Resolution – City
2. Authorizing Resolution – Successor Agency
3. Amendment to Amended and Restated Reimbursement Agreement
4. Site Lease
5. Lease Agreement
6. Escrow Deposit and Trust Agreement

**RESOLUTION NO. R-2022-18**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLACENTIA APPROVING THE TERMS OF A PRIVATE PLACEMENT, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, A LEASE AGREEMENT, AMENDMENT TO AMENDED AND RESTATED REIMBURSEMENT AGREEMENT AND AN ESCROW DEPOSIT AND TRUST AGREEMENT, AND AUTHORIZING OTHER MATTERS RELATING THERETO**

**WHEREAS**, the City of Placentia (the "City") is a municipal corporation and a charter city duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

**WHEREAS**, it has been proposed that Municipal Finance Corporation, a corporation duly organized and validly existing under and by virtue of the laws of the State of California (the "Corporation") assist the City in refinancing the Certificates of Participation (2003 Refunding and Improvement Project) (the "2003 COPs"); and

**WHEREAS**, the City has received, and desires to accept, a bid for a private placement with First Foundation Public Finance, a Delaware statutory trust and a wholly-owned subsidiary of First Foundation Bank ("First Foundation"); and

**WHEREAS**, in connection therewith, the City Council of the City (the "City Council") wishes to proceed with a lease financing in the manner set forth in that certain Lease Agreement described below; and

**WHEREAS**, the City will lease to the Corporation certain real property (the "Leased Property") pursuant to a Site Lease (the "Site Lease") and the Corporation, concurrently with the execution of the Site Lease, will sublease the Leased Property back to the City pursuant to a Lease Agreement (the "Lease Agreement") in consideration for rental payments and assign certain rights and the rental payments under the Lease Agreement to First Foundation;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLACENTIA FINDS, RESOLVES, AND ORDERS AS FOLLOWS:**

**Section 1.** The City Council finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

**Section 2.** The City Council hereby approves an aggregate principal amount of lease payments under the Lease Agreement not to exceed \$2,500,000.

**Section 3.** The City Council hereby accepts the First Foundation interest rate of 2.35% (assuming no default) for the proposed private placement, subject to the

authorizations and limitations set forth herein and final delivery of the documents authorized hereby.

**Section 4.** the City Council hereby acknowledges receipt of the good faith estimates of certain information required by Senate Bill 450 (Chapter 625 of the 2017-2018 Session of the California Legislature) as set forth in Exhibit A attached hereto.

**Section 5.** The City Council hereby approves the form of Site Lease, substantially in the form presented to the City Council and on file with the City Clerk, with such revisions, amendments and completions as shall be approved by the Mayor, the City Administrator, the Finance Director and any of their respective designees (each a "Responsible Officer"), with the advice of special counsel to the City, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 6.** The City Council hereby approves the form of Lease Agreement, substantially in the form presented to the City Council and on file with the City Clerk, with such revisions, amendments and completions as shall be approved by a Responsible Officer, with the advice of special counsel to the City, such approval to be conclusively evidenced by the execution and delivery thereof

**Section 7.** The City Council hereby approves the form of Escrow Deposit and Trust Agreement, substantially in the form presented to the City Council and on file with the City Clerk, with such revisions, amendments and completions as shall be approved by a Responsible Officer, with the advice of special counsel to the City, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 8.** The City Council hereby approves the form of Amendment to Amended and Restated Reimbursement Agreement, substantially in the form presented to the City Council and on file with the City Clerk, with such revisions, amendments and completions as shall be approved by a Responsible Officer, with the advice of special counsel to the City, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 9.** In connection with the private placement, the City Council hereby approves the appointment of Nixon Peabody LLP to perform special counsel services, Kosmont Transactions Services, Inc., to perform Municipal Advisor services. Any Responsible Officer is hereby authorized and directed to enter into professional services agreements with each of the foregoing.

**Section 10.** Each Responsible Officer and other officers of the City are hereby authorized and directed, jointly and severally, for and in the name on behalf of the City, to execute and deliver a placement agent agreement, and any and all other agreements, assignments, documents, certificates and other instruments, and to do any and all things and take any and all actions which may be necessary or advisable in their discretion, to carry out and give effect to the actions which the City has approved in this Resolution.

**Section 11.** All actions heretofore taken by any Responsible Officer or any officer, employee or agent of the City in connection with or related to any of the agreements referred to herein, are hereby approved, confirmed and ratified.

**Section 12.** This Resolution may be executed with electronic signatures in accordance with the Government Code of the State of California, Section 16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**Section 13.** This Resolution becomes effective immediately upon adoption.

PASSED, APPROVED, AND ADOPTED this 12<sup>th</sup> Day of April 2022.

\_\_\_\_\_  
Rhonda Shader, Mayor

Attest:

\_\_\_\_\_  
Robert S. McKinnell, City Clerk

STATE OF CALIFORNIA  
COUNTY OF ORANGE

I, Robert S. McKinnell, City Clerk of the City of Placentia, do hereby certify that the foregoing Resolution was adopted at a Special meeting of the City Council of the City of Placentia, held on the 12<sup>th</sup> day of April 2022 by the following vote:

AYES: Councilmember:  
NOES: Councilmember:  
ABSENT: Councilmember:  
ABSTAIN: Councilmember:

\_\_\_\_\_  
Robert S. McKinnell, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Christian L. Bettenhausen, City Attorney

## EXHIBIT A

### Good Faith Estimates

The following information was obtained from Kosmont Transactions Services, Inc., serving as municipal advisor to the City, and is provided in compliance with Senate Bill 450 (Chapter 625 of the 2017-2018 Session of the California Legislature) with respect to the Lease Agreement:

1. True Interest Cost of the Lease Agreement. A good faith estimate of the true interest cost of the Lease Agreement, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Lease Agreement, is 2.3501%.

2. Finance Charge of the Lease Agreement. A good faith estimate of the finance charge of the Lease Agreement, which means the sum of all fees and charges paid to third parties, is \$123,500.00.

3. Amount of Proceeds to be Received. A good faith estimate of the amount of proceeds expected to be received for sale of the Lease Agreement less the finance charge of the Lease Agreement described in 2 above and any reserves or capitalized interest paid or funded with proceeds of the Lease Agreement, is \$2,017,677.97

4. Total Payment Amount. A good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay debt service on the Lease Agreement plus the finance charge of the Lease Agreement described in paragraph 2 above not paid with the proceeds of the Lease Agreement, calculated to the final maturity of the Lease Agreement, is \$2,270,216.37

## RESOLUTION NO. RSA-2022-02

### **A RESOLUTION OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PLACENTIA APPROVING AN AMENDMENT TO AN EXISTING ENFORCEABLE OBLIGATION, REQUESTING OVERSIGHT BOARD APPROVAL OF THE AMENDMENT TO AN EXISTING ENFORCEABLE OBLIGATION, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO**

**WHEREAS**, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, all Section references hereinafter being to such Code), the Redevelopment Agency of the City of Placentia (the "Former Agency") has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, the Successor Agency to Redevelopment Agency of the City of Placentia (the "Successor Agency") has become the successor entity to the Former Agency;

**WHEREAS**, prior to the dissolution of the Former Agency, the Former Agency entered into that certain Amended and Restated Reimbursement Agreement, dated as of November 1, 2003 (the "Reimbursement Agreement"), by and between the City of Placentia (the "City") and the Former Agency, pursuant to which the Former Agency pledged tax increment revenues to reimburse the City for lease payment made by the City under a Lease Agreement, dated as of November 1, 2003, related to the City's Certificates of Participation (2003 Refunding and Improvement Project);

**WHEREAS**, Section 34177.5 authorizes the Successor Agency to amend existing enforceable obligations for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(3) (the "Savings Parameters");

**WHEREAS**, to determine compliance with the Savings Parameters, the Successor Agency has prepared an analysis of the potential savings that will accrue to the Successor Agency and to applicable taxing entities as a result of the amendment to the Reimbursement Agreement (the "Independent Municipal Advisor's Debt Service Analysis");

**WHEREAS**, the Successor Agency desires at this time to approve the amendment to the Reimbursement Agreement and to approve the form of and authorize the execution and delivery of the amendment to the Reimbursement Agreement;

**WHEREAS**, pursuant to Section 34177.5(f) and Section 34180(b), the amendment to the Reimbursement Agreement is subject to the approval of the Orange Countywide Oversight Board (the "Oversight Board");

**NOW, THEREFORE**, the Successor Agency to Redevelopment Agency of the City of Placentia **RESOLVES** as follows:

1. Determination of Savings. The Successor Agency has determined that there are potential savings available to the Successor Agency and to applicable taxing entities in compliance with the Savings Parameters by the amendment to the Reimbursement Agreement, all as evidenced by the Independent Municipal Advisor's Debt Service Analysis on file with the Secretary of the Successor Agency, which Independent Municipal Advisor's Debt Service Analysis is hereby approved.

2. Approval of Amendment to the Reimbursement Agreement. The Successor Agency hereby approves the Amendment to the Reimbursement Agreement. Each of the Mayor of the City, as the Chairman and presiding officer of the Successor Agency, the City Administrator of the City, as the Executive Director of the Successor Agency, and the Finance Director of the City, as the Finance Director of the Successor Agency, on behalf of the Successor Agency (each, an "Authorized Officer"), is hereby authorized and directed to execute and deliver, and the City Clerk of the City, as the Secretary of the Successor Agency, on behalf of the Successor Agency, is hereby authorized and directed to attest to, the Amendment to the Reimbursement Agreement for and in the name and on behalf of the Successor Agency, in substantially the form on file with the Successor Agency, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Amendment to the Reimbursement Agreement.

3. Oversight Board Approval of the Amendment to the Reimbursement Agreement. The Successor Agency hereby requests the Oversight Board, as authorized by Section 34177.5(f) and Section 34180 to approve the amendment to the Reimbursement Agreement pursuant to Section 34177.5(a)(3) and this Resolution.

4. Filing of Independent Municipal Advisor's Debt Service Analysis and Resolution. The Successor Agency is hereby authorized and directed to file the Independent Municipal Advisor's Debt Service Analysis, together with a copy of this Resolution, with the Oversight Board, and, as provided in Section 34180(j) with the Orange County Administrative Officer, the Orange County Auditor-Controller and the California Department of Finance.

5. Official Actions. The Authorized Officers and any and all other officers of the Successor Agency are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions, which they, or any of them, may deem necessary or advisable in obtaining the requested approvals by the Oversight Board and the California Department of Finance and in the amendment to the Reimbursement Agreement. Whenever in this Resolution any officer of the Successor Agency is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

6. Effective Date. This Resolution shall take effect from and after the date of approval and adoption thereof.

**PASSED, APPROVED AND ADOPTED** by the Successor Agency to Redevelopment Agency of the City of Placentia at a special meeting held on the 12th day of April, 2022, by the following vote:

\_\_\_\_\_  
Rhonda Shader, Chairman

Attest:

By: \_\_\_\_\_  
Robert S. McKinnell, Secretary

I, Robert McKinnell, Secretary of the Successor Agency to the Redevelopment Agency of the City of Placentia do hereby certify that the foregoing Resolution No. RSA-2022-021 was adopted at a Special meeting of the City Council acting as the Successor Agency to the Redevelopment Agency of the City of Placentia held on the 12<sup>th</sup> day of April 2022 by the following vote:

AYES: Councilmembers:  
NOES: Councilmembers:  
ABSENT: Councilmembers:  
ABSTAIN: Councilmembers:

\_\_\_\_\_  
Robert McKinnell, Agency Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Christian L. Bettenhausen, General Counsel

**AMENDMENT TO  
AMENDED AND RESTATED  
REIMBURSEMENT AGREEMENT**

**by and between**

**CITY OF PLACENTIA**

**and**

**SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY  
OF THE CITY OF PLACENTIA**

**Dated as of \_\_\_\_\_ 1, 2022**

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**AMENDMENT TO  
AMENDED AND RESTATED REIMBURSEMENT AGREEMENT**

**THIS AMENDMENT TO AMENDED AND RESTATED REIMBURSEMENT AGREEMENT** (this “Amendment”) executed and entered into as of \_\_\_\_\_ 1, 2022, is by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PLACENTIA, a successor agency to the Redevelopment Agency of the City of Placentia (the “Successor Agency”), and the CITY OF PLACENTIA, a charter city organized and existing under and by virtue of the laws of the State of California (the “City”).

**RECITALS**

**WHEREAS**, the City and the Redevelopment Agency of the City of Placentia (the “Former Agency”) previously entered into that certain Amended and Restatement Reimbursement Agreement, dated as November 1, 2003 (the “Reimbursement Agreement”), pursuant to which the Former Agency pledged tax increment revenues to reimburse the City for all lease payments made by the City under the Lease Agreement, dated as of November 1, 2003 (the “2003 Lease”), by and between the City and the Former Agency, related to the City’s Certificates of Participation (2003 Refunding and Improvement Project) (the “2003 COPs”); and

**WHEREAS**, the City intends to refinance the 2003 COPs to lower the lease payments payable under the 2003 Lease; and

**WHEREAS**, in connection with the refinancing of the 2003 COPs, the City and Municipal Finance Corporation will enter into a Lease Agreement (the “2022 Lease Agreement”);

**WHEREAS**, the City and the Successor Agency desire to amend the Reimbursement Agreement to allow for continued reimbursement of lease payments payable under the 2022 Lease Agreement; and

**WHEREAS**, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Amendment do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Amendment;

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

**PART 1**

**PARTICULAR AMENDMENTS**

**Part 1.1 Amendment to Section 1.** Section 1 of the Reimbursement Agreement is hereby amended to include the following definition:

“2022 Lease Agreement” means that Lease Agreement, by and between the City and Municipal Finance Corporation, recorded on \_\_\_\_\_, 2022 as Instrument No. \_\_\_\_\_ in the official records of the County of Orange.

