

AGENDA
JOINT POWERS FINANCE AUTHORITY

City Council Chambers
1015 Chittenden Avenue
Corcoran, CA 93212

Tuesday, January 11, 2022
5:30 P.M

Public Inspection: A detailed City Council packet is available for review at the City Clerk's Office, located at Corcoran City Hall, 832 Whitley Avenue.

Notice of ADA Compliance: In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerk's Office at (559) 992-2151.

1. ROLL CALL OF AUTHORITY MEMBERS

Patricia Nolen
Greg Ojeda
Sidonio Palmerin
Jerry Robertson
Jeanette Zamora-Bragg

2. APPOINTING CHAIR AND VICE-CHAIR

- 1-A).** Appoint a Chair (conducted by City Clerk)
- 1-B).** Appoint a Vice-Chair (conducted by Chair)
- 1-C).** Appoint Secretary/Treasurer

3. PUBLIC DISCUSSION

Members of the audience may address the Council on items listed on this Agenda only.

This is the time for members of the public to comment on any matter within the jurisdiction of the Corcoran City Council. This is also the public's opportunity to request that a Consent Calendar item be removed from that section and made a regular agenda item. The councilmembers ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome.

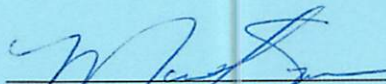
After receiving recognition from the chair, speakers shall state their name and address and proceed with comments. Each speaker will be limited to five (5) minutes.

4. **STAFF REPORTS**

- 4-A. Consider approval of the Corcoran Joint Powers Finance Authority (CJPAFA) Resolution No. 2022-01 to approve a Lease Agreement related to two City of Corcoran properties (APN: 030-213-006 and 030-201-007) for the benefit of the City of Corcoran, and authorizing the execution of necessary documents, certificates, and related actions. *(Gatzka) (VV)*

5. **ADJOURNMENT OF JOINT POWERS FINANCE AUTHORITY MEETING**

I certify that I caused this Agenda of the Joint Powers Finance Authority meeting to be posted at the City Council Chambers, 1015 Chittenden Avenue on January 7, 2022.



Marlene Spain, City Clerk

CORCORAN JOINT POWERS FINANCE AUTHORITY

STAFF REPORT

MEMO

TO: Corcoran Joint Powers Finance Authority

FROM: Greg Gatzka, Corcoran City Manager

DATE: January 6, 2022

MEETING DATE: January 11, 2022

SUBJECT: CalPERS UAL Restructuring – Approval of 2022 Taxable Lease Revenue Bonds

Recommendation:

Consider approval of CJPFA Resolution No. 2022-01 to approve a Lease Agreement related to two City of Corcoran properties (APN 030-213-006 and 030-201-007) for the benefit of the City of Corcoran, and authorizing the execution of necessary documents, certificates, and related actions.

Summary:

On December 14, 2022, the Corcoran City Council (1) Appointed the financing team of NHA Advisors (Municipal Advisor), Bond Counsel (Stradling) and Placement Agent (Hilltop Securities); (2) Delegated the City Manager with authority to proceed with a private placement and sign a bank term sheet; and (3) Approved a Debt Management Policy. Since that time, the City and its financing team have been able to secure an extremely low 2.99% interest rate from First Foundation Bank for a 20-year term. On January 11, 2022, the Corcoran City Council considered adoption of City Resolution No. 3114 to authorize a lease agreement between the City of Corcoran and Corcoran Joint Powers Finance Authority (CJPFA), to then establish and assignment agreement between the CJPFA and First Foundation Public Finance. By approving this CJPFA Resolution and necessary financing documents, the City of Corcoran will be in position to close this financing on January 26, 2022 and pay off a large majority of its Unfunded Accrued Liability to CalPERS on that day.

Discussion:

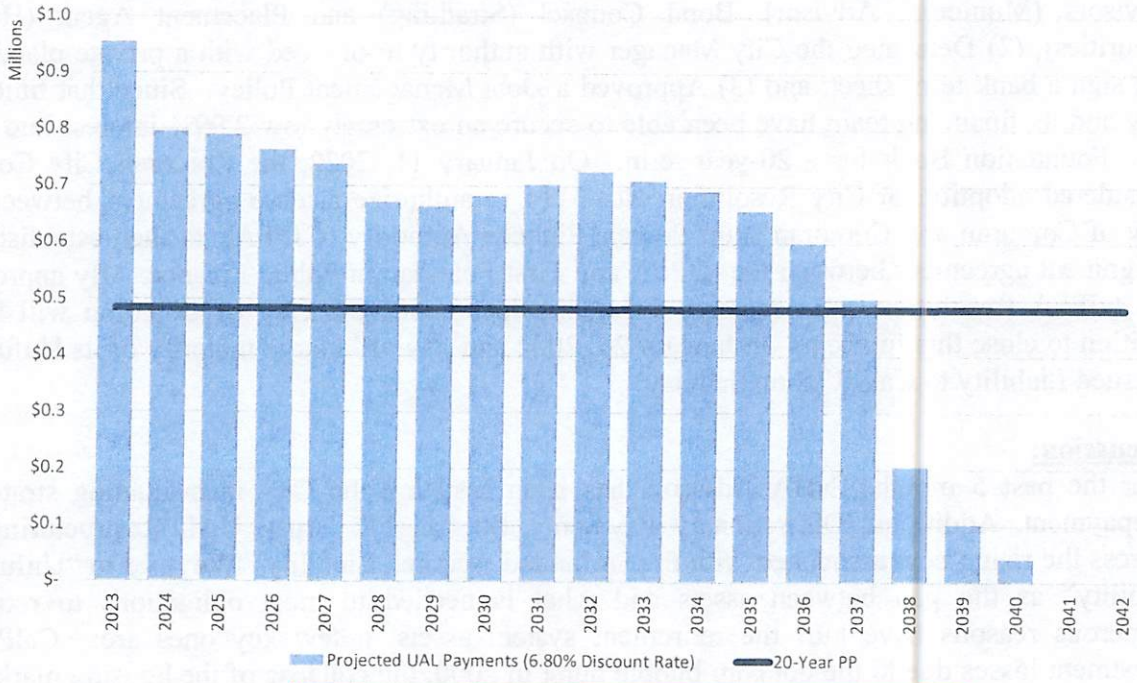
Over the past 5 months, NHA Advisors has been assisting the City in evaluating strategies (Prepayment, Additional Discretionary Payments, Section 115 Trust, UAL Restructuring) to address the rising cost associated with the Unfunded Accrued Liability. We refer to “Unfunded Liability” as the gap between assets and what is needed to meet obligations to retirees. Numerous reasons have hurt the retirement system assets, a few key ones are: CalPERS investment losses due to the dot.com bubble burst in 2000, the collapse of the housing market in 2008, and other CalPERS assumption changes. The City of Corcoran has a

\$9.8 million Unfunded Accrued Liability with CalPERS but that figure is projected to drop to closer to \$7 million next year once the results of CalPERS recent 21.3% investment gains and discount rate reduction (7% to 6.8%) take effect. The proposed financing contemplates paying off about \$6.1M of this UAL in order to maximize savings while mitigating the risk of overfunding the City's retirement plans.