**Part 1.2 Amendment to Section 2.** All references to November 2003 Lease shall be changed to 2022 Lease Agreement.

**Part 1.3 Amendment to Exhibit A.** Exhibit A of the Reimbursement Agreement is hereby replaced with Exhibit A of this Amendment.

## PART 2

### MISCELLANEOUS

**Part 2.1 Effect of Amendment.** This Amendment and all of the terms and provisions herein contained shall form part of the Reimbursement Agreement as fully and with the same effect as if all such terms and provisions had been set forth in the Reimbursement Agreement. The Reimbursement Agreement is hereby ratified and confirmed and shall continue in full force and effect in accordance with the terms and provisions thereof, as heretofore amended and supplemented, and as amended and supplemented hereby. If there shall be any conflict between the terms of this Amendment and the terms of the Reimbursement Agreement (as in effect on the day prior to the effective date of this Amendment), the terms of this Amendment shall prevail.

**Part 2.2 Execution in Counterparts.** This First Amendment may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Part 2.3 Effective Date.** This Amendment shall become effective upon the effective date of the 2022 Lease Agreement.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the Successor Agency and the City have caused this Amendment to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

**SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF THE  
CITY OF PLACENTIA**

By: \_\_\_\_\_  
Executive Director

**CITY OF PLACENTIA**

By: \_\_\_\_\_  
City Administrator

**EXHIBIT A**  
**AMOUNTS TO BE REIMBURSED**

AFTER RECORDATION PLEASE RETURN TO:  
Nixon Peabody LLP  
300 South Grand Avenue, Suite 4100  
Los Angeles, California 90071  
Attention: Danny Kim, Esq.

---

SITE LEASE

by and between

CITY OF PLACENTIA,

as Lessor

and

MUNICIPAL FINANCE CORPORATION,

as Lessee

Dated as of \_\_\_\_\_ 1, 2022

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THIS IS A FINANCING DOCUMENT:  
NO DOCUMENT TRANSFER TAX IS DUE  
PURSUANT TO GOVERNMENT CODE SECTION 27383

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### EXHIBIT A – LEGAL DESCRIPTION OF LEASED PROPERTY

## SITE LEASE

THIS SITE LEASE, dated as of \_\_\_\_\_ 1, 2022 (this "Site Lease"), by and between the CITY OF PLACENTIA, a charter city duly organized and existing under and by virtue of the laws of the State of California (the "City"), as lessor (the "Lessor"), and the MUNICIPAL FINANCE CORPORATION, a corporation duly organized and validly existing under and by virtue of the laws of the State of California (the "Corporation"), as lessee (the "Lessee");

### WITNESSETH:

WHEREAS, the Corporation intends to assist the City in refinancing certain prior obligations of the City, and to lease certain Leased Property (as defined herein) to the City under a Lease Agreement, dated of even date herewith (the "Lease"), by and between the City and the Corporation, and the City proposes to enter into this Site Lease with the Corporation as a material consideration for the Corporation's agreement to enter into that certain Assignment Agreement, dated of even date herewith (the "Assignment Agreement"), by and between the Corporation and FIRST FOUNDATION PUBLIC FINANCE, a Delaware statutory trust and a wholly-owned subsidiary of First Foundation Bank (as further defined in the Lease, the "Assignee");

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

SECTION 1. Definitions Unless the context otherwise requires, all capitalized terms used in this Site Lease and not defined herein shall for all purposes of this Site Lease have the meanings specified therefor in the Lease.

SECTION 2. Site Lease The City hereby leases to the Corporation and the Corporation hereby hires from the City, on the terms and conditions hereinafter set forth, the real property situated in the County of Orange, State of California as more particularly described in Exhibit A attached hereto and made a part hereof (the "Leased Property").

SECTION 3. Term The term of this Site Lease shall commence on the Closing Date and shall remain in effect until the term of the Lease expires as provided by Article IV, Section 4.2 thereof; provided, however, that if Lease Payments (as defined therein) due under the Lease remain unpaid at the expiration of the Lease term, or provision shall not have been made for their payment, then this Site Lease shall not terminate until the earlier of (i) January 1, 2027, or, if later, (ii) the date on which the Lease Payments and all other amounts due under the Lease have been paid in full.

SECTION 4. Rental The City acknowledges receipt from the Corporation as and for rental hereunder the sum of One Dollar (\$1.00), on or before the date of delivery of the assignment under the Assignment Agreement to the Assignee.

SECTION 5. Purpose The Corporation shall use the Leased Property solely for the purpose of leasing the Leased Property to the City pursuant to the Lease, and for such purposes as may be incidental thereto; provided, that in the event of default by the City under the Lease, the Corporation and its assigns may exercise the remedies provided in the Lease.

SECTION 6. Owner in Fee The City covenants, represents and warrants that it is the owner in fee of the Leased Property.

SECTION 7. Substitution of Leased Property From time to time, the City may authorize the Substitution of alternate real property or equipment for the Leased Property, the Removal of real property or equipment from the Leased Property or the addition of real property or equipment to the Leased Property pursuant to the Lease, with the prior written consent of the Assignee. In connection therewith, the City and the Corporation shall enter into a duly recorded amendment or supplement to this Site Lease. If the City effects a substitution of all or a portion of the Leased Property hereunder, all or a designated portion of the Leased Property formerly subjected to this Site Lease shall be released from the lien hereof upon receipt by the Corporation of (a) the written request of the City to that effect, and (b) a further opinion of Special Counsel to the effect that such release will have no material adverse effect upon the Assignee. After any such release, the term "Leased Property" shall be defined as the remaining portion of the Leased Property.

SECTION 8. Assignments and Subleases Unless the City shall be in default under the Lease, the Corporation may not assign its rights under this Site Lease or sublet the Leased Property, except as provided in the Lease and the Assignment Agreement, without the written consent of the City and the Assignee.

SECTION 9. Right of Entry The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 10. Termination The Corporation agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the same were in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Leased Property at the time of the termination of this Site Lease shall remain thereon and title thereto shall vest in the City.

SECTION 11. Default If the Corporation shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 Business Days following notice and demand for correction thereof to the Corporation, the City may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof.

SECTION 12. Quiet Enjoyment The Corporation at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Leased Property, subject to the provisions of the Lease.

SECTION 13. Waiver of Personal Liability All liabilities under this Site Lease on the part of the Corporation are solely liabilities of the Corporation, as a separate legal entity, and the City hereby releases each and every member, director and officer of the Corporation of and from any personal or individual liability under this Site Lease. No member, director or officer of the

Corporation shall at any time or under any circumstances be individually or personally liable under this Site Lease for anything done or omitted to be done by the Corporation hereunder.

SECTION 14. Taxes The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property (including both land and improvements).

SECTION 15. Eminent Domain If the whole or any part of the Leased Property shall be taken by eminent domain proceedings, the interest of the Corporation shall be recognized and is hereby determined to be the amount of the then-unpaid Lease Payments, and the balance of the award, if any, shall be paid to the City.

SECTION 16. Partial Invalidity If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 17. Notices All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid, and, if to the City, addressed to City of Placentia, 401 E. Chapman Avenue, Placentia, CA 92870, Attention: City Administrator, or if to the Corporation, addressed to the Municipal Finance Corporation, 2945 Townsgate Road, Suite 200, Westlake Village, CA 91361, Attention: William A. Morton, President, or to such other addresses as the respective parties may from time to time designate by notice in writing.

SECTION 18. Amendment This Site Lease may not be altered, modified or amended except as permitted by the Lease and to modify the description of the site on which the Leased Property components are located.

SECTION 19. No Merger of Interests The leasehold estates under this Site Lease and the Lease shall not merge, whether by the exercise of any right or remedy hereunder or thereunder, by operation of law, or otherwise.

SECTION 20. Section Headings All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

SECTION 21. Compliance with Laws and Regulations

(a) The City has, after due inquiry, no knowledge and has not given or received any written notice indicating that the Leased Property or the past or present use thereof or any practice, procedure or policy employed by it in the conduct of its business materially violates any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health sanitation, air

pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Leased Property (collectively, "Laws and Regulations"). Without limiting the generality of the foregoing, neither the City nor to the best of its knowledge, after due inquiry, any prior or present owner, tenant or subtenant of any of the Leased Property has, other than as set forth in subsections (a) and (b) of this Section or as may have been remediated in accordance with Laws and Regulations, (i) used, treated, stored, transported or disposed of any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any Asbestos Containing Materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and in all other Environmental Regulations applicable to the City, any of the Leased Property or the business operations conducted by the City thereon (collectively, "Hazardous Materials") on, from or beneath its Leased Property, (ii) pumped, spilled, leaked, disposed of, emptied, discharged or released (hereinafter collectively referred to as "Release") any material amount of Hazardous Material on, from or beneath the Leased Property, or (iii) stored any material amount of petroleum products at the Leased Property in underground storage tanks.

(b) Excluded from the representations and warranties in subsection (a) hereof with respect to Hazardous Materials are those Hazardous Materials in those amounts ordinarily found in the inventory of or used in the operation of a city, the use, treatment, storage, transportation and disposal of which has been and shall be in compliance with all Laws and Regulations.

(c) No part of the Leased Property is located in an area of high potential incidence of radon, has an unventilated basement or subsurface portion which is occupied or used for any purpose other than the foundation or support of the improvements to such Leased Property.

## SECTION 22. Environmental Compliance

(a) The City shall not use or permit the Leased Property or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the improvements on the Leased Property and then, only in compliance with all Environmental Regulations, and any state equivalent laws and regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Leased Property or onto any other property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of or used in the operation of a city facility, the use, storage, treatment, transportation and disposal of which shall be in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials, the City shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to the Corporation, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so released, on, from or beneath the Leased Property or other property, in

compliance with all Environmental Regulations. Notwithstanding anything to the contrary contained herein, underground storage tanks shall only be permitted subject to compliance with subsection (d) hereof and only to the extent necessary to maintain the improvements on the Leased Property.

(b) The City shall comply with, and shall use its best efforts to cause any tenants, subtenants, agents, licensees, employees, contractors, and agents to comply with, all Environmental Regulations and shall keep the Leased Property free and clear from Hazardous Materials; *provided, however*, that notwithstanding that a portion of this covenant is limited to the City's use of its best efforts, the City shall remain solely responsible for ensuring such compliance and such limitation shall not diminish or affect in any way the City's obligations contained in subsection (c) hereof as provided in subsection (c) hereof. Upon receipt of any notice from any Person with regard to the Release of Hazardous Materials on, from or beneath the Leased Property as provided for in Exhibit A attached hereto, the City shall give prompt written notice thereof to the Corporation and the Assignee (and, in any event, prior to the expiration of any period in which to respond to such notice under any Environmental Regulation).

(c) Irrespective of whether any representation or warranty contained herein is not true or correct, the City shall defend, indemnify and hold harmless the Assignee, its partners, depositors and each of its and their employees, agents, officers, directors, trustees, successors and assigns, from and against any claims, demands, penalties, fines, attorneys' fees (including, without limitation, attorneys' fees incurred to enforce the indemnification contained in this Section) consultants' fees, investigation and laboratory fees, liabilities, settlements (five Business Days' prior notice of which the Corporation or the Assignee, as appropriate, shall have delivered to the City), court costs, damages, losses, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, occurring in whole or in part, arising out of, or in any way related to, (i) the presence, disposal, Release, threat of Release, removal, discharge, storage or transportation of any Hazardous Materials on, from or beneath the Leased Property, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached (five Business Days' prior notice of which the Corporation or the Assignee, as appropriate, shall have delivered to the City), or governmental order relating to Hazardous Materials on, from or beneath any of the Leased Property, (iv) any violation of Environmental Regulations or subsection (a) or (b) hereof by it or any of its agents, tenants, employees, contractors, licensees, guests, subtenants or invitees, and (v) the imposition of any governmental Lien for the recovery of environmental cleanup or removal costs. To the extent that the City is strictly liable under any Environmental Regulation, its obligation to the Corporation and the Assignee and the other indemnities under the foregoing indemnification shall likewise be without regard to fault on its part with respect to the violation of any Environmental Regulation which results in liability to any indemnitee. Its obligations and liabilities under this subsection (c) shall survive any foreclosure of the security interest in the Leased Property.

(d) The City shall conform to and carry out a reasonable program of maintenance and inspection of all underground storage tanks, and shall maintain, repair, and replace such tanks only in accordance with Laws and Regulations, including but not limited to Environmental Regulations.

SECTION 23. Execution This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same lease.

SECTION 24. Governing Law This Site Lease shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and performed in such State.

SECTION 25. Third-Party Beneficiaries The Assignee is expressly recognized as third-party beneficiaries under this Site Lease.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the City and the Corporation have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF PLACENTIA,  
as Lessor

By: \_\_\_\_\_  
City Administrator

MUNICIPAL FINANCE CORPORATION,  
as Lessee

By: \_\_\_\_\_  
President

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF ORANGE )

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name of the officer), Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]

**EXHIBIT A**

**LEGAL DESCRIPTION OF LEASED PROPERTY**

AFTER RECORDATION PLEASE RETURN TO:  
Nixon Peabody LLP  
300 South Grand Avenue, Suite 4100  
Los Angeles, California 90071  
Attention: Danny Kim, Esq.