On October 26, NHA Advisors led a workshop with City Council that provided an overview of historical CalPERS pension costs trends and various cost management strategies for consideration. NHA also led a second workshop in November for City Council that focused on various restructuring options, including a detailed discussion about the benefits and risks. Given that interest rates are at historically low levels, and based on staff's recommendation, Council directed staff and NHA to continue evaluating the concept of restructuring the UAL at a lower interest rate using a lease revenue bond.

At the City Council meeting on December 14th, various restructuring options were discussed. City Council approved moving forward with a 20-year term and provided the City Manager with the authority to enter into an interest rate-lock with a bank if a low interest rate and flexible prepayment provisions could be obtained. On December 21, the City Manager approved a term sheet from First Foundation Bank. Key terms of the term sheet include a 2.99% interest rate and a prepayment feature that allows the City to pay off some or all of the debt at no penalty starting after 6 years.

City of Corcoran 2022 LRB UAL Restructuring Analysis and Estimated Savings



Note: Figures shown are preliminary estimates for illustration. Assumes CalPERS earns 6.8% investment earnings. Line represent combined debt service + unrefunded UAL payments.

As shown in the chart on the previous page and the chart below, total present value savings from the restructuring is estimated at \$1.6 million. Over the next 15 years, savings is expected to be \$3.4 million, or about \$225,000 per year.

| Metrics | 20-Year PP |
|---|-------------|
| Estimated UAL Funded (\$) | \$6,219,719 |
| % UAL Funded (Current Asset Valuations) | 63% |
| Funded Ratio (Current Asset Valuations) | 89% |
| % UAL Funded (Projected After FY 2021 Returns & 6.8% Discount Rate) | 89% |
| Funded Ratio (Projected After FY 2021 Returns & 6.8% Discount Rate) | 98% |
| Maturity | 20 Years |
| Average Life | 12.9 Years |
| All-In Interest Rate | 3.22% |
| PV Savings (%) | 26.06% |
| PV Savings (\$) | \$1,620,676 |
| Cumulative Savings | \$1,330,468 |
| Savings (2023-2037) | \$3,398,743 |
| Average Savings (2023-2037) | \$226,583 |

Note: Figures shown are preliminary estimates for illustration. Assumes CalPERS earns 6.8% investment earnings.

In accordance with California Government Code Section 5852.1, good faith estimates have also been provided as an attachment to this Staff Report that details the estimated financing amount and costs. Assuming approval of tonight’s resolution, the City intends to close the financing on January 26, 2022 and pay off approximately \$6.1 million of its UAL.

A brief summary of the attached financing documents are below:

- 1) Site Lease - the document whereby the Authority leases the Leased Property from the City. In exchange, the Authority pays to the City the amount being financed, which amount the Authority receives from First Foundation under the Assignment Agreement.
- 2) Lease Agreement - the document whereby the City subleases the Leased Property back from the Authority in exchange for Lease Payments.
- 3) Assignment Agreement - the document whereby the Authority assigns its right to receive the City’s Lease Payments to First Foundation in exchange for the financing amount.

Attachments

- City Resolution No. 3114
- CJPFA Resolution No. 2022-01 with related Site Lease, Lease Agreement, and Assignment Agreement

RESOLUTION NO. 3114

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORCORAN, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,225,000 FOR THE PURPOSE OF REFUNDING SOME OR ALL OF THE CITY'S UNFUNDED ACCRUED LIABILITY, AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS

WHEREAS, the City of Corcoran (the "City") has previously adopted a retirement plan pursuant to the Public Employees' Retirement Law, commencing with Section 20000 of the Government Code of the State of California, as amended (the "Retirement Law") and elected to become a contracting member of the California Public Employees' Retirement System ("PERS"); and

WHEREAS, the Retirement Law and the contract (the "PERS Contract") effective July 1, 1948, between the Board of Administration of PERS and the City Council of the City (the "City Council") obligate the City to (i) make contributions to PERS to fund pension benefits for certain City employees, (ii) amortize the unfunded accrued actuarial liability with respect to such pension benefits, and (iii) appropriate funds for the foregoing purposes; and

WHEREAS, this City Council of the City desires to refund all or a portion of the City's obligation to PERS evidenced by the PERS Contract by entering into a lease transaction with the Corcoran Joint Powers Finance Authority (the "Authority"); and

WHEREAS, the lease transaction will consist of the City and the Authority entering into a Site Lease (the "Site Lease"), pursuant to which the City will lease to the Authority the real property and improvements that are described therein, consisting generally of the City's Regional Accounting Office and the offices located at 1031 and 1033 Chittenden Avenue, Corcoran, subject to adjustment as described in Section 2 below (collectively, the "Leased Property"), and a Lease Agreement (the "Lease"), pursuant to which the Authority will sublease the Leased Property back to the City in exchange for certain lease payments (the "Lease Payments"); and

WHEREAS, in consideration for the provision of funds to refund all or a portion of the City's obligation to PERS evidenced by the PERS Contract, the Authority will pledge the Lease Payments to First Foundation Public Finance ("First Foundation"), pursuant to an Assignment Agreement (the "Assignment Agreement"), by and between First Foundation and the Authority; and

WHEREAS, the City has determined that the refunding contemplated herein in the manner described above will result in a lower cost overall to the City than a public sale of bonds or other similar financing; and

WHEREAS, upon the execution of the Site Lease, the Lease and the Assignment Agreement, the City will cause to be recorded in the Official Records of the County of Kings copies of such documents or memoranda thereof; and

WHEREAS, good faith estimates of certain information relating to the lease transaction are set forth in the staff report submitted to the City Council herewith as required by California

Government Code Section 5852.1; such estimates were provided by NHA Advisors, LLC, the City's Municipal Advisor; and

WHEREAS, all acts, conditions and things that are required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the refunding authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such refunding for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORCORAN DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The City Council of the City hereby specifically finds and declares that each of the statements, findings and determinations of the City in the recitals that are set forth above and in the preambles of the documents that are approved herein are true and correct.

Section 2. The Lease in substantially the form on file with the City Clerk is hereby approved. Any of the Mayor of the City, the City Manager and the Finance Director, or a designee thereof (the "Authorized Officers"), acting alone, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Authority the Lease in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer or Officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Officers; provided, however, that the amount of the principal component of the Lease Payments shall not exceed \$6,225,000, the scheduled interest components shall accrue at an interest rate of not to exceed 2.99% per annum (assuming no event of default) and the final scheduled Lease Payment shall not be later than April 1, 2042 (subject to extension as provided in the Lease). In the event that it is determined by an Authorized Officer that there are limitations or restrictions on the ability of the City to lease or sublease any portion of the Leased Property as contemplated by the Lease, the Authorized Officers may designate other or additional real property of the City to be leased or subleased pursuant to the Lease, with such designation to be conclusively evidenced by the execution and delivery of the Lease by one or more of the Authorized Officers.

Section 3. The Site Lease in substantially the form on file with the City Clerk is hereby approved. Each Authorized Officer, acting alone, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Authority the Site Lease in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer or Officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Officers.

Section 4. The Assignment Agreement on file with the City Clerk is hereby approved for execution and delivery by the Authority in substantially the form on file.

Section 5. The City Clerk and such person or persons as may have been designated by the City Clerk to act on the City Clerk's behalf are hereby authorized and directed to attest the signature of the Authorized Officers designated herein to execute any documents described herein, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Site Lease and the Lease.

Section 6. The Authorized Officers are each hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which each may deem necessary or advisable to assist the City with the financing and the payment of costs of issuance approved by the Authorized Officers in order to consummate the refunding of all or a portion of the City's obligation to PERS evidenced by the PERS Contract and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Site Lease, the Lease and the Assignment Agreement, including but not limited to, purchasing a title insurance policy with respect to the Leased Property, executing a rate lock agreement and/or term sheet with First Foundation and causing the recording of the documents, or memoranda thereof, that are described herein. Such actions heretofore taken by such officers or designees are hereby ratified, confirmed and approved.

Section 7. In accordance with the requirements of Government Code Section 5852.1, there has been presented to the City Council of the City and disclosed at the meeting at which this resolution is being adopted the information required by Government Code Section 5852(a)(1).

Section 8. This Resolution shall take effect from and after its date of adoption.

APPROVED and **PASSED** this 11th day of January, 2022.

City of Corcoran, California

APPROVED:

By: _____
Patricia Nolen, Mayor

ATTEST:

Marlene Spain, City Clerk

CERTIFICATION

I, Marlene Spain, City Clerk of the City of Corcoran, do hereby certify that Resolution No. 3114 was duly adopted by the City Council of the City of Corcoran at a regular meeting held on the 11th day of January, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

Dated: _____, 2022

Marlene Spain, City Clerk

**CORCORAN JOINT POWERS FINANCE AUTHORITY
RESOLUTION NO. 2022-01**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CORCORAN
JOINT POWERS FINANCE AUTHORITY APPROVING A LEASE
AGREEMENT AND CERTAIN OTHER DOCUMENTS FOR THE BENEFIT
OF THE CITY OF CORCORAN, AND AUTHORIZING THE EXECUTION OF
NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED
ACTIONS**

WHEREAS, the Corcoran Joint Powers Finance Authority (the “Authority”), is a joint exercise of powers entity that is organized and existing under the laws of the State of California; and

WHEREAS, the City of Corcoran (the “City”) desires to refund all or a portion of the City’s obligation to the California Public Employees’ Retirement System by authorizing the execution and delivery of certain documents as described herein; and

WHEREAS, the City and the Authority desire to enter into a Site Lease (the “Site Lease”), pursuant to which the City will lease certain real property and the improvements thereon (the “Leased Premises”), as more particularly described in the Site Lease, to the Authority, and the City and the Authority desire to enter into a Lease Agreement (the “Lease Agreement”), pursuant to which the City will agree to sublease the Leased Property from the Authority in exchange for certain Lease Payments (as defined in the Lease Agreement); and

WHEREAS, the forms of both the Site Lease and the Lease Agreement have been presented to this Board of Directors at the meeting at which this Resolution is being considered; and

WHEREAS, the Authority desires to assign its right to receive such Lease Payments from the City to First Foundation Public Finance (“First Foundation”) pursuant to an Assignment Agreement by and between the Authority and First Foundation (the “Assignment Agreement”), the form of which has been presented to this Board of Directors at the meeting at which this Resolution is being considered; and

WHEREAS, all acts, conditions and things that are required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the refunding authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such refunding for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE CORCORAN JOINT POWERS FINANCE AUTHORITY DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. **Recitals and Findings.** Each of the above recitals is true and correct and the Board so finds.

Section 2. Approval of Lease Documents. The forms of the Site Lease, the Lease Agreement and the Assignment Agreement (collectively, the "Agreements") presented at this meeting are approved. The President, Executive Director or Treasurer/Secretary of the Authority, or the designee of each, each alone, are authorized and directed to execute and deliver the Agreements on behalf of the Authority. The Agreements shall be executed in substantially the forms hereby approved, with such additions thereto and changes therein as are recommended or approved by counsel to the Authority or the City, and approved by the officer or officers of the Authority executing the documents, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the officers listed above; provided, however, that the aggregate principal component of the lease payments due under the Lease Agreement does not exceed \$6,225,000.

Section 3. Miscellaneous. The Authorized Officers and other officers, employees and agents of the Authority are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, including, but not limited to, causing documents to be recorded with the County Recorder of Kings County and obtaining a title insurance policy with respect to the Authority's and City's real property interests in the Leased Assets, as any Authorized Offer shall determine to be appropriate. All actions heretofore taken by the officers, employees and agents of the Authority with respect to the transactions that are described in this Resolution are hereby approved, confirmed and ratified.

Section 4. Effective Date. This Resolution shall take effect from and after its date of adoption.

APPROVED and PASSED this 11th day of January, 2022.