---

LEASE AGREEMENT

by and between

MUNICIPAL FINANCE CORPORATION,

as Lessor

and

CITY OF PLACENTIA,

as Lessee

Dated as of \_\_\_\_\_ 1, 2022

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THIS IS A FINANCING DOCUMENT:  
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PURSUANT TO GOVERNMENT CODE SECTION 27383

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**EXHIBITS:**

- Exhibit A – Schedule of Lease Payments
- Exhibit B – Legal Description of Leased Property

## LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of \_\_\_\_\_ 1, 2022 (this “Lease”), by and between the MUNICIPAL FINANCE CORPORATION, a corporation duly organized and validly existing under and by virtue of the laws of the State of California, as lessor (the “Lessor” or “Corporation”), and the CITY OF PLACENTIA, charter city duly organized and existing under the laws of the State of California, as lessee (the “Lessee” or “City”);

### WITNESSETH:

WHEREAS, Section 37350 *et seq.* of the Government Code of the State of California (the “Government Code”) provides that the Lessee may enter into a lease agreement for real and personal property in the State of California (the “State”); and

WHEREAS, the Lessee has leased certain real property and improvements to the Lessor under that certain Site Lease, dated as of \_\_\_\_\_ 1, 2022 (the “Site Lease”), by and between the Lessee and Lessor; and

WHEREAS, the Lessor intends to assist the Lessee in refinancing certain prior obligations of the Lessee, and in furtherance thereof to lease those real properties and improvements belonging to the Lessee and subject to the Site Lease (collectively, the “Leased Property,” as more particularly described in Exhibit B hereto) to the Lessee hereunder; and

WHEREAS, the Lessor will assign its rights, title and interest under this Lease, subject to certain exceptions, to First Foundation Public Finance, a Delaware statutory trust and a wholly-owned subsidiary of First Foundation Bank (the “Assignee”) under an Assignment Agreement, dated as of \_\_\_\_\_ 1, 2022 (the “Assignment Agreement”), between the Lessor and the Assignee; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Lease; and

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I

#### DEFINITIONS AND EXHIBITS

SECTION 1.1 Definitions and Rules of Construction Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Lease, refer to this Lease as a whole.

“Additional Payments” means the amounts specified as such in Section 4.6 of this Lease.

“Asbestos Containing Materials” shall mean material in friable form containing more than one percent (1%) of the asbestiform varieties of (a) chrysotile (serpentine); (b) crocidolite (riebeckite); (c) amosite (cummington-itegrinerite); (d) anthophyllite; (e) tremolite; and (f) actinolite.

“Assignee” means (a) initially, First Foundation Public Finance, a Delaware statutory trust and a wholly-owned subsidiary of First Foundation Bank, as assignee of all rights, title and interests of the Corporation hereunder, and (b) any other entity to whom the rights of the Corporation hereunder are assigned, including subsequent assignees of the Assignee, as provided in this Lease.

“Assignment Agreement” means the Assignment Agreement, dated as of \_\_\_\_\_ 1, 2022, between the Corporation, as assignor of its rights under the Site Lease and this Lease, and the Assignee, as assignee, as originally executed or as thereafter amended under any duly authorized and executed amendments thereto.

“Authorized Signatory” or “Authorized Representative” means: (i) in the case of the Lessor, the President or the designee of any such official or any person authorized by resolution of the Board of Directors of the Lessor to perform such act or to execute such documents; (ii) in the case of the Lessee, the Mayor, the City Manager, or the Director of Finance, or any other person authorized in writing by the Governing Board of the Lessee to act on behalf of the Lessee with respect to this Lease and any related documents; and (iii) in the case of the Assignee, any person authorized to perform any act or sign any document for the Assignee, including this Lease and the Assignment Agreement.

“Business Day” means any day (other than a Saturday, Sunday or holiday) on which banks in California or New York are not authorized or obligated by law or executive order to remain closed.

“Closing Date” means \_\_\_\_\_, 2022.

“Corporation” means the Municipal Finance Corporation, a corporation duly organized and existing under the laws of the State of California.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the District relating to the authorization and execution of the Lease, including but not limited to filing and recording fees, fees, charges and disbursements of attorneys, including counsel to the Assignee, counsel to the Corporation, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Lease, administrative costs of the District and the Corporation incurred in connection with the issuance of the Lease, expenses of the placement agent of the Lease, and any other cost, charge or fee in connection with the original issuance of the Lease, including fees of the California Debt and Investment Advisory Commission.

“County” means the County of Orange, California.

“Default Rate” means the interest rate of \_\_\_\_\_%, plus three percent 3.00% (calculated on the basis of a 365-day year and actual days elapsed).

“Defeasance Obligations” means: (1) cash, (2) non-callable direct obligations of the United States of America (“Treasuries”), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, or (5) securities eligible for “AAA” defeasance under then-existing criteria of S&P or any combination thereof.

“Environmental Regulations” shall mean all Laws and Regulations, as defined in Article II, Section 2.1(k)(1) herein, now or hereafter in effect, with respect to Hazardous Materials, as defined in, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, *et seq.*) (together with the regulations promulgated thereunder, “CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, *et seq.*) (together with regulations promulgated thereunder, “RCRA”), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, *et seq.*) (together with the regulations promulgated thereunder, “Title III”), the Clean Water Act, as amended (33 U.S.C. Section 1321, *et seq.*) (together with the regulations promulgated thereunder, “CWA”), the Clean Air Act, as amended (42 U.S.C. Section 7401, *et seq.*) (together with the regulations promulgated thereunder, “CAA”) and the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601 *et seq.*) (together with the regulations promulgated thereunder, “TSCA”), and any state or local similar laws and regulations and any so-called local, state or federal “superfund” or “superlien” law.

“Governing Board” when used with reference to the Lessee means the City Council of the Lessee.

“Hazardous Materials” shall have the meaning provided in Article II, Section 2.1(k)(1) hereof.

“Improvements” means any public improvements on real property owned by the Lessee and leased to the Lessor pursuant to the Site Lease.

“Insurance Consultant” means an individual or firm employed by the Lessee as an independent contractor, experienced in the field of risk management.

“Interest Component” means the portion of the Lease Payments designated as interest on Exhibit A hereto.

“Laws and Regulations” shall have the meaning provided in Article II, Section 2.1(k)(1) hereof.

“Lease Payment Date” means January 1 and July 1 of each year, commencing January 1, 2023.

“Leased Property” means, collectively, all of the Leased Property and Leased Property Components of the real and/or personal property, consisting of the site and the capital improvements described in Exhibit B to the Lease.

“Leased Property Component” means any identifiable portion or singular parcel comprising the real and/or personal property described in Exhibit B to the Lease.

“Net Insurance and Condemnation Proceeds” means any net proceeds of insurance or condemnation proceeds paid with respect to the affected portion of any Leased Property remaining after payment therefrom of any expenses (including attorneys’ fees) incurred in the collection thereof.

“Permitted Encumbrances” means, with respect to the Leased Property, as of any particular time: (i) liens for general *ad valorem* taxes and assessments, if any, not then delinquent, or which the Lessee may, pursuant to the provisions of Article V of this Lease, permit to remain unpaid; (ii) the Site Lease; (iii) the Assignment Agreement; (iv) this Lease; (v) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; and (vi) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which the Lessee certifies in writing will not impair the use of the Leased Property or to which the Lessor consents in writing.

“Principal Component” means the portion of the Lease Payments designated as principal.

“Program Expenses” means all administrative costs of the Lessor relating to the Leased Property, including, without limitation, taxes of any sort whatsoever payable by the Lessor as a result of its ownership of the Leased Property or its undertaking of the transactions contemplated herein or in the Lease, Costs of Issuance, fees of auditors, accountants, attorneys or engineers, insurance premiums, credit enhancement fees, and all other necessary administrative costs of the Lessor or charges required to be paid by it in order to maintain its existence or to comply with the terms of this Lease or to defend the Lessor.

“Release” shall have the meaning provided in Article II, Section 2.1(k)(1) hereof.

“Removal” means the release of all or a portion of the Leased Property from the leasehold hereof and of the Site Lease, as provided in Article III, Section 3.6 hereof.

“Site Lease” means the Site Lease, dated as of \_\_\_\_\_ 1, 2022, by and between the Lessor, as lessee thereunder, and the Lessee, as lessor thereunder, and any duly authorized and executed amendments or supplements thereto.

“Special Counsel” means Nixon Peabody LLP or another firm of attorneys of nationally recognized standing in matters pertaining to obligations issued by states and their political subdivisions.

“State” means the State of California.

“Substitution” means the release of all or a portion of the Leased Property from the leasehold hereof and of the Site Lease, and the lease of substituted real property and Improvements and/or equipment, if any, hereunder and under the Site Lease, as provided in Article III, Section 3.8 hereof.

SECTION 1.2 Exhibits The following Exhibits are attached to, and by this reference incorporated into and made a part of, this Lease: Exhibit A – Schedule of Lease Payments to be made by the Lessee to the Lessor; Exhibit B – Legal Description of Leased Property.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.1 Representations, Covenants and Warranties of Lessee The Lessee represents, covenants and warrants to the Lessor as follows:

(a) Due Organization and Existence The Lessee is a municipal corporation and charter city, duly organized and existing under and by virtue of the laws of the State, has full legal right, power and authority under the laws of the State to enter into the Site Lease and this Lease and to carry out and consummate all transactions on its part contemplated hereby and thereby, and by proper action the Lessee has duly authorized the execution and delivery by the Lessee of the Site Lease and this Lease.

(b) Authorization; Enforceability The Constitution and laws of the State authorize the Lessee to enter into this Lease and the Site Lease (collectively, the “Agreements”) and to enter into the transactions contemplated by and to carry out its obligations under all of the Agreements, and the Lessee has, concurrently with the execution hereof, duly authorized and executed all of the Agreements. The Agreements constitute legal, valid and binding obligations of the Lessee, enforceable in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(c) No Defaults Neither the execution and delivery of the Agreements, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Lessee is now a party or by which the Lessee is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrances whatsoever upon any of the property or assets of the Lessee.

(d) Indemnification of Lessor The Lessee covenants to indemnify and hold harmless the Lessor and its directors and employees, and the Assignee, and with regard to its own rights (each, an “Indemnified Party”), against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Party may become subject under any statute or at law or in equity or otherwise in connection with the transactions contemplated by this Lease, and shall reimburse any such Indemnified Party for any legal or other expenses incurred by it in connection

with investigating any claims against it and defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of the transactions contemplated by this Lease.

(e) Execution and Delivery The Lessee has taken all actions required to authorize and execute this Lease in accordance with the Constitution and laws of the State.

(f) Financial Condition The Lessee has experienced no material change in its financial condition since June 30, 2021.

(g) No Litigation There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the best of its knowledge, threatened against the Lessee in any way contesting or affecting the validity or enforceability of this Lease or the Site Lease or contesting the powers of the Lessee to execute and deliver this Lease or the Site Lease or to consummate the transactions contemplated hereby or thereby.

(h) Essentiality of the Leased Property The Leased Property is essential to the operations of the Lessee.

(i) Leased Property To the best of the City's knowledge, the Leased Property complies with all material applicable restrictive covenants, zoning ordinances, building laws and other applicable laws (including without limitation, the Americans with Disabilities Act, as amended). The Lessee is the owner in fee of title to the Leased Property. No lien or encumbrance on the Leased Property materially impairs the Lessee's use of the Leased Property for the purposes for which it is, or may reasonably be expected to be, held. The Leased Property is not located in a flood hazard area.

(j) Compliance with Laws and Regulations

(1) The Lessee has, after due inquiry, no knowledge and has not given or received any written notice indicating that the Leased Property or the past or present use thereof or any practice, procedure or policy employed by it in the conduct of its business materially violates any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Leased Property (collectively, "Laws and Regulations"). Without limiting the generality of the foregoing, neither the Lessee nor to the best of its knowledge, after due inquiry, any prior or present owner, tenant or subtenant of any of the Leased Property has, other than as set forth in subsections (a) and (b) of this Section or as may have been remediated in accordance with Laws and Regulations, (i) used, treated, stored, transported or disposed of any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any Asbestos Containing Materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated

substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and in all other Environmental Regulations applicable to the Lessee, any of the Leased Property or the business operations conducted by the Lessee thereon (collectively, "Hazardous Materials") on, from or beneath its Leased Property, (ii) pumped, spilled, leaked, disposed of, emptied, discharged or released (hereinafter collectively referred to as "Release") any material amount of Hazardous Material on, from or beneath the Leased Property, or (iii) stored any material amount of petroleum products at the Leased Property in underground storage tanks.

(2) Excluded from the representations and warranties in subsection (1) hereof with respect to Hazardous Materials are those Hazardous Materials in those amounts ordinarily found in the inventory of or used in the operation of a city facility, the use, treatment, storage, transportation and disposal of which has been and shall be in compliance with all Laws and Regulations.

(3) No Leased Property located in an area of high potential incidence of radon has an unventilated basement or subsurface portion which is occupied or used for any purpose other than the foundation or support of the improvements to such Leased Property.

(k) Environmental Compliance

(1) The Lessee shall not use or permit the Leased Property or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the improvements on the Leased Property and then, only in compliance with all Environmental Regulations, and any state equivalent laws and regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Leased Property or onto any other property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of or used in the operation of a city facility, the use, storage, treatment, transportation and disposal of which shall be in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials, the Lessee shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to the Lessor, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so released, on, from or beneath the Leased Property or other property, in compliance with all Environmental Regulations. Notwithstanding anything to the contrary contained herein, underground storage tanks shall only be permitted subject to compliance with subsection (4) hereof and only to the extent necessary to maintain the improvements on the Leased Property.

(2) The Lessee shall comply with, and shall use its best efforts to ensure that any tenant's subtenants, licensees, employees, contractors, and agents to comply with, all Environmental Regulations and shall keep the Leased Property free and clear from

Hazardous Materials; provided, however, that notwithstanding that a portion of this covenant is limited to the Lessee's use of its best efforts, the Lessee shall remain solely responsible for ensuring such compliance and such limitation shall not diminish or affect in any way the Lessee's obligations contained in subsection (3) hereof. Upon receipt of any notice from any Person with regard to the Release of Hazardous Materials on, from or beneath the Leased Property, the Lessee shall give prompt written notice thereof to the Lessor (and, in any event, prior to the expiration of any period in which to respond to such notice under any Environmental Regulation).