CORCORAN JOINT POWERS FINANCE
AUTHORITY

BY: _____
Chair

ATTEST:

Treasurer/Secretary

CERTIFICATION

I, _____, Treasurer/Secretary of the Corcoran Joint Powers Finance Authority, do hereby certify that Resolution No. 3115 was duly adopted by the Board of Directors of the Corcoran Joint Powers Finance Authority at a regular meeting held on the 11th day of January, 2022, by the following vote:

AYES: BOARD MEMBERS:
NOES: BOARD MEMBERS:
ABSTAIN: BOARD MEMBERS:
ABSENT: BOARD MEMBERS:

Dated: _____, 2022

Treasurer/Secretary

RECORDING REQUESTED BY:)
 City of Corcoran)
)
AND WHEN RECORDED MAIL TO:)
 Stradling Yocca Carlson & Rauth)
 660 Newport Center Drive, Suite 1600)
 Newport Beach, California 92660)
 Attn: Reed Glyer, Esq.)

SPACE ABOVE FOR RECORDER'S USE ONLY

SITE LEASE

This SITE LEASE (this “Site Lease”), dated as of January 1, 2022, is entered into by and between the CITY OF CORCORAN, a municipal corporation and general law city that is duly organized and existing under and by virtue of the Constitution and laws of the State of California (the “City”), as lessor, and the CORCORAN JOINT POWERS FINANCE AUTHORITY, a joint exercise of powers entity that is organized and existing under and by virtue of the laws of the State of California (the “Authority”), as lessee.

RECITALS

A. In order to refund all or a portion of the City’s obligation to the California Public Employees’ Retirement System (“PERS”), the City has agreed to lease the real property that consists of the land and the improvements that are described in Appendix A (the “Leased Property”), to the Authority by entering into this Site Lease.

B. The Authority has agreed to assist the City with such refunding by entering into a Lease Agreement dated as of the date hereof (the “Lease”), pursuant to which the Authority will sublease the Leased Property back to the City and the City will be obligated to make payments (the “Lease Payments”) to the Authority.

C. The City and the Authority have determined that it would be in the best interests of the City and the Authority to assign the Lease Payments to First Foundation Public Finance (the “Bank”) in consideration for the Bank’s provision of funds to refund the City’s obligation to PERS.

D. Accordingly, all rights to receive the Lease Payments are being assigned without recourse by the Authority to the Bank pursuant to an Assignment Agreement, dated as of the date hereof (the “Assignment Agreement”), by and between the Authority and the Bank.

E. The City is authorized to enter into a lease-leaseback arrangement with the Authority to refund the City’s obligation to PERS under applicable State law.

AGREEMENT

In consideration of the foregoing and the material covenants herein, the City and the Authority covenant, agree and bind themselves as follows:

Section 1. Lease of Leased Property. The City hereby leases to the Authority, and the Authority hereby leases from the City, for the benefit of the Bank, the Leased Property that is described in Appendix A, on the terms and conditions hereof.

Section 2. Term; Possession. The term of this Site Lease commences, and the Authority becomes entitled to possession of the Leased Property, as of the date of recordation hereof. This Site Lease ends, and the right of the Authority hereunder to possession of the Leased Property thereupon ceases, on the date on which all of the outstanding Lease Payments are paid in full, or provision is made for such payment in accordance with the Lease, and the Lease has been terminated in accordance with its terms.

Section 3. Rental. The Authority shall pay to the City as and for rental of the Leased Property hereunder the amount of \$ _____ on January __, 2022. The Authority shall cause such amount to be provided by the Bank.

Section 4. Purpose of this Site Lease; Sublease Back to City. The purpose for which the City agrees to lease the Leased Property to the Authority hereunder is to enable the City and the Authority to refund the City's obligation to PERS from the rental payment that the Authority will pay to the City under Section 3. The Authority hereby agrees to sublease the Leased Property back to the City under the Lease.

Section 5. Substitution or Release of Property. If the City exercises its option under Section 4.7 of the Lease and satisfies the conditions therein to substitute property for the Leased Property in whole or in part, such substitution shall also automatically operate to substitute property for the Leased Property leased hereunder. If the City exercises its option under Section 4.8 of the Lease and satisfies the conditions therein to release any portion of the Leased Property from the Lease, such release shall also automatically operate to release property hereunder. The description of the property leased under the Lease shall conform at all times to the description of the property leased hereunder.

Section 6. Assignments and Subleases. The Authority may not assign its rights under this Site Lease or sublet all or any portion of the Leased Property, except as provided in the Lease and the Assignment Agreement, without the prior written consent of the Bank.

Section 7. Right of Entry. The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property, or any portion thereof, at any reasonable time to inspect the same or to make any repairs, improvements or changes that are necessary for the preservation thereof.

Section 8. Termination. The Authority agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the Leased Property was in at the time of commencement of the term hereof, reasonable wear and tear excepted, and agrees that all buildings, improvements and structures that are then existing upon the Leased Property will remain thereon and title thereto will vest thereupon in the City for no additional consideration.

Section 9. Default. If the Authority defaults in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Authority, 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 and this Site Lease may not be terminated by the City as a remedy for such default.

Notwithstanding the foregoing, so long as the Lease remains in effect, the City shall continue to pay the Lease Payments as and when due under the Lease to the Bank in accordance with the Assignment Agreement.

Section 10. Amendments. The Authority and the City may at any time amend or modify any of the provisions of this Site Lease, but only with the prior written consent of the Bank.

Section 11. Quiet Enjoyment. The Authority 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 and Permitted Encumbrances.

Section 12. Waiver of Personal Liability. All liabilities under this Site Lease on the part of the Authority are solely corporate liabilities of the Authority, and the City hereby releases each and every member and officer of the Authority of and from any personal or individual liability under this Site Lease. No member or officer of the Authority or its governing board is at any time or under any circumstances individually or personally liable under this Site Lease for anything done or omitted to be done by the Authority hereunder.

Section 13. Taxes. The City will pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, that are levied or assessed upon the Leased Property and any improvements thereon.

Section 14. Eminent Domain. If the whole or any part of the Leased Property, or any improvements thereon, are taken by eminent domain proceedings, the interest of the Authority will be the aggregate amount of the then-unpaid principal components of the Lease Payments that are payable under the Lease and the balance of the award, if any, will be paid to the City. The City hereby waives any and all rights that it has or may hereafter have to acquire the interest of the Authority in and to the Leased Property through the eminent domain powers of the City. The City hereby agrees, to the extent permitted by law, that the compensation to be paid in any condemnation proceedings brought by or on behalf of the City with respect to the Leased Property or any improvement thereon shall be in an amount that is not less than the total unpaid principal components of Lease Payments plus the interest component of Lease Payments accrued to the date of payment of all Lease Payments under the Lease.