(3) Irrespective of whether any representation or warranty contained herein is not true or correct, the Lessee shall defend, indemnify and hold harmless the Assignee, its partners and each of its and their employees, agents, officers, directors, trustees, successors and assigns, from and against any claims, demands, penalties, fines, attorneys' fees (including, without limitation, attorneys' fees incurred to enforce the indemnification contained in this Section, consultants' fees, investigation and laboratory fees, liabilities, settlements (five (5) Business Days' prior notice of which the Lessor, Assignee shall have delivered to the Lessee), court costs, damages, losses, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, occurring in whole or in part, arising out of, or in any way related to, (i) the presence, disposal, Release, threat of Release, removal, discharge, storage or transportation of any Hazardous Materials on, from or beneath the Leased Property, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached (five (5) Business Days' prior notice of which the Lessor, the Assignee shall have delivered to the Lessee), or governmental order relating to Hazardous Materials on, from or beneath any of the Leased Property, (iv) any violation of Environmental Regulations or subsection (1) or (2) hereof by it or any of its agents, tenants, employees, contractors, licensees, guests, subtenants or invitees, and (v) the imposition of any governmental lien for the recovery of environmental cleanup or removal costs. To the extent that the Lessee is strictly liable under any Environmental Regulation, its obligation to the Assignee, and the other indemnities under the foregoing indemnification shall likewise be without regard to fault on its part with respect to the violation of any Environmental Regulation which results in liability to any indemnitee. Its obligations and liabilities under this subsection (3) shall survive any foreclosure of the leasehold interest in the Leased Property or the delivery of any instrument in lieu of foreclosure of such leasehold interest, and satisfaction of the Lease Payments due hereunder.

(4) The Lessee shall conform to and carry out a reasonable program of maintenance and inspection of all underground storage tanks, and shall maintain, repair, and replace such tanks only in accordance with Laws and Regulations, including but not limited to Environmental Regulations.

(1) No Condemnation The Lessee hereby covenants and agrees, to the extent it may lawfully do so, that as long as any of the Lease Payments or Additional Payments remain outstanding and unpaid, the Lessee will not exercise the power of condemnation with respect to the Leased Property. The Lessee further covenants and agrees, to the extent it may lawfully do so,

that if for any reason the foregoing covenant is determined to be unenforceable or if the Lessee should fail or refuse to abide by such covenant and condemns the Leased Property, the appraised value of the Leased Property shall not be less than the greater of (i) if such Lease Payments are then subject to prepayment, or (ii) if this Lease is not then subject to prepayment, the amount necessary to defease this Lease.

(m) Appropriated The City has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either under any financing lease of the same general nature as this Lease Agreement, or under any of its bonds, notes, or other debt obligations.

(n) Lease Payments The City reasonably believes that sufficient funds can be obtained to make all Lease Payments and all other amounts required to be paid pursuant to this Lease Agreement.

SECTION 2.2 Representations, Covenants and Warranties of Lessor The Lessor represents, covenants and warrants to the Lessee as follows:

(a) Due Organization and Existence; Enforceability The Lessor is a corporation duly organized and existing under the laws of the State, and has the power to enter into the Site Lease, this Lease and the Assignment Agreement; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements. The Site Lease, this Lease and the Assignment Agreement constitute the legal, valid and binding obligations of the Lessor, enforceable in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(b) No Encumbrances The Lessor will not pledge or assign the Lease Payments or other amounts derived from the Leased Property and from its other rights under this Lease except the Lessor may create, assume or suffer to exist Permitted Encumbrances provided under the terms of this Lease.

(c) No Violations Neither the execution and delivery of the Site Lease, this Lease and the Assignment Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the Articles of Incorporation or Bylaws creating the Lessor or any restriction or any agreement or instrument to which the Lessor is now a party or by which the Lessor is bound, or constitutes a default under any of the foregoing. Unless otherwise agreed to in writing by the Assignee no lien on the Leased Property (except laborers' and mechanics' liens) senior to the lien established hereby shall be permitted.

(d) No Assignment Except as provided herein, in the Assignment Agreement and in this Lease, the Lessor will not assign this Lease, its right to receive Lease Payments from the Lessee, or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section; provided,

however, that Lessor shall, with the prior written consent of the Assignee, have the absolute right to assign this Lease and its rights and obligations hereunder to any other such person, firm or corporation.

(e) Execution and Delivery The Lessor has duly authorized and executed this Lease and the Site Lease in accordance with the Constitution and laws of the State.

(f) No Litigation There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the best of its knowledge, threatened against the Lessor in any way contesting or affecting the validity or enforceability of this Lease or the Site Lease or contesting the powers of the Lessor to execute and deliver this Lease or the Site Lease or to consummate the transactions contemplated hereby or thereby.

(g) Cooperation The Lessor shall cooperate fully with the Lessee at the expense of the Lessee in filing any proof of loss with respect to any insurance policy maintained pursuant to Article V of this Lease and shall cooperate fully with the Lessee in contesting any lien filed or established against the Leased Property, upon the request and at the expense of the Lessee pursuant to Article V of this Lease.

(h) Municipal Advisor Rules The Lessor is not acting as an advisor to the Lessee, including, without limitation, as a "Municipal Advisor" as such term is defined in the Municipal Advisor Rules, or an agent or a fiduciary of the Lessee and the Lessor has not provided any advice or assumed any advisory or fiduciary responsibility in favor of the Lessee with respect to the transaction contemplated hereby or by the Site Lease and the discussions, undertakings and procedures leading thereto.

### ARTICLE III

#### DEPOSIT AND APPLICATION OF FUNDS

SECTION 3.1 Deposit of and Application of Funds On the Closing Date, the Assignee shall cause the following amounts derived from amounts paid by the Assignee under the Assignment Agreement to be transferred:

(a) \$ \_\_\_\_\_ to Escrow Agent for deposit in the Escrow Fund; and

(b) \$ \_\_\_\_\_ to the \_\_\_\_\_ to pay all Costs of Issuance.

SECTION 3.2 Leased Property The Leased Property is the subject of the Site Lease and shall be deemed to be and is subleased under this Lease. The Lessee has leased the Leased Property to the Lessor in consideration, in part, for the Lessor's promise to cause the acquisition, delivery, installation, equipping, remodeling or construction of the Leased Property.

SECTION 3.3 Lessee to Act as Agent for the Lessor

(a) Each item to be leased hereunder as a part of the Leased Property is of a category eligible for leasing by the Lessee. The Lessor shall not be accountable for the acts of the Lessee as its agent hereunder and the Lessee hereby assumes total responsibility for the performance of its duties hereunder.

(b) The Lessee, for One Dollar (\$1.00) and other good and valuable consideration in hand received, does hereby accept the appointment as agent of the Lessor for the purposes set forth in this Section.

SECTION 3.4 Reserved

SECTION 3.5 Substitution of Alternate Leased Property and Release of Leased Property

(a) With the prior written consent of the Assignee, the Lessee shall have the right to release or to substitute alternate property for the Leased Property provided for in Exhibit B hereto, or add additional real property and/or personal property and/or equipment to the Leased Property, but only by providing the Assignee with a duly recorded amendment or supplement to this Lease in accordance herewith. All costs and expenses incurred in connection with any such substitution or addition shall be borne by the Lessee. Notwithstanding any substitution or addition pursuant to this Section, there shall be no reduction in or abatement of the Lease Payments due from the Lessee hereunder as a result of such substitution.

(b) If the Lessee substitutes any alternate real property, or equipment, as applicable, or Improvement for the Leased Property or adds additional components to the Leased Property, written notice of such substitution or addition shall be delivered by the Lessee and to the Lessor and the Assignee. The Lessee shall not substitute alternate real property or equipment, as applicable, or Improvements for the Leased Property or add an additional component to the Leased Property, without first obtaining a certificate of the Lessee (A) stating that the annual fair rental value of the Leased Property after the Substitution or Removal, in each year during the remaining term of this Lease, is at least equal to the maximum annual Lease Payments during the remaining term of the Lease, (B) demonstrating that the useful life of the Leased Property after Substitution or Removal equals or exceeds the remaining term of this Lease, and (C) stating that the Leased Property after a Substitution or Removal is as essential to the operations of the Lessee as was the Leased Property immediately prior to such Substitution or Removal.

(c) In the event of a Substitution or Removal, there shall also be delivered to the Lessor and the Assignee (i) a policy of title insurance in an amount equal to the same proportion of the principal amount as the Principal Components of the Lease Payments attributable to the remaining portion of the real property portion of the Leased Property or the Substituted Leased Property bears to the total Principal Components of Lease Payments, insuring the Lessee's leasehold interest in the Substituted Leased Property (except any portion thereof which is not real property) subject only to Permitted Encumbrances, together with an endorsement thereto making such policy payable to the Assignee and relating to this Lease and evidence that no prior liens exist with respect to such Substituted Leased Property subject only to Permitted Encumbrances, and (ii) in the event

of a partial Removal, evidence that the title insurance in effect immediately prior thereto is not affected.

## ARTICLE IV

### AGREEMENT TO LEASE; TERMINATION OF LEASE; LEASE PAYMENTS; TITLE TO THE LEASED PROPERTY

SECTION 4.1 Lease The Lessor hereby leases the Leased Property to the Lessee, and the Lessee hereby leases the Leased Property from the Lessor, upon the terms and conditions set forth in this Lease.

SECTION 4.2 Term of Agreement The "Term" of this Lease shall mean the duration of this Lease for the Leased Property, which shall commence on the Closing Date and shall terminate on January 1, 2027, unless earlier terminated in accordance with the following paragraph, provided, however that if Lease Payments remain unpaid at the expiration of the Lease Term, or provision shall not have been made for their payment, then this Lease shall not terminate until the earlier of (i) January 1, 2027 or the expiration of the term of the Lease in the event this Lease shall have been amended pursuant to Article VIII, Section 8.3 hereof, unless such term is sooner terminated as hereinafter provided; and, provided further, however, that there shall be terminated with respect to the Leased Property, the entirety of Lessor's interest which is transferred to the Lessee upon the end of the useful life of the Leased Property in the same manner, as provided in Article IV, Section 4.5(b) with respect to the transfer of the Leased Property at the end of the Term. The Term of this Lease shall in no event be extended beyond the maximum period permitted by law.

The Term of this Lease shall end upon the earliest of any of the following events: (a) a default by the Lessee and the Lessor's subsequent election to terminate this Lease under Article IX, Section 9.2(b); (b) the payment by the Lessee of all Lease Payments required under Article IV, Section 4.3 hereof and any Additional Payments required under Article IV, Section 4.6 hereof; (c) the deposit of moneys or Defeasance Obligations with the Corporation or escrow agent appointed by the Corporation in amounts sufficient to pay all of the Lease Payments as the same shall become due, as provided by Article X, Section 10.1 hereof; or (d) upon the exercise by the Lessee of its option to purchase the entire interest of the Lessor in the Leased Property as provided in Article IV, Section 4.5(c) hereof and payment of all amounts provided for hereunder.

### SECTION 4.3 Lease Payments

#### (a) Obligation to Pay

(1) Time and Amount Subject to the provisions of Article VI and Article X hereof, the Lessee agrees to pay to the Lessor, its successors and assigns, as rental for the use and possession of the Leased Property, the Lease Payments in the amounts specified in Exhibit A hereto, to be due and payable on each Lease Payment Date.

Lease Payments shall be paid from any source of legally available funds of the Lessee, and so long as the Leased Property, or a sufficient portion thereof, is available

for the use, the Lessee covenants to take such action as may be necessary to include all Lease Payments due hereunder in its budgets and to make the necessary appropriations for all such Lease Payments and Additional Payments.

During the Term hereof, the Lessee will furnish to the Assignee upon request, no later than twenty (20) days following the adoption of the budget for its then-current fiscal year, and prior to the beginning of the fiscal year, a certificate of the Authorized Representative to the effect that amounts stated in the Lessee's proposed annual budget for the payment of Lease Payments due under this Lease in the fiscal year covered by such budget and approved by the Governing Board are fully adequate for the payment of all Lease Payments due under this Lease in such fiscal year. The covenants on the part of the Lessee herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the Lessee to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Lessee to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the Lessee.

(2) No Withholding Notwithstanding any dispute between the Lessor and the Lessee, including any dispute as to the failure of any Leased Property Component to perform the task for which it is leased, the Lessee shall make all Lease Payments when due and shall not withhold any Lease Payments pending the final resolution of such dispute.

(b) Terms and Effect of Prepayment and Purchase of the Leased Property

(1) Optional Prepayment The Lessee shall have the option to prepay in whole on any Interest Payment Date the then unpaid Principal Components of its Lease Payments due at the prepayment prices set forth below, plus accrued interest on such unpaid Principal Component of Lease Payments to the date of prepayment.

<u>Prepayment Date</u>	<u>Prepayment Price</u>
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(2) In Whole; Exercise of Purchase Option If the Lessee exercises its option to purchase the entire interest of the Lessor in the Leased Property in accordance with Article IV, Section 4.5(c) hereof by prepaying all remaining Lease Payments either by irrevocably making a security deposit with the Assignee as provided in Article X, Section 10.1 hereof or from Net Insurance and Condemnation Proceeds as provided in Article X, Section 10.2 hereof, the Lessee's obligations under this Lease shall thereupon cease and terminate, including but not limited to the Lessee's obligations to continue to pay Lease Payments under this Section.