Section 15. Notices. Any notice, request, complaint, demand or other communication under this Site Lease must be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy, telex or other form of telecommunication, at its number set forth below. Notice will be effective either: (a) upon transmission by telecopy, telex or other form of telecommunication; (b) 48 hours after deposit in the United States mail, postage prepaid; or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Authority and the Bank may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City: City of Corcoran
 832 Whitley Avenue
 Corcoran, California 93212
 Attn: City Manager

If to the Authority: Corcoran Joint Power Finance Authority

c/o City of Corcoran
832 Whitley Avenue
Corcoran, California 93212
Attn: Executive Director

If to the Bank: First Foundation Public Finance

Attn: _____

Section 16. Governing Law. This Site Lease is governed by the laws of the State of California.

Section 17. Third Party Beneficiary. The Bank is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

Section 18. Binding Effect. This Site Lease inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns, subject, however, to the limitations herein.

Section 19. Severability of Invalid Provisions. If any one or more of the provisions of this Site Lease are for any reason held to be invalid, illegal or unenforceable in any respect, then such provision or provisions will be deemed severable from the remaining provisions of this Site Lease and such invalidity, illegality or unenforceability shall not affect any other provision of this Site Lease, and this Site Lease shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority and the City each hereby declares that it would have entered into this Site Lease and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Site Lease may be held illegal, invalid or unenforceable.

Section 20. Section Headings. All section headings 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. Execution in Counterparts. This Site Lease may be executed in any number of counterparts, each of which is an original but all together constitute one and the same instrument. It is also agreed that separate counterparts of this Site Lease may be separately executed by the Authority and the City, all with the same force and effect as though the same counterpart had been executed by both the Authority and the City.

Section 22. Defined Terms. All capitalized terms that are used herein and not otherwise defined have the respective meanings given those terms in the Lease.

Section 23. No Merger. Neither this Site Lease, the Lease nor any provisions hereof or thereof shall be construed to effect a merger of the title of the City to the Leased Property under this Site Lease and the City's leasehold interest therein under the Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the City and the Authority 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 CORCORAN,
as Lessor

By: _____

ATTEST:

City Clerk

CORCORAN JOINT POWERS FINANCE
AUTHORITY
as Lessee

By: _____

ACKNOWLEDGMENT

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

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

SIGNATURE OF NOTARY PUBLIC

ACKNOWLEDGMENT

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

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

SIGNATURE OF NOTARY PUBLIC

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

All that certain real property situated in the City of Corcoran, County of Kings, State of California, more particularly described as follows:

[TO COME]

APN: _____

CERTIFICATE OF ACCEPTANCE OF SITE LEASE

This is to certify that the interest in real property conveyed by the Site Lease, dated as of January 1, 2022, by and between City of Corcoran, as lessor, and Corcoran Joint Powers Finance Authority, as lessee (the "Authority"), is hereby accepted by the undersigned officer on behalf of the Authority pursuant to a resolution adopted by the Board of Directors of the Authority on January 11, 2022, and the Authority consents to recordation thereof by its duly authorized officer.

Dated: January __, 2022

CORCORAN JOINT POWERS FINANCE
AUTHORITY

By: _____

LEASE AGREEMENT

Dated as of January 1, 2022

By and Between

CORCORAN JOINT POWERS FINANCE AUTHORITY

And

CITY OF CORCORAN

Relating to

\$ _____
2022 LEASE AGREEMENT
(TAXABLE PENSION LIABILITY REFUNDING)

TABLE OF CONTENTS

| | | Page |
|--------------|---|------|
| ARTICLE I | DEFINITIONS; RULES OF INTERPRETATION | 1 |
| Section 1.1 | Definitions | 1 |
| Section 1.2 | Interpretation..... | 4 |
| ARTICLE II | COVENANTS, REPRESENTATIONS AND WARRANTIES..... | 5 |
| Section 2.1 | Covenants, Representations and Warranties of the City..... | 5 |
| Section 2.2 | Covenants, Representations and Warranties of the Authority | 7 |
| Section 2.3 | No Financial Advisory or Fiduciary Relationship | 8 |
| ARTICLE III | DEPOSIT AND APPLICATION OF FUNDS | 9 |
| Section 3.1 | Application of Proceeds..... | 9 |
| ARTICLE IV | LEASE OF LEASED PROPERTY; LEASE PAYMENTS | 9 |
| Section 4.1 | Lease of Leased Property by Authority to City | 9 |
| Section 4.2 | Reserved..... | 9 |
| Section 4.3 | Term..... | 9 |
| Section 4.4 | Lease Payments..... | 9 |
| Section 4.5 | Quiet Enjoyment..... | 10 |
| Section 4.6 | Title..... | 10 |
| Section 4.7 | Substitution of Property | 11 |
| Section 4.8 | Release of Property | 11 |
| ARTICLE V | MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS..... | 12 |
| Section 5.1 | Maintenance, Utilities, Taxes and Assessments | 12 |
| Section 5.2 | Modification of Leased Property | 13 |
| Section 5.3 | Public Liability Insurance..... | 13 |
| Section 5.4 | Property Insurance; Flood Coverage | 14 |
| Section 5.5 | Rental Interruption Insurance | 15 |
| Section 5.6 | Worker’s Compensation Insurance..... | 15 |
| Section 5.7 | Recordation Hereof; Title Insurance..... | 15 |
| Section 5.8 | Form of Policies..... | 15 |
| Section 5.9 | Installation of City’s Personal Property..... | 15 |
| Section 5.10 | Liens..... | 16 |
| Section 5.11 | Advances..... | 16 |
| ARTICLE VI | DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF PROCEEDS; ABATEMENT OF LEASE PAYMENTS | 16 |
| Section 6.1 | Deposit of Net Proceeds | 16 |
| Section 6.2 | Application of Net Proceeds | 16 |
| Section 6.3 | Abatement Due to Damage or Destruction..... | 17 |
| Section 6.4 | Substitution of Property under Certain Circumstances..... | 17 |
| Section 6.5 | Termination or Abatement Due to Eminent Domain..... | 17 |

| | | |
|---------------------|---|------------|
| ARTICLE VII | OTHER COVENANTS OF THE CITY | 18 |
| Section 7.1 | Disclaimer of Warranties | 18 |
| Section 7.2 | Access to the Leased Property | 18 |
| Section 7.3 | Release and Indemnification Covenants | 18 |
| Section 7.4 | Assignment by the Authority | 19 |
| Section 7.5 | Assignment and Subleasing by the City | 19 |
| Section 7.6 | Amendment Hereof..... | 20 |
| Section 7.7 | Notification of Material Adverse Effect | 20 |
| Section 7.8 | Environmental Covenants..... | 20 |
| Section 7.9 | Financial Statements; Budgets..... | 20 |
| ARTICLE VIII | EVENTS OF DEFAULT AND REMEDIES | 21 |
| Section 8.1 | Events of Default Defined | 21 |
| Section 8.2 | Remedies on Default..... | 21 |
| Section 8.3 | No Remedy Exclusive | 23 |
| Section 8.4 | Agreement to Pay Attorneys' Fees and Expenses | 23 |
| Section 8.5 | No Additional Waiver Implied by One Waiver | 23 |
| ARTICLE IX | PREPAYMENT OF LEASE PAYMENTS | 23 |
| Section 9.1 | Security Deposit..... | 23 |
| Section 9.2 | Optional Prepayment | 24 |
| Section 9.3 | Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain..... | 24 |
| ARTICLE X | MISCELLANEOUS | 25 |
| Section 10.1 | Notices | 25 |
| Section 10.2 | Binding Effect..... | 25 |
| Section 10.3 | Severability | 25 |
| Section 10.4 | Net-net-net Lease..... | 25 |
| Section 10.5 | Further Assurances and Corrective Instruments | 25 |
| Section 10.6 | Execution in Counterparts | 25 |
| Section 10.7 | Applicable Law..... | 26 |
| Section 10.8 | Captions | 26 |
| Section 10.9 | No Merger..... | 26 |
| Section 10.10 | Third Party Beneficiary | 26 |
| APPENDIX A | DESCRIPTION OF THE LEASED PROPERTY | A-1 |
| APPENDIX B | SCHEDULE OF LEASE PAYMENTS | B-1 |
| APPENDIX C | FORM OF INVESTOR LETTER | C-1 |

LEASE AGREEMENT

This LEASE AGREEMENT, dated as of January 1, 2022 (this “Lease”), is entered into by and between the CORCORAN JOINT POWERS FINANCE AUTHORITY, a joint exercise of powers entity that is organized and existing under and by virtue of the laws of the State of California (the “Authority”), as sublessor, and the CITY OF CORCORAN, a municipal corporation and general law city that is duly organized and existing under and by virtue of the Constitution and laws of the State of California (the “City”), as sublessee.

RECITALS

A. In order to refund all or a portion of the City’s obligation to the California Public Employees’ Retirement System (“PERS”), the City has agreed to lease certain land and improvements thereon, as more particularly described in Appendix A (the “Leased Property”), to the Authority by entering into a Site Lease, dated as of the date hereof (the “Site Lease”), by and between the City and the Authority.

B. The Authority has agreed to assist the City with such refunding by entering into this Lease, pursuant to which the Authority will sublease the Leased Property back to the City and the City will be obligated to make payments (the “Lease Payments”) to the Authority.

C. The City and the Authority have determined that it would be in the best interests of the City and the Authority to cause First Foundation Public Finance (the “Bank”) to provide the funds that are necessary to refund the City’s obligation to PERS in consideration for the Authority’s assignment of the Lease Payments and other rights hereunder to the Bank.

D. Accordingly, all rights to receive the Lease Payments have been assigned without recourse by the Authority to the Bank pursuant to an Assignment Agreement, dated as of the date hereof (the “Assignment Agreement”), by and between the Authority and the Bank.

E. The City is authorized to enter into a lease-leaseback arrangement with the Authority to refund the City’s obligation to PERS under applicable State law.

AGREEMENT

In consideration of the foregoing and the material covenants herein, the City and the Authority covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

Section 1.1 Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings specified below, which meanings shall be equally applicable to both the singular and plural forms of any of the terms herein defined.

“Additional Payments” means any and all amounts that are payable by the City hereunder (other than Lease Payments).

“Applicable Law” means (a) all applicable common law and principles of equity and (b) all applicable provisions of all (i) constitutions, statutes, rules, regulations and orders of all Governmental authorities, (ii) Applicable Environmental Laws, (iii) applicable seismic building code requirements at the time of construction, and (iv) orders, decisions, judgments, writs, injunctions and decrees of all courts (whether at law or in equity) and arbitrators.

“Applicable Environmental Laws” means all California and federal environmental laws (including common laws), including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC Section 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; the Clean Air Act, 42 USC Section 7401 *et seq.*, the Occupational Health and Safety Act, 29 USC Section 654 *et seq.*; the California Hazardous Waste Control Law, California Health & Safety Code Section 25100 *et seq.*; the Hazardous Substance Account Act, California Health & Safety Code Section 25300 *et seq.*; the Porter-Cologne Water Quality Control Act, California Water Code Section 1300 *et seq.*; the Air Resources Act, California Health & Safety Code Section 3900 *et seq.*; the Safe Drinking Water & Toxic Enforcement Act, California Health & Safety Code Section 25249.5 *et seq.*; and the regulations under each thereof; and any other local, state, and/or federal laws or regulations, whether currently in existence or hereafter enacted, that govern: (a) the existence, cleanup, and/or remedy of contamination on property; (b) the protection of human health, safety or the environment from Hazardous Substances or spilled, deposited, or otherwise emplaced contamination; (c) the control of hazardous wastes; or (d) the management, use, generation, transport, treatment, removal, or recovery of or exposure to, Hazardous Substances, including building materials.

“Assigned Rights” means all of the Authority’s rights under this Lease as lessor of the Leased Property (excepting only the Authority’s rights under Section 7.3 of this Lease and its rights to notice under the Site Lease and this Lease), including, but not limited to the right to receive and enforce payment of the Lease Payments to be made by the City hereunder, and as lessee of the Leased Property under the Site Lease, as more particularly described in the Assignment Agreement, that are assigned and transferred by the Authority to the Bank pursuant to the Assignment Agreement.

“Assignment Agreement” means the Assignment Agreement, dated as of January 1, 2022, by and between the Authority, as assignor, and the Bank, as assignee, as originally executed or as thereafter amended under any duly authorized and executed amendments thereto.

“Authority” means the Corcoran Joint Powers Finance Authority, a joint exercise of powers entity that is organized and existing under and by virtue of the laws of the State of California.

“Bank” means First Foundation Public Finance, and its successors and assigns.

“Bond Counsel” means Stradling Yocca Carlson & Rauth, or any other attorney or firm of attorneys of nationally recognized expertise and acceptable to the Bank with respect to legal matters relating to obligations the interest on which is excludable from gross income under Section 103 of the Tax Code.