(3) In Part If the Lessee prepays less than all of the remaining Principal Components of the Lease Payments pursuant to this Section or from Net Insurance and Condemnation Proceeds pursuant to Article X, Section 10.2 hereof, or pursuant to Article X, Section 10.3 hereof, the amount of such prepayment shall be applied proportionately over the remaining Term to reduce the Principal Components of the Lease Payments. Upon prepayment the Authorized Representative of the Lessee shall prepare (or cause to be prepared) a revised schedule of Lease Payments which schedule shall take into account such prepayment and shall be and become for all purposes thereafter Exhibit A attached hereto.

(4) Notice and Timing of Prepayment Before making any prepayment hereunder, the Lessee shall give written notice to the Lessor and the Assignee describing such event and specifying the date on which the prepayment will be made, which notice shall be given no later than the thirtieth (30th) day prior to the date scheduled for prepayment.

(c) Rate of Overdue Payments If Lessee should fail to make any of the payments required in this Section, the payments in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid, and the Lessee agrees to pay the same with interest at the Default Rate, to the extent permitted by law, from the date such amount was originally payable.

(d) Fair Rental Value The Lease Payments shall be paid by the Lessee in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Leased Property during each such period for which such payments have been paid. The parties hereto have agreed and determined that such payments represent at least the fair rental value of the Leased Property. In making such determination, consideration has been given to the obligations of the parties under this Lease (including but not limited to costs of maintenance, taxes and insurance), the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the Lessee and the general public.

(e) Assignment The Lessee understands and agrees that, pursuant to the Assignment Agreement, the Lessor has assigned its right to receive and collect Lease Payments, Additional Payments and prepayments thereof to the Assignee, and the Lessee assents to such assignment. The Lessor hereby directs the Lessee, and the Lessee hereby agrees to pay to the Assignee at such other place as the Assignee shall direct in writing, all payments payable by the Lessee pursuant to this Section, Article IV, Section 4.6 and Article X hereof.

(f) Abatement Lease Payments shall be subject to abatement as provided in Article VI, Section 6.1 hereof.

SECTION 4.4 Quiet Enjoyment During the term of this Lease, the Lessor shall provide the Lessee with quiet use and enjoyment of the Leased Property, and the Lessee shall during such term peaceably and quietly have and hold and enjoy the Leased Property, without suit, trouble or hindrance from the Lessor, or any person or entity claiming under or through the Lessor except as expressly set forth in this Lease. The Lessor shall, at the request and expense of the Lessee, join

in any legal action in which the Lessee asserts its right to such possession and enjoyment to the extent the Lessor may lawfully do so. Notwithstanding the foregoing, the Lessor shall have the right to inspect the Leased Property as provided in Article VII, Section 7.3 hereof.

SECTION 4.5 Title to the Leased Property

(a) Lessor Holds Leasehold Interest During Term During the term of this Lease, the Lessor shall hold a leasehold interest in the Leased Property, and each discrete portion thereof, and any and all additions which comprise repairs, replacements or modifications thereto. The Lessee shall take any and all actions, including but not limited to executing and filing any and all documents, reasonably required to maintain and evidence the Lessor's interest in the Leased Property at all times during the Term of this Lease.

(b) Title Transferred to Lessee at End of Term Upon expiration of the Term as set forth in Article IV, Section 4.2 herein, unless such expiration occurs pursuant to a default by the Lessee and the Lessor has elected to terminate this Lease under Article IX, Section 9.2(b) hereof, all right, title and interest of the Lessor in and to all of the Leased Property shall be transferred to and vest in the Lessee, without the necessity of any additional document of transfer, except that with respect to the Leased Property Component constituting real property, the Lessor shall authorize, execute and deliver to the Lessee any documents required to transfer all right, title and interest of the Lessor to such real property to the Lessee.

(c) Option to Purchase The Lessee shall have the option to purchase the entire interest of the Lessor in the Leased Property by irrevocably making a security deposit as provided in Article X by paying the purchase price therefor in the form of moneys or Defeasance Obligations, or a combination thereof, in an aggregate amount sufficient to provide for the payment of all of the total Lease Payments, as and when due, taking into account investment income to be earned on the deposit of such moneys and investments whereupon all right, title and interest of the Lessor in and to the Leased Property shall vest in the Lessee without the necessity of any additional document of transfer. In any such event, if necessary, the Lessor shall authorize, execute and deliver to the Lessee any documents reasonably requested by the Lessee to terminate this Lease in order to confirm such vesting of title in the Lessee.

SECTION 4.6 Additional Payments As Additional Payments, the Lessee shall also pay such amounts as shall be required for the payment of all administrative costs of the Lessor relating to the Leased Property, including, without limitation, the Lessee's obligation to pay all taxes of any sort whatsoever payable by the Lessor as a result of its ownership of the Leased Property or its undertaking of the transactions contemplated herein or, as may be related to this Lease, fees of auditors, accountants, attorneys or engineers, insurance premiums, credit enhancement fees, and all other necessary administrative costs of the Lessor or charges required to be paid by it in order to maintain its existence or to comply with the terms of the this Lease or to defend the Lessor. Such Additional Payments shall be billed to the Lessee by the Lessor from time to time, together with a statement certifying that the amount billed has been paid by the Lessor for one or more of the items above described, or that such amount is then payable by the Lessor within fifteen (15) days after receipt of the bill by the Lessee. Additional Payments due under this Section shall be paid by the Lessee directly to the person or persons to whom such amounts shall be payable.

## ARTICLE V

### MAINTENANCE; TAXES; INSURANCE; OTHER MATTERS

SECTION 5.1 Maintenance, Utilities, Taxes and Assessments Throughout the Term of this Lease, as part of the consideration for the rental of the Leased Property, all repair and maintenance of the Leased Property shall be the responsibility of the Lessee, and the Lessee shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the Lessee or any sublessee thereof. In exchange for the Lease Payments herein provided, the Lessor agrees to provide only the Leased Property, as hereinbefore more specifically set forth. The Lessor shall have no responsibility for making improvements and additions to the Leased Property other than as set forth herein. The Lessee shall also pay or cause to be paid any and all sales taxes or other taxes, levies, charges, withholdings, assessments and governmental charges of any nature whatsoever, together with any additions to tax, penalties, fines or interest thereon charged against the Leased Property, as Additional Payments under Article IV, Section 4.6 hereof, including, without limitation, penalties, fines or interest arising out of any delay or failure by the Lessee to pay any of the foregoing or failure to file or furnish to the Lessor for filing in a timely manner any returns, hereinafter levied or imposed against the Lessor or the Leased Property, the rentals and other payments required hereunder or any parts thereof or interests in the Lessee or the Lessor by any governmental authority.

### SECTION 5.2 Modification of the Leased Property

(a) The Lessee shall, at its own expense, have the right to make additions, modifications, and improvements to the Leased Property if such improvements are necessary or beneficial for the use of the Leased Property. All such additions, modifications and improvements shall thereafter comprise part of the Leased Property and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage the Leased Property or cause it to be used for purposes other than those authorized under the provisions of State and federal law or in any way which would impair the tax status of the Interest Components of the Lease Payments; and the Leased Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value in the aggregate which is not less than the value of the Leased Property immediately prior to the making of such additions, modifications and improvements.

(b) The Lessee will not permit any mechanic's or other lien to be established or to remain against the Leased Property for labor or materials furnished in connection with any additions, modifications, remodeling, construction or improvements made by the Lessee pursuant to this Section, except Permitted Encumbrances; provided, that if any such lien is established and the Lessee shall first notify or cause to be notified the Lessor of the Lessee's intention to do so, the Lessee may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the liens so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Lessor with full security against any loss or forfeiture which might arise from such nonpayment with respect to the Leased

Property, in form satisfactory to the Lessor. The Lessor will cooperate fully in any such contest, upon the request and at the expense of the Lessee.

SECTION 5.3 Public Liability and Property Damage Insurance; Workers' Compensation Insurance

(a) Public Liability and Property Damage The Lessee shall maintain or cause to be maintained, throughout the Term of this Lease, a standard comprehensive general public liability and property damage insurance policy or policies in protection of the Lessee, its officers, agents and employees. Such policy or policies shall provide for indemnification of such parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the use or operation of the Leased Property.

Such policy or policies shall provide coverage in the minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$150,000 (subject to a deductible clause of not to exceed \$50,000) for damage to property resulting from each accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of \$3,000,000 covering all such risks. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the Lessee, and may be maintained in the form of self-insurance by the Lessee.

The Net Insurance and Condemnation Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid, including, where appropriate, the application of Net Insurance and Condemnation Proceeds with respect to the prepayment of the Lease Payments. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance carried by the Lessee.

As an alternative to providing the insurance required by the first paragraph of this Section, the Lessee may provide a self-insurance method or plan of protection which shall afford reasonable protection to the Lessor, its directors, officers, agents and employees and the Assignee, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State other than the Lessee. Before such method or plan may be provided by the Lessee, there shall be filed with the Assignee a certificate of an actuary, Insurance Consultant or other qualified person to the satisfaction of the Lessor, stating that, in the opinion of the signer, the substitute method or plan of protection, is in accordance with the requirements of this Section and, when effective, would afford reasonable protection to the Lessor, its directors, officers, agents and employees and the Assignee against loss and damage from the hazards and risks covered thereby and Assignee may conclusively rely thereon. There shall also be filed a certificate of the Lessee setting forth the details of such substitute method or plan.

(b) Workers' Compensation The Lessee shall also maintain or require (in the case of vendors or contractors and all subcontractors) throughout the Term of this Lease, workers' compensation insurance issued by a responsible carrier authorized under the laws of the State covering all employees working on the Leased Property, in the same amount and type as other

workers' compensation insurance maintained by the Lessee for similar employees doing similar work (and the Lessee shall also require any other person or entity working on the Leased Property to carry the foregoing amount of workers' compensation insurance). Workers' compensation insurance may, to the extent provided by law, be maintained in the form of self-insurance.

**SECTION 5.4 Fire and Theft Insurance** The Lessee shall maintain or cause to be maintained, throughout the Term of this Lease, insurance against loss or damage to any or all of the Leased Property by fire and lightning, with extended coverage endorsement (which extended coverage endorsement shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and other hazards as are normally covered by such insurance), vandalism and malicious mischief insurance, sprinkler system leakage insurance, boiler insurance, and against loss of any of the Leased Property by theft.

Such insurance shall be in an amount equal to the greater of 100% of the replacement cost of the Leased Property (or, if under separate policies, in an aggregate amount equal to 100% of the replacement cost of the Leased Property) or the outstanding Principal Components of the Lease Payments, except that such insurance may be subject to deductible clauses of not to exceed \$50,000 for any one loss; *provided, however*, that in no event shall such insurance be maintained in an aggregate amount less than the aggregate Principal Components of the Lease Payments at that time Outstanding. Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage insurance carried or required to be carried by the Lessee and may be maintained in the form of self-insurance by the Lessee. The Net Insurance and Condemnation Proceeds of each policy or coverage shall be applied as provided in Article VI, Section 6.2(a) and (c).

**SECTION 5.5 Rental Interruption and Title Insurance**

(a) The Lessee shall maintain or cause to be maintained with a reputable commercial insurer throughout the Term of this Lease insurance against loss, total or partial, of the use and occupancy of the Leased Property as a result of any of the hazards covered by Article V, Section 5.4 hereof, in an amount not less than the maximum remaining scheduled Lease Payments for a 24-month period, except that such insurance need be maintained as to the peril of earthquake only if such insurance is available at reasonable cost on the open market from reputable insurance companies. Such insurance shall be subject to a deductible clause not to exceed \$50,000. Such insurance may be maintained as part of or in conjunction with any other rental interruption insurance carried by the Lessee but may not be maintained as self-insurance. The Net Insurance and Condemnation Proceeds of such insurance shall be paid to the Lessor and shall be credited toward the payment of the Lease Payments in the order in which such Lease Payments come due and payable. The policy shall cover all components of the Leased Property and the facilities comprising the Leased Property.

(b) The Lessee shall, on or before the Closing Date, obtain a CLTA or an ALTA title insurance policy respecting the ownership and condition of the real property portion of the Leased Property as described in Exhibit B hereto, in an amount equal to the maximum aggregate amount of Principal Components of the Lease Payments.

## SECTION 5.6 General Insurance Provisions

(a) Form of Policies All policies of insurance obtained under the requirements of this Lease and any statements of self-insurance shall be in forms certified by an insurance agent, broker or consultant to the Lessee to comply with the provisions hereof unless waived by the Assignee. Any insurance policy obtained under the requirements of this Lease shall be issued by a commercial insurer rated at least "A" by S&P, and shall be written or endorsed to list the Assignee, the Lessor and the Lessee as additional named insureds and the Assignee as loss payee, with in all instances the net proceeds, if any, of the insurance policy described in Article V, Section 5.5(a) above to be deposited as directed by the Lessor, and each insurance policy provided for herein shall contain a provision to the effect that the insurance company shall not cancel the policy without first giving written notice thereof to the Assignee, the Lessor and the Lessee at least ten (10) days in advance of such intended cancellation; provided that, the Assignee shall not be responsible for the sufficiency of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustments, compromise or settlement of any loss agreed to by it.

(b) Payment of Premiums The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease, and shall promptly furnish or cause to be furnished to the Assignee a certificate to such effect accompanied by evidence of such payments.

(c) Evidence of Insurance The Lessee will deliver to the Lessor and the Assignee by May 1 of each year, if requested, a certificate to the effect that the requirements of Article V, Sections 5.3, 5.4, 5.5 and 5.6 hereof have been satisfied, together with a certificate or certificates of an Insurance Consultant evidencing such satisfaction. Upon request, the Lessee shall provide a schedule, in such detail as the Lessor or the Assignee may reasonably request, setting forth any insurance policies then in force described in this Lease, listing the names of the insurers which have issued the policies, the policy limits thereof and the hazards and risks covered thereby, or the certificate of an Insurance Consultant providing similar information. The Assignee is entitled to rely on such certificates as to the Lessee's compliance with these provisions and the Assignee has no further duties in that regard.

(d) Self-Insurance Requirements If the Lessee chooses to self-insure for any of the risks described in Article V, Sections 5.3 and 5.4 for which self-insurance is permitted, it must on at least an annual basis in the month of July provide evidence to the Assignee and the Lessor to the effect that (i) the Lessee has segregated amounts meeting such requirements in a special insurance reserve account dedicated to the Leased Property, (ii) a certificate of an Insurance Consultant to the Assignee and the Lessor to the effect that the Lessee's general insurance reserves are adequate to provide the required amount of coverage, and (iii) an actuarial statement attesting to the sufficiency of the program's assets. The Assignee may conclusively rely upon such certificates. The Lessee agrees that in the event the self-insurance program is discontinued, the actuarial soundness of the special insurance reserve account shall be maintained.

SECTION 5.7 Liens Except as provided in this Article (including without limitation Article V, Section 5.2(b)), the Lessee shall not, directly or indirectly, create, incur, assume or suffer

to exist any mortgage, pledges, liens, charges, encumbrances or claims, as applicable, on or with respect to the Leased Property, or any portion thereof, other than the respective rights of the Lessor and the Lessee as herein provided and Permitted Encumbrances. Except as expressly provided in this Article, the Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The Lessee shall reimburse the Lessor for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

SECTION 5.8 Use of the Leased Property The Lessee represents and warrants that it has or will, as of the Closing Date, have an immediate need for, and expects to make immediate use of the Leased Property, which need is not temporary or expected to diminish in the foreseeable future. The Lessee agrees not to give priority in the appropriation of funds for the construction, acquisition or use of any additional Equipment or facilities, as the case may be, performing functions similar to that performed by the Leased Property.

SECTION 5.9 Advances If the Lessee shall fail to perform any of its obligations under this Article, the Lessor may, but shall not be obligated to, take such action as may be necessary to cure such failure.

SECTION 5.10 Agreement to Pay Program Expenses The Lessee agrees to pay to the Assignee, as the assignee of the Lessor, all Program Expenses of the Lessor charged to the Lessee and Program Expenses charged to the Lessee by the Assignee.

SECTION 5.11 Books and Records The Lessee will at all times during the Term of this Lease keep proper books of record and account in which full, true and correct entries in conformity with applicable law shall be made of all dealings and transactions in relation to its activities. The Lessee will permit the Lessor, any authorized representatives of the Lessor and the Lessor's successors and assigns at reasonable times and intervals upon prior written notice to examine and make abstracts, subject to proprietary and confidentiality policies and agreements of or binding upon the Lessee, from the Lessee's books and records and to discuss the Lessee's affairs, finances and account with the Lessee's officers and independent accountants. The Lessee will promptly notify the Lessor if at any time the Lessee shall not maintain a positive fund balance in its general fund.

## ARTICLE VI

### DAMAGE AND DESTRUCTION; USE OF NET INSURANCE AND CONDEMNATION PROCEEDS

SECTION 6.1 Abatement of Lease Payments in Event of Loss of Use A proportional amount of the Lease Payments shall be abated during any period in which, by reason of condemnation, damage or destruction, there is substantial interference with the use and possession of the Leased Property, or any discrete portion thereof, by the Lessee. The amount of such abatement shall be determined by the Lessee such that the resulting Lease Payments represent fair consideration for the use and possession of the portion of the Leased Property not condemned,

damaged or destroyed. Such abatement shall commence on the date of condemnation, damage or destruction and shall end with the substantial completion of the replacement or work of repair. There shall be no abatement in Lease Payments as a result of any design defects other than design defects that result in condemnation, damage or destruction with regard to the Leased Property, it being the intention of the parties hereto that recourse in such event would be made to the contractor or vendor. Except as provided herein, in the event of any such condemnation, damage or destruction, this Lease shall continue in full force and effect and the Lessee waives any right to terminate this Lease by virtue of any such condemnation, damage or destruction, including any rights otherwise granted under California Civil Code Sections 1932(2) and 1933(4).

## SECTION 6.2 Application of Net Insurance and Condemnation Proceeds

### (a) From Insurance Award.

(1) Net Insurance and Condemnation Proceeds shall be deposited by the Lessee promptly upon receipt thereof in a special fund with the Assignee designated as the "Net Insurance and Condemnation Proceeds Fund."

(2) Within ninety (90) days following the date of such deposit, the Lessee shall determine and notify the Lessor and the Assignee in writing of its determination either (a) that the replacement, repair, restoration, modification or improvement of the Leased Property is not economically feasible or in the best interest of the Lessee and the Net Insurance and Condemnation Proceeds, together with other moneys available therefor, are sufficient to cause the prepayment of the principal components of all unpaid Lease Payments hereunder, or (b) that all or a portion of such Net Insurance and Condemnation Proceeds are to be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Property and the fair rental value of the Leased Property following such repair, restoration, replacement, modification or improvement will at least equal the unpaid principal component of the Lease Payments.

(3) In the event the Lessee's determination is as set forth in clause (a) of subparagraph (2) above, such Net Insurance and Condemnation Proceeds shall be promptly applied to the prepayment of the unpaid principal component of the Lease Payments and other amounts pursuant to this Lease; provided, however, that in the event of damage or destruction of the Leased Property in full, such Net Insurance and Condemnation Proceeds may be so applied only if sufficient, together with other moneys available therefor, to cause the prepayment of the principal components of all unpaid Lease Payments, all accrued and unpaid interest, and all other costs related to such prepayments pursuant to this Lease and otherwise such Net Insurance and Condemnation Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Leased Property; provided further, however, that in the event of damage or destruction of the Leased Property in part, such Net Insurance and Condemnation Proceeds may be applied to the prepayment of the unpaid principal component of the Lease Payments only if the resulting Lease Payments following such prepayment from Net Insurance and Condemnation Proceeds represent fair consideration for the remaining portions of the Leased Property and

otherwise such Net Insurance and Condemnation Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Leased Property, evidenced by a certificate signed by an Authorized Representative.

(4) In the event the Lessee's determination is as set forth in clause (b) of subparagraph (ii) above, such Net Insurance and Condemnation Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Property by the Lessee, and until the Leased Property has been restored to its prior condition, the Lessee shall not place any lien or encumbrance on the Leased Property that is senior to this Lease Agreement without the prior written consent of the Assignee, at its sole discretion.

(b) From Title Insurance. The Net Insurance and Condemnation Proceeds from a title insurance award shall be deposited by the Lessee in the Net Insurance and Condemnation Proceeds Fund and credited towards the prepayment of Lease Payments as provided hereunder.

SECTION 6.3 Laws and Ordinances The Lessee agrees to observe and comply with all rules, regulations and laws applicable to the Lessee with respect to the Leased Property and the operation thereof. The cost, if any, of such observance and compliance shall be borne by the Lessee, and the Lessor shall not be liable therefor. The Lessee agrees further to place, keep, use, maintain and operate the Leased Property in such a manner and condition as will provide for the safety of its agents, employees, invitees, subtenants, licensees and the public.

## ARTICLE VII

### DISCLAIMER OF WARRANTIES; ACCESS TO THE LEASED PROPERTY

SECTION 7.1 Disclaimer of Warranties THE LESSOR AND ITS ASSIGNS MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE LESSEE OF THE LEASED PROPERTY OR ANY LEASED PROPERTY COMPONENT. THE LESSEE ACKNOWLEDGES THAT THE LESSOR IS NOT A MANUFACTURER OF ANY EQUIPMENT COMPRISING THE LEASED PROPERTY OR A DEALER THEREIN, AND THE LESSEE IS LEASING THE LEASED PROPERTY COMPONENTS "AS-IS," IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE LESSEE. In no event shall the Lessor or its assigns be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease or the Site Lease for the existence, furnishing, functioning or use and possession of the Leased Property. In no event shall the Lessor or its assignees be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or the use of any item or products provided for in this Lease.

SECTION 7.2 Lessee's Right to Enforce Warranties The Lessor hereby irrevocably appoints the Lessee as its agent and attorney-in-fact during the term of this Lease, so long as the Lessee shall not be in default hereunder, to assert from time to time whatever claims and rights,

including without limitation, warranty claims, claims for indemnification and claims for breach of any representations, respecting the Leased Property which the Lessor may have against any vendor or contractor. The Lessee's sole remedy for the breach of any such warranty, indemnification or representation shall be against the vendor or contractor with respect thereto, and not against the Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of the Lessor with respect to this Lease, including the right to receive full and timely Lease Payments and all other payments due hereunder. The Lessee shall be entitled to retain any and all amounts recovered as a result of the assertion of any such claims and rights. The Lessor shall, upon the Lessee's request and at the Lessee's expense, do all things and take all such actions as the Lessee may request in connection with the assertion of any such claims and rights. The Lessee expressly acknowledges that the Lessor makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties of the manufacturer or vendor or contractor.

SECTION 7.3 Access to the Leased Property The Lessee agrees that the Lessor, any Lessor Representative and the Lessor's successors or assigns and the Assignee, shall have the right (but no duty) at all reasonable times to enter upon and to examine and inspect the Leased Property. The Lessee further agrees that the Lessor, any Lessor Representative, and the Lessor's successors or assigns shall have such rights of access to the Leased Property as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the Lessee to perform its obligations hereunder; provided, however, that the Lessor's assigns shall have no duty to cause such proper maintenance.

SECTION 7.4 Release and Indemnification Covenants To the extent permitted by law, the Lessee shall and hereby agrees to indemnify and save the Lessor and the Assignee and their assigns, agents, officers, employees and servants harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the Lessee, (ii) any breach or default on the part of the Lessee in the performance of any of its obligations under this Lease, (iii) any act or negligence of the Lessee or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property, or (iv) any act or negligence of any assignee or sublessee of the Lessee with respect to the Leased Property. No indemnification is made under this Section or elsewhere in this Lease for claims, losses or damages, including legal fees and expenses arising out of the willful misconduct or gross negligence, under this Lease by the Lessor, its officers, agents, employees, successors or assigns. For purposes of this indemnification, Leased Property includes any alternate Leased Property pursuant to the provisions hereof.

## ARTICLE VIII

### ASSIGNMENT, SUBLEASING AND AMENDMENT

SECTION 8.1 Assignment by the Lessor Certain of the Lessor's rights under this Lease, including the right to receive and enforce payment of the Lease Payments to be made by the Lessee under this Lease, have been assigned to the Assignee, subject to certain exceptions, pursuant to the Assignment Agreement, to which assignment the Lessee hereby consents. The Lessor will not assign this Lease, its right to receive Lease Payments from the Lessee, or its duties

and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in Article II, Section 2.2 hereof.

SECTION 8.2 Assignment and Subleasing by the Lessee This Lease may be assigned by the Lessee with the prior written consent of the Assignee. The Lessee may sublease the Leased Property, with the prior written consent of the Lessor, subject to all of the following conditions:

(i) this Lease and the obligation of the Lessee to make Lease Payments hereunder shall remain obligations of the Lessee;

(ii) the Lessee shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Lessor and the Assignee a true and complete copy of such sublease;

(iii) no sublease by the Lessee shall cause the Leased Property to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the laws of the State;

(iv) no sublease shall cause the Interest Component of the Lease Payments due with respect to the Leased Property to become subject to State personal income taxes, as evidenced by an opinion of Special Counsel; and

(v) if this Lease is assigned by the Lessee, the obligation to make Lease Payments hereunder shall remain the obligation of the Lessee.

SECTION 8.3 Amendment Lessee will not alter, modify or cancel or agree or consent to alter, modify or cancel this Lease except to permit any substitution or release, pursuant to Article III, Section 3.6 hereof, or otherwise without the prior written consent of the Assignee.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

SECTION 9.1 Events of Default Defined The following shall be “events of default” under this Lease and the terms “events of default” and “default” shall mean, whenever they are used in this Lease, any one or more of the following events:

(i) Failure by the Lessee to pay any Lease Payment required to be paid hereunder immediately following each corresponding Lease Payment Date.

(ii) Failure by the Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed herein, other than as referred to in clause (i) of this Section, for a period of (30) days after written notice specifying such failure and requesting that it be remedied has been given to the Lessee by the Lessor and the Assignee; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Lessor or the Assignee, as the case may be, shall not unreasonably withhold their consent to an extension of up to sixty (60) days if corrective

action is instituted by the Lessee within the applicable period and diligently pursued until the default is corrected.

(iii) The filing of a voluntary petition in bankruptcy by the Lessee, or the failure by the Lessee promptly to institute judicial proceedings to lift any execution, garnishment or attachment of such consequence as will materially impair its ability to carry on its operations, or the filing of a petition by the Lessee under the Federal Bankruptcy Code, or the adjudication of the Lessee as insolvent or as a bankrupt, or any assignment by the Lessee for the benefit of its creditors, or the application for, or consent to, the appointment of any receiver, trustee, custodian or similar officer by the Lessee or the entry by the Lessee into an agreement of composition with its creditors.

The Lessor's failure to perform any of its obligations hereunder shall not be an event permitting the nonpayment of Lease Payments by the Lessee or the termination of this Lease by the Lessee.

## SECTION 9.2 Remedies on Default

(a) Upon the occurrence and continuance of an event of default specified in Article IX, Section 9.1 above, the Lessor shall, only at the direction of the Assignee, proceed to:

(i) Protect and enforce this Lease by such judicial proceedings as the Lessor or its assignee shall deem most effectual, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in this Lease, or in aid of the exercise of any power granted in this Lease, or to enforce any other legal or equitable right vested in the Lessor or its assignee by this Lease or by law;

(ii) Take possession of the Leased Property and exclude the Lessee from using it until the default is cured, holding the Lessee liable for the Lease Payments and other amounts payable by the Lessee prior to such taking of the Leased Property under and pursuant to this Lease and curing of such default; or

(iii) Take whatever actions at law or in equity appear necessary or desirable to enforce its rights as the owner of the Leased Property, including termination of this Lease and the repossession, re-letting (in consultation with Special Counsel) or sale (in consultation with Special Counsel) of the Leased Property.