“Business Day” means a day other than a Saturday, Sunday or legal holiday, on which banking institutions are not closed in the State of California.

“City” means the City of Corcoran, a municipal corporation and general law city that is duly organized and existing under and by virtue of the Constitution and laws of the State of California.

“Closing Date” means the date of execution and delivery of this Lease by the parties hereto, being January __, 2022.

“Default Rate” means the interest rate due on the unpaid portion of any Lease Payment due pursuant to Section 4.4 hereof, and in default pursuant to Section 4.4 hereof. Such Default Rate shall also be applicable upon the occurrence and continuation of an Event of Default pursuant to Section 8.1. The Default Rate shall be equal to the interest rate applicable to the principal portion of Lease Payments, plus 3.00%.

“Event of Default” means any of the events of default that are described in Section 8.1.

“Facilities” means all buildings and other improvements at any time situated on the Leased Property.

“Federal Securities” means any direct general non-callable obligations of the United States of America (including obligations that are issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

“Fiscal Year” means each twelve-month period during the Term of this Lease commencing on July 1 in any calendar year and ending on June 30 in the next succeeding calendar year, or any other twelve-month period selected by the City as its fiscal year period.

“Hazardous Substance” means any substance that shall, at any time, be listed as “hazardous” or “toxic” pursuant to any Applicable Environmental Law or that has been or shall be determined at any time by any agency or court to be a hazardous or toxic substance regulated under Applicable Environmental Laws; including, without limitation, raw materials, building components, the products of any manufacturing, or other activities on the facilities, wastes, petroleum, asbestos, and source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 USC Section 3011 *et seq.*).

“Lease” means this Lease Agreement, dated as of January 1, 2022, by and between the Authority, as sublessor, and the City, as sublessee, as originally executed or as thereafter amended under any duly authorized and executed amendments hereto.

“Lease Payment” means all payments that are required to be paid by the City under Section 4.4, including any prepayments thereof under Section 9.2 or 9.3.

“Lease Payment Date” means October 1, 2022 and each April 1 and October 1 thereafter, continuing to and including the date on which the Lease Payments are paid in full.

“Lease Servicer” has the meaning that is set forth in Section 7.4 hereof.

“Leased Property” means the real property that is more particularly described in Appendix A, together with the improvements thereon. From and after the date of any substitution of property under Section 4.7 or release of property under Section 4.8, the term “Leased Property” means the real property which remains subject to this Lease following such substitution or release.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of

the City, (b) the ability of the City to carry out its business in the manner conducted as of the date of this Lease Agreement or to meet or perform its obligations under this Lease Agreement on a timely basis, or (c) the validity or enforceability of this Lease Agreement.

“Maximum Lease Term” has the meaning that is set forth in Section 4.3.

“Net Proceeds” means amounts that are derived from any policy of property insurance or title insurance with respect to the Leased Property, or the proceeds of any taking of the Leased Property or any portion thereof in eminent domain proceedings (including sale under threat of such proceedings), to the extent remaining after payment therefrom of all expenses incurred in the collection and administration thereof.

“Permitted Encumbrances” means, as of any time: (a) liens for general *ad valorem* taxes and assessments, if any, which are not then delinquent, or which the City may permit to remain unpaid under Section 5.1 of this Lease; (b) the Site Lease, this Lease and the Assignment Agreement; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions that are disclosed in the title insurance policy which is required by Section 5.7 with respect to the Leased Property issued as of the Closing Date; and (e) any easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the City certifies in writing will not materially impair the use of the Leased Property for its intended purposes and will not materially impair the security granted to the Bank by the Assignment Agreement.

“Rental Period” means the period from the Closing Date through October 1, 2022 and, thereafter, the twelve-month period commencing on October 2 of each year during the Term of this Lease.

“Site Lease” means the Site Lease, dated as of January 1, 2022, by and between the City and the Authority.

“Term of this Lease” or **“Term”** means the time during which this Lease is in effect, as provided in Section 4.3.

“Termination Date” means April 1, 2042, unless extended or sooner terminated as provided in Section 4.3.

Section 1.2 Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and includes all genders, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 2.1 Covenants, Representations and Warranties of the City. The City makes the following covenants, representations and warranties to the Authority as of the date of the execution and delivery of this Lease:

- (a) **Due Organization and Existence.** The City is a municipal corporation and general law city that is duly organized and existing under and pursuant to the Constitution and laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into the Site Lease and this Lease and to carry out and consummate all transactions that are contemplated thereby and hereby, and by proper action the City has duly authorized the execution and delivery of the Site Lease and this Lease.
- (b) **Due Execution.** The representatives of the City who execute the Site Lease and this Lease have been fully authorized to execute the same under a resolution duly adopted by the City Council of the City.
- (c) **Valid, Binding and Enforceable Obligations.** The Site Lease and this Lease constitute the legal, valid and binding agreements of the City enforceable against the City in accordance with their respective terms.
- (d) **No Conflicts.** The execution and delivery of the Site Lease and this Lease, the consummation of the transactions that are contemplated therein and herein and the fulfillment of or compliance with the terms and conditions thereof and hereof do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law, administrative rule or regulation, any applicable court or administrative decree or order or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or which it or its properties are otherwise subject to or bound by, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions that are contemplated by the Site Lease or this Lease or the financial condition, assets, properties or operations of the City.
- (e) **Consents and Approvals.** No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery by the City of the Site Lease and this Lease, or the consummation of any transaction contemplated therein or herein, except as have been obtained or made and as are in full force and effect, or except as would not materially adversely affect the transactions that are contemplated hereby.
- (f) **No Litigation.** There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions that are contemplated by, or the validity of, the Site Lease or this Lease or upon the financial condition, assets, properties or operations of the

City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions that are contemplated by the Site Lease or this Lease, or the financial condition, assets, properties or operations of the City.

(g) Essential Purpose. The Leased Property and the refunding of the City's obligation to PERS pursuant to this Lease serve an essential governmental function of the City and are in the best interests of the City.

(h) Budget. The obligations of the City under this Lease, including without limitation the obligation to make Lease Payments, are obligations that are payable from lawfully available funds of the City, including available amounts in the City's General Fund.

(i) Available Funds. The City has funds available for the payment of Lease Payments due during the current Fiscal Year and reasonably believes that sufficient funds can be obtained to make all Lease Payments and payments of other amounts required to be paid hereunder.