Any abatement of Lease Payments due to damage or destruction of any Leased Property will not constitute an event of default hereunder.

Notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. After the occurrence of an event of default hereunder, the Lessee will surrender possession of the Leased Property to the Lessor, if requested to do so by the Lessor or the Assignee.

(b) No Termination: Repossession and Re-Lease on Behalf of Lessee In the event the Lessor, at the direction of the Assignee, does not elect to terminate this Lease in the manner hereinafter provided for, the Lessor with the consent of the Lessee, which consent is irrevocably given, may repossess the Leased Property and re-let it for the account of the Lessee, in which event the Lessee's obligation under this Lease will continue to accrue from year to year in accordance with this Lease and the Lessee will continue to receive the value of the use of the Leased Property from year to year in the form of credits against its obligation to pay Lease Payments. The obligations of the Lessee shall remain the same as prior to such default to pay Lease Payments whether the Lessor re-enters or not. The Lessee agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions contained herein and shall reimburse the Lessor for any deficiency arising out of the re-letting of the Leased Property, or, in the event the Lessor is unable to re-let the Leased Property, then for the full amount of all Lease Payments to the end of the term of this Lease, but such Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as provided above for the payment of Lease Payments hereunder, notwithstanding such repossession by the Lessor or any suit, brought by the Lessor for the purpose of effecting such repossession of the Leased Property or the exercise of any other remedy by the Lessor.

The Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact of the Lessee to repossess and re-let the Leased Property in the event of default by the Lessee in the performance of any covenants contained herein to be performed by the Lessee and to remove (any removal to be done with reasonable prudence) all personal property connected to or made a part of the Leased Property, to place such Property in storage or other suitable place in the County of Los Angeles, for the account of and at the expense of the Lessee, and the Lessee hereby exempts and agrees to save harmless the Lessor from any costs, loss or damage whatsoever arising or occasioned by any such repossession and re-letting of the Leased Property. The Lessee hereby waives any and all claims for damages caused or which may be caused by the Lessor in repossessing the Leased Property as provided herein and all claims for damages that may result from the destruction of or the injury to the Leased Property and all claims for damage to or loss of any property belonging to the Lessee that may be in or upon the Leased Property.

The Lessee agrees that the terms of this Lease constitute full and sufficient notice of the right of the Lessor to re-let the Leased Property in the event of such repossession without effecting a surrender of this Lease, and further agrees that no acts of the Lessor in effecting such re-letting shall constitute a surrender or termination of this Lease irrespective of the term for which such re-letting is made or the terms and conditions of such re-letting or otherwise, but that, on the contrary, in the event of such default by the Lessee the right to terminate this Lease shall vest in the Lessor to be effected in the sole and exclusive manner provided for in subparagraph (c) below. The Lessee further waives the right to any rental obtained by the Lessor in excess of the Lease Payments and hereby conveys and releases such excess to the Lessor as compensation to the Lessor for its services in re-letting the Leased Property. If the liability of the Lessee under this subsection (b) is held to constitute indebtedness or liability in any year exceeding the income and revenue provided for such year, neither the Lessor nor the Assignee shall exercise the remedies provided in this subsection (b).

(c) Termination: Repossession and Re-Lease In the event of the termination of this Lease by the Lessor, at the direction of the Assignee, and in the manner hereinafter provided on account of default by the Lessee (and notwithstanding any repossession of the Leased Property by the Lessor in any manner whatsoever or the sale or re-letting of the Leased Property), the Lessee nevertheless agrees to pay to the Lessor all costs, losses or damages, but not Lease Payments, howsoever arising or occurring payable at the same time and in the same manner as is provided herein in the case of payment of Lease Payments. Unless waived by the Assignee, notwithstanding any other provision herein, following an event of default, the Assignee shall have the right to re-enter and re-let the Leased Property and to terminate this Lease. Any proceeds of the re-letting of the Leased Property by the Lessor shall be applied to Lease Payments due and owing hereunder. Any surplus received by the Lessor from such sale or re-letting shall be the absolute property of the Lessor and the Lessee shall have no right thereto, nor shall the Lessee be entitled to any credit in the event of a surplus in the rentals received by the Lessor for the Leased Property. Neither notice to pay rent or to deliver up possession of the Leased Property given pursuant to law nor any proceeding taken by the Lessor to recover possession of the Leased Property shall by itself operate to terminate this Lease, and no termination of this Lease on account of default by the Lessee shall be or become effective by operation of law, or otherwise, unless and until the Lessor shall have given written notice to the Lessee of the election on the part of the Lessor to terminate this Lease. The Lessee covenants and agrees that no surrender of the Leased Property or of the remainder of the term hereof or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Lessor by such written notice. No such termination shall be effected whether by operation of law or acts of the parties hereto, except only in the manner herein expressly provided.

SECTION 9.3 No Remedy Exclusive No remedy conferred herein upon or reserved to the Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

SECTION 9.4 Agreement to Pay Attorneys' Fees and Expenses In the event either party to this Lease should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will on demand therefor pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 9.5 No Additional Waiver Implied by One Waiver In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## ARTICLE X

### PREPAYMENT OF LEASE PAYMENTS AND PURCHASE OF LEASED PROPERTY

SECTION 10.1 Security Deposit Notwithstanding any other provision of this Lease, the Lessee may on any date exercise its option to purchase the entire leasehold interest of the Lessor in the Leased Property by an irrevocable deposit with the Corporation or a fiduciary reasonably satisfactory to the Corporation: (i) an amount of cash, which shall be held in a segregated trust or escrow fund under a trust or escrow agreement that is in form and content acceptable to the Corporation, is sufficient to pay the Lessee's unpaid Lease Payments, in accordance with the Lease Payment schedule set forth in Exhibit A hereto, or (ii) Defeasance Obligations together with cash, if required, in such amount as will, in the opinion of an independent certified public accountant (which opinion shall be addressed and delivered to the Lessor), together with interest to accrue thereon, and money then on deposit in a segregated trust or escrow fund under a trust or escrow agreement, together with interest thereon, be fully sufficient to pay all of the unpaid Lease Payments on the Lease Payment Dates or by prepayment thereof pursuant to Article X, Section 10.2 hereto, as the Lessee shall instruct at the time of such deposit and be sufficient to discharge this Lease. In the event of a deposit pursuant to this Section (and provided that the Lessee has paid all Additional Payments due or accrued through the date of such deposit), all obligations of the Lessee under this Lease, and all security provided by this Lease for such obligations, shall cease and terminate, excepting only the obligation of the Lessee to make, or cause to be made, Lease Payments from the deposit made by the Lessee pursuant to this Section, and the entire interest of the Lessor in the Leased Property shall vest in the Lessee on the date of such deposit automatically and without further action by the Lessee or the Lessor (except as provided herein); provided, that vesting of title to the Leased Property in the Lessee shall be subject to the subsequent payment of Lease Payments made from such deposit in accordance with the provisions of this Lease. Such deposit shall be deemed to be and shall constitute a special fund for the payment of the Lease Payments in accordance with the provisions of this Lease. The Lessor shall execute and deliver such further instruments and take such further action as may reasonably be requested by the Lessee for carrying out the title transfer of the Leased Property.

SECTION 10.2 Mandatory Prepayment From Net Insurance and Condemnation Proceeds The Lessee shall be obligated to prepay the unpaid principal components of the Lease Payments in whole or in part in such order of prepayment as shall be selected by the Lessee on any date, together with any accrued and unpaid interest, and any other costs related to such prepayment, from and to the extent of any proceeds of insurance award or condemnation award with respect to the Leased Property to be used for such purpose hereunder. The Lessee and the Lessor hereby agree that such proceeds, to the extent remaining after payment of any delinquent Lease Payments, shall be credited towards the Lessee's obligations under this Section 10.2.

## ARTICLE XI

### ADDITIONAL COVENANTS

SECTION 11.1 Compliance with and Enforcement of this Lease The Lessee covenants and agrees to perform all obligations and duties imposed upon the Lessee hereunder. The Lessor covenants and agrees to perform all obligations and duties imposed upon the Lessor under this Lease.

The Lessee will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission or refraining from action, would or might be a ground for cancellation or termination of this Lease by the Lessor hereunder. The Lessor and the Lessee, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting its estate in the Leased Property, which may or can in any manner affect such estate of the Lessee, will deliver the same, or a copy thereof, to the Assignee.

SECTION 11.2 Observance of Laws and Regulations The Lessee will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by it, including its right to exist and carry on business as a general law city, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

SECTION 11.3 Prosecution and Defense of Suits The Lessee shall promptly, and also upon request of the Assignee (it having no obligation to make such request) from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Leased Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Assignee harmless from all loss, cost, damage and expense, including attorneys' fees and expenses, which it may incur by reason of any such defect, cloud, suit, action or proceeding.

SECTION 11.4 Reporting to Assignee The Lessee shall no later than 270 days after the close of each Fiscal Year, submit to the Lessor (only upon the Lessor's written request) and to the Assignee, audited financial statements with respect to the Lessee for such fiscal year. In addition, the Lessee shall submit its annual budget each year in a timely manner to the Assignee, but no later than 20 days following its adoption by the City Council of the City.

SECTION 11.5 Further Assurances The Lessor and the Lessee will make, execute and deliver any and all such further resolutions, instruments and assurances as reasonably necessary or proper to carry out the intention or to facilitate the performance of this Lease, and for the better assuring and confirming to the Assignee of the rights and benefits provided herein.



SECTION 12.7 Execution in Counterparts This Lease may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 12.8 Applicable Law This Lease shall be governed by and construed in accordance with the laws of the State, applicable to contracts made and performed in such State.

SECTION 12.9 Third-Party Beneficiaries The Assignee is expressly recognized as third-party beneficiaries under this Lease.

SECTION 12.10 No Merger of Estate This Lease shall not operate as a merger of the Lessee's leasehold estate in the Leased Property and the Lessee's fee estate in the Leased Property shall not cause the leasehold interest granted to the Lessor under the Site Lease to be extinguished.

SECTION 12.11 Assignee not Municipal Advisor Inasmuch as this Lease represents a negotiated transaction, each of the Lessor and the Lessee understands, and hereby confirms, that the Assignee is not acting as a fiduciary of the Lessor or the Lessee, but rather is acting solely in its capacity as purchaser of the Lease, for its own account. Each of Lessor and the Lessee acknowledges and agrees that: (i) the transaction that is contemplated herein is an arm's length commercial transaction among the Lessor, the Lessee and the Assignee and its affiliates; (ii) in connection with such transaction, the Assignee and its affiliates are acting solely as principals and not as advisors including, without limitation, "Municipal Advisors" as such term is defined in Section 15B of the Securities and Exchange Act of 1934, as amended, and the related final rules (the "Municipal Advisor Rules"); (iii) the Assignee and its affiliates are relying on the bank exemption in the Municipal Advisor Rules; (iv) the Assignee and its affiliates have not provided any advice or assumed any advisory or fiduciary responsibility in favor of the Lessor or the Lessee with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (whether or not the Assignee, or any affiliate thereof, has provided other services or advised, or is currently providing other services or advising the Lessor or the Lessee on other matters); (v) the Assignee and its affiliates have financial and other interests that differ from those of the Lessor and the Lessee; and (vi) each of the Lessor and the Lessee has consulted with its own financial, legal, accounting, tax and other advisors, as applicable, to the extent that it deemed appropriate.

SECTION 12.12 Judicial Reference

(a) The Lessee hereby agrees as follows:

(1) each proceeding or hearing based upon or arising out of, directly or indirectly, this Lease or any document related thereto, any dealings of the Lessee related to the subject matter of this Lease or any related transactions (hereinafter, a "Claim") shall be determined by a consensual general judicial reference (the "Reference") pursuant to the provisions of section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time;

(2) upon a written request, or upon an appropriate motion by the Lessee, any pending action relating to any Claim and every Claim shall be heard by a single Referee

(as defined below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The Lessee agrees that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee;

(3) the Lessee shall promptly and diligently cooperate with the Referee and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this section;

(4) the Lessee may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee's report and have judgment entered thereon. If the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; and

(5) the Lessee will have such rights to assert such objections as are set forth in section 638 et seq. of the California Code of Civil Procedure.

(b) The parties to the Reference proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State, or a federal court judge, in each case, with at least 10 years of judicial experience in civil matters. The Referee shall be appointed in accordance with section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within 10 days after the request or motion for the Reference, the parties to the Reference proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Kings County Superior Court or the other similar federal court. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this section.

(c) No provision of this section shall limit the right of the Lessee to (i) exercise such self-help remedies as might otherwise be available under applicable law; or (ii) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Reference. The exercise of, or opposition to, any such remedy does not waive the right of the Lessee to the Reference pursuant to this section.

(d) Promptly following the selection of the Referee, the parties to such Reference proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Reference proceeding in such manner as the Referee deems just.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Lease to be executed in their names by their duly Authorized Signatories, as of the date first above written.

MUNICIPAL FINANCE CORPORATION,  
as Lessor

By: \_\_\_\_\_  
President

CITY OF PLACENTIA,  
as Lessee

By: \_\_\_\_\_  
City Administrator

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF ORANGE )

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name of the officer), Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF ORANGE )

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name of the officer), Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_ [Seal]

**EXHIBIT A**

**SCHEDULE OF LEASE PAYMENTS**

Amounts shall be paid on each Lease Payment Date in advance of the respective Payment Dates on the following schedule.