(j) Financial Statements. The City's audited financial statements for the period ended June 30, 2020, present fairly the financial condition of the City as of the date thereof and the results of operation for the period covered thereby. Except as has been disclosed to the Bank, there has been no change in the financial condition of the City since June 30, 2020, that will in the reasonable opinion of the City materially impair its ability to perform its obligations under this Lease Agreement.

(k) Information. All information, reports and other papers and data furnished by the City to the Bank were, at the time the same were so furnished, complete and accurate in all material respects and insofar as necessary to give the Bank a true and accurate knowledge of the subject matter and were provided in expectation of the Bank's reliance thereon in entering into the transactions contemplated by this Lease Agreement. No fact is known to the City which has had or, so far as the City can now reasonably foresee, may in the future have a Material Adverse Effect, which has not been set forth in the financial statements previously furnished to the Bank or in other such information, reports, papers and data or otherwise disclosed in writing to the Bank prior to the Closing Date. Any financial, budget and other projections furnished to the Bank by the City or its or their agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent the City's best estimate of its future financial performance. No document furnished nor any representation, warranty or other written statement made to the Bank in connection with the negotiation, preparation or execution of this Lease Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state (as of the date made or furnished) any material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were or will be made, not misleading.

(l) Leased Property. The Leased Property complies with all applicable restrictive covenants, zoning ordinances, building laws and other Applicable Laws (including without limitation, the Americans with Disabilities Act, as amended). The City is the owner in fee of title to the Leased Property. No lien or encumbrance on the Leased Property materially impairs the City's use of the Leased Property for the purposes for which it is, or may reasonably be expected to be, held.

(m) **Hazardous Substances.** The Leased Property is free of all Hazardous Substances, and the City is in full compliance with all Applicable Environmental Laws.

(n) **Flooding Risk.** The Leased Property is not in a 100-year flood zone and has never been subject to material damage from flooding.

(o) **Sufficient Funds.** The City reasonably believes that sufficient funds can be obtained to make all Lease Payments and all other amounts required to be paid hereunder.

(p) **No Defaults.** 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.

(q) **Continuation of Authority.** The City covenants that it shall do everything in its power to continue the existence of the Authority throughout the Term of this Lease, including adding additional members to the Authority if required and amending the Joint Exercise of Powers Agreement pursuant to which the Authority was formed for the purpose of extending the existence of the Authority beyond November 30, 2027 and through the Term of this Lease.

Section 2.2 Covenants, Representations and Warranties of the Authority. The Authority makes the following covenants, representations and warranties to the City as of the date of the execution and delivery of this Lease:

(a) **Due Organization and Existence.** The Authority is a joint exercise of powers entity that is duly organized and existing under and by virtue of the laws of the State of California, has full legal right, power and authority to enter into the Site Lease, this Lease and the Assignment Agreement and to carry out and consummate all transactions that are contemplated hereby and thereby, and by proper action the Authority has duly authorized the execution and delivery of the Site Lease, this Lease and the Assignment Agreement.

(b) **Due Execution.** The representatives of the Authority who execute the Site Lease, this Lease and the Assignment Agreement are fully authorized to execute such documents under official action taken by the Board of Directors of the Authority.

(c) **Valid, Binding and Enforceable Obligations.** The Site Lease, this Lease and the Assignment Agreement constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms.

(d) **No Conflicts.** The execution and delivery of the Site Lease, this Lease and the Assignment Agreement, the consummation of the transactions that are contemplated herein and therein and the fulfillment of or compliance with the terms and conditions hereof and thereof do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions that are contemplated by the Site Lease, this

Lease or the Assignment Agreement or the financial condition, assets, properties or operations of the Authority.

(e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery by the Authority of the Site Lease, this Lease or the Assignment Agreement, or the consummation of any transaction that is contemplated herein or therein, except as have been obtained or made and as are in full force and effect, or except as would not materially adversely affect the transactions that are contemplated hereby.

(f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions that are contemplated by or the validity of the Site Lease, this Lease or the Assignment Agreement, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions that are contemplated by the Site Lease, this Lease or the Assignment Agreement or the financial condition, assets, properties or operations of the Authority.

Section 2.3 No Financial Advisory or Fiduciary Relationship.

(a) Inasmuch as this Lease represents a negotiated transaction, each of the Authority and the City understands, and hereby confirms, that the Bank is not acting as a fiduciary of the Authority or the City, but rather is acting solely in its capacity as purchaser of the Lease, for its own account. Each of Authority and the City acknowledges and agrees that: (i) the transaction that is contemplated herein is an arm's length commercial transaction among the Authority, the City and the Bank and its affiliates; (ii) in connection with such transaction, the Banks 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 Bank and its affiliates are relying on the bank exemption in the Municipal Advisor Rules; (iv) the Bank and its affiliates have not provided any advice or assumed any advisory or fiduciary responsibility in favor of the Authority or the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (whether or not the Bank, or any affiliate thereof, has provided other services or advised, or is currently providing other services or advising the Authority or the City on other matters); (v) the Bank and its affiliates have financial and other interests that differ from those of the Authority and the City; and (vi) each of the Authority and the City has consulted with its own financial, legal, accounting, tax and other advisors, as applicable, to the extent that it deemed appropriate.

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS

Section 3.1 Application of Proceeds. The proceeds of this Lease in the amount of \$ _____ will be deposited and applied as follows: (a) \$ _____ will be wired by the Bank, in accordance with instructions provided by the City on the Closing Date, for the purpose of paying the costs of entering into this Lease and related documents; and (b) \$ _____ will be wired to PERS by the Bank for the purpose of refunding the City's obligation to PERS.

ARTICLE IV

LEASE OF LEASED PROPERTY; LEASE PAYMENTS

Section 4.1 Lease of Leased Property by Authority to City. For and in consideration of the application by the Authority of funds in accordance with Article III, the City has leased the Leased Property to the Authority under the Site Lease. For and in consideration of the Lease Payments to be made by the City hereunder, the Authority hereby leases the Leased Property to the City and the City hereby leases the Leased Property from the Authority, pursuant to this Lease upon the terms and provisions hereof.

Section 4.2 Reserved.

Section 4.3 Term. The Term of this Lease shall commence on the Closing Date and shall end on the Termination Date, unless such Term is extended or sooner terminated as hereinafter provided. If on the Termination Date the Lease Payments shall not be fully paid, or provision therefor made in accordance with Article IX, or if the Lease Payments shall remain due and payable or shall have been abated at any time and for any reason remain due and