<b>Bond Payment Date</b>	<b>Principal</b>	<b>Interest<sup>1</sup></b>	<b>Debt Service</b>	<b>Annual Debt Service</b>
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<sup>1</sup> Assumed no Event of Default.

**EXHIBIT B**  
**LEGAL DESCRIPTION OF LEASED PROPERTY**

**ESCROW DEPOSIT AND TRUST AGREEMENT**

**by and between the**

**CITY OF PLACENTIA**

**and**

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Escrow Agent**

**Dated as of \_\_\_\_\_ 1, 2022**

## ESCROW DEPOSIT AND TRUST AGREEMENT

This ESCROW DEPOSIT AND TRUST AGREEMENT (the “Escrow Agreement”) is made and entered into as of \_\_\_\_\_ 1, 2022, by and between the CITY OF PLACENTIA, a charter city organized and existing by virtue of the laws of the State of California (the “City”) and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association (the “Escrow Agent”);

### WITNESSETH:

WHEREAS, the City desires to cause the defeasance of its 2003 Certificates of Participation (2003 Refunding and Improvement Project), executed pursuant to the Trust Agreement, dated as of November 1, 2003 (the “Trust Agreement”), by and among the Redevelopment Agency of the City of Placentia, the City and the Escrow Agent, as trustee thereunder; and

WHEREAS, the City proposes to make the deposit of moneys and to appoint the Escrow Agent as their agent for the purpose of applying said deposit to the prepayment of the 2003 Certificates in accordance with the Trust Agreement, and the Escrow Agent will accept said appointment; and

WHEREAS, to obtain moneys to make such deposit, the City proposes to enter into a Lease Agreement with Municipal Finance Corporation (the “2022 Agreement”); and

WHEREAS, the City wishes to make such a deposit with the Escrow Agent and to enter into this Escrow Agreement for the purpose of providing the terms and conditions for the deposit and application of amounts so deposited; and

WHEREAS, the Escrow Agent has full powers to act with respect to the irrevocable escrow and trust created herein and to perform the duties and obligations to be undertaken pursuant to this Escrow Agreement.

NOW, THEREFORE, in consideration of the above premises and of the mutual promises and covenants herein contained and for other valuable consideration, the parties hereto do hereby agree as follows:

Section 1. Reserved.

Section 2. Appointment of Escrow Agent. The City hereby appoint the Escrow Agent as Escrow Agent for all purposes of this Escrow Agreement and in accordance with the terms and provisions of this Escrow Agreement, and the Escrow Agent hereby accepts such appointment.

Section 3. Establishment of Escrow Fund. There is hereby created by the City with, and to be held by, the Escrow Agent, as security for the payment of the 2003 Certificates as hereinafter set forth, an irrevocable escrow to be maintained in trust by the Escrow Agent on behalf of the City and the Authority and for the benefit of the owners of the 2003 Certificates, said escrow to be designated the “Escrow Fund.” All moneys deposited in the Escrow Fund shall be held as a special fund for the payment of the 2003 Certificates in accordance with the provisions of the Trust

Agreement. If at any time the Escrow Agent shall receive actual knowledge that the moneys in the Escrow Fund will not be sufficient to make any payment required by Section 5 hereof, the Escrow Agent shall notify the City of such fact and the City shall immediately cure such deficiency.

Section 4. Deposit into Escrow Fund; Investment of Amounts. Concurrently with the execution of the 2022 Agreement, the City and the Authority shall cause to be transferred to the Escrow Agent for deposit into the Escrow Fund the amount of \$\_\_\_\_\_ in immediately available funds. The City hereby instructs the Escrow Agent acting as the trustee under the Trust Agreement to transfer funds held in the Reserve Fund held under the Trust Agreement in the amount of \$\_\_\_\_\_ to the Escrow Agent for deposit in the Escrow Fund. All of the funds held in the Escrow Fund shall be held uninvested.

Section 5. Instructions as to Application of Deposit; Authority Retains Right of Optional Redemption. The City and the Authority hereby irrevocably direct and instruct the Escrow Agent to apply the funds held in the Escrow Fund to prepay the 2003 Certificates in full on \_\_\_\_\_, 2022 at a prepayment price of 100% of the principal amount hereof. For such purpose of call and prepayment prior to maturity of the 2003 Certificates, the Escrow Agent is hereby instructed to give notice of prepayment of the 2003 Certificates subject to prepayment and a notice of defeasance, which notice of defeasance shall be in the form attached hereto as Exhibit A, in accordance with the applicable provisions of the Trust Agreement. Any funds remaining in the Escrow Fund after \_\_\_\_\_, 2022, shall be delivered to the City.

Section 6. Application of Certain Terms of Trust Agreement. All of the terms of the Trust Agreement relating to the making of payments of principal and interest with respect to the 2003 Certificates are incorporated in this Escrow Agreement as if set forth in full herein. The provisions of the Trust Agreement relating to the limitations from liability and protections afforded the Prior Trustee and the resignation and removal of the Prior Trustee are also incorporated in this Escrow Agreement as if set forth in full herein and shall be the procedure to be followed with respect to any resignation or removal of the Escrow Agent hereunder.

Section 7. Compensation to Escrow Agent. The City shall pay the Escrow Agent full compensation for its duties under this Escrow Agreement, including out-of-pocket costs such as publication costs, prepayment or redemption expenses, legal fees and other costs and expenses relating hereto, pursuant to a separate agreement between the City and the Escrow Agent. Under no circumstances shall amounts deposited in the Escrow Fund be deemed to be available for said purposes.

Section 8. Liabilities and Obligations of Escrow Agent. The Escrow Agent shall have no obligation to make any payment or disbursement of any type or incur any financial liability in the performance of its duties under this Escrow Agreement unless the City shall have deposited sufficient funds with the Escrow Agent to satisfy such obligation. The Escrow Agent may rely and shall be protected in acting upon the written instructions of the City or its agents relating to any matter or action as Escrow Agent under this Escrow Agreement.

The Escrow Agent undertakes such duties as specifically set forth herein and no implied duties or obligations shall be read into this Escrow Agreement against the Escrow Agent.

The City hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and hold harmless the Escrow Agent and its respective successors, assigns, agents and servants from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, at any time, the Escrow Agent (whether or not also indemnified against by any other person under any other agreement or instrument) and in any way relating to or arising out of the execution and delivery of this Escrow Agreement, the establishment of the Escrow Fund, the retention of the moneys therein and any payment, transfer or other application of moneys or securities by the Escrow Agent in accordance with the provisions of this Escrow Agreement, or as may arise by reason of any act, omission or error of the Escrow Agent made in good faith in the conduct of its duties; provided, however, that the City shall not be required to indemnify the Escrow Agent against its own negligence or willful misconduct. The indemnities contained in this Section 8 shall survive the termination of this Escrow Agreement and the resignation and removal of the Escrow Agent.

The Escrow Agent shall not have any liability hereunder except to the extent of its own negligence or willful misconduct. In no event shall the Escrow Agent be liable for any special indirect or consequential damages.

The Escrow Agent may consult with counsel of its own choice and the opinion of such counsel shall be full and complete authorization to take or suffer in good faith any action hereunder in accordance with such opinion of counsel.

The Escrow Agent shall not be responsible for any of the recitals or representations contained herein.

Whenever in the administration of this Escrow Agreement the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Escrow Agent, be deemed to be conclusively proved and established by a certificate of an authorized representative of the City and Authority, and such certificate shall, in the absence of negligence or willful misconduct on the part of the Escrow Agent, be full warrant to the Escrow Agent for any action taken or suffered by it under the provisions of this Escrow Agreement upon the faith thereof.

The liability of the Escrow Agent to make the payments required by this Escrow Agreement shall be limited to the moneys in the Escrow Fund.

The Escrow Agent shall not be liable for the accuracy of any calculations provided as to the sufficiency of the moneys deposited with it to pay the principal, interest, or premiums, if any, on the 2003 Certificates.

No provision of this Escrow Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Escrow Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

The Escrow Agent agrees to accept and act upon instructions or directions pursuant to this Escrow Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Escrow Agent shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Authority or the City elects to give the Escrow Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Escrow Agent in its discretion elects to act upon such instructions, the Escrow Agent's understanding of such instructions shall be deemed controlling. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such instructions notwithstanding the fact that such instructions conflict or are inconsistent with a subsequent written instruction. The Authority agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Agent, including without limitation the risk of the Escrow Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties.

The Authority and City acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Authority and City the right to receive brokerage confirmations of security transactions as they occur, the Authority and City specifically waives receipt of such confirmations to the extent permitted by law. The Escrow Agent will furnish the Authority and City periodic cash transaction statements which include detail for all investment transactions made by the Escrow Agent hereunder.

Section 9. Amendment. This Escrow Agreement may be modified or amended at any time by a supplemental agreement which shall become effective when the written consents of the owners of one hundred percent (100%) in aggregate principal amount of the 2003 Certificates then outstanding and Assured Guaranty Municipal Corp., as a third-party beneficiary, shall have been filed with the Escrow Agent. This Escrow Agreement may be modified or amended at any time by a supplemental agreement, without the consent of any such owners, but only (1) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein or therein reserved to the City, (2) to cure, correct or supplement any ambiguous or defective provision contained herein, or (3) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which, in the opinion of counsel, shall not adversely affect the interests of the owners of the 2003 Certificates or the 2022 Agreement, and that such amendment will not cause interest on the 2003 Certificates or the 2022 Agreement to become subject to federal income taxation.

Section 10. Termination; Unclaimed Money. This Escrow Agreement shall terminate when the 2003 Certificates have been paid; provided, however, that (i) money held by the Escrow Agent pursuant to this Escrow Agreement for the payment and discharge of any of the 2003 Certificates (which shall not be payable as to interest from and after the date set for redemption) which remain unclaimed for two (2) years after such payments were due, shall be repaid by the

Escrow Agent to the City free from the trust created by the Trust Agreement and this Escrow Agreement, and the Escrow Agent shall thereupon be released and discharged with respect thereto and hereto and all liability of the Escrow Agent with respect to such money shall thereupon cease and (ii) excess moneys held by the Escrow Agent not needed for the payment and discharge of the 2003 Certificates shall be transferred to the City.

Section 11. Severability. If any section, paragraph, sentence, clause or provision of this Escrow Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, sentence, clause or provision shall not affect any of the remaining provisions of this Escrow Agreement.

Section 12. Notice of Escrow Agent, Authority and City. Any notice to or demand upon the Escrow Agent may be served and presented, and such demand may be made, at the principal corporate trust office of the Escrow Agent as specified by the Escrow Agent as prior trustee (the "Prior Trustee") in accordance with the provisions of the Trust Agreement or by physical delivery with confirmation of receipt or by confirmed telecopy. Any notice to or demand upon the City or the Authority shall be deemed to have been sufficiently given or served for all purposes by being mailed by registered or certified mail, and deposited, postage prepaid, in a post office letter box, addressed to such party as provided in the 2022 Agreement (or such other address as may have been filed in writing by the City or the Authority with the Escrow Agent).

Section 13. Merger or Consolidation of Escrow Agent. Any company into which the Escrow Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible to act as Trustee under the Trust Agreement, shall be the successor hereunder to the Escrow Agent without the execution or filing of any paper or any further act.

Section 14. No Liability of the Authority. The Authority shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims or actions of any conceivable kind under any conceivable theory under this Escrow Agreement, the Trust Agreement or any document or instrument referred to herein or therein by reason of or in connection with this Escrow Agreement or other document or instrument except to the extent it receives amounts from the City available for such purpose.

Section 15. Governing Law. This Escrow Agreement shall be construed and governed in accordance with the laws of the State of California.

Section 16. Execution in Several Counterparts. This Escrow Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Authority, the City and the Escrow Agent have each caused this Escrow Agreement to be executed by their duly authorized officers all as of the date first above written.

CITY OF PLACENTIA

By: \_\_\_\_\_  
City Administrator

U.S. TRUST COMPANY, NATIONAL  
ASSOCIATION, as Escrow Agent

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

*-Signature Page-  
Escrow Deposit and Trust Agreement*

**EXHIBIT A**

**FORM OF DEFEASANCE NOTICE**

**NOTICE OF DEFEASANCE  
TO HOLDERS OF**

**\$11,145,000  
CITY OF PLACENTIA  
CERTIFICATES OF PARTICIPATION (2003 REFUNDING  
AND IMPROVEMENT PROJECT)**

**ORIGINAL ISSUE DATE: November 25, 2003**

NOTICE IS HEREBY GIVEN to the owners of the \$11,145,000 City of Placentia Certificates of Participation (2003 Refunding and Improvement Project) (the "Certificates") that pursuant to an Escrow Deposit and Trust Agreement dated as of \_\_\_\_\_ 1, 2022, between the City of Placentia and U.S. Trust Company, National Association, as escrow agent (the "Escrow Agent"), cash has been deposited into an escrow account, held by the Escrow Agent, to pay the principal thereof and interest thereon on the following Certificates (the "Defeased Certificates") to their respective maturity dates or the redemption date of \_\_\_\_\_, 2022, as noted below, and each intervening interest payment date prior to the date fixed for redemption:

<u>Maturity Date</u>	<u>Principal Amount Outstanding</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>	<u>Redemption Price</u>
2028	\$2,495,000	4.75%	725874CZ2	100%

Such Defeased Certificates are therefore deemed to be no longer outstanding, but will be payable solely by application of moneys and/or escrowed securities deposited into the escrow fund held by the Escrow Agent. This Notice is for informational purposes only. No action is required at this time by the owners of the Defeased Certificates.

**CITY OF PLACENTIA**

**By: U.S. Trust Company, National Association, as Escrow Agent**

Dated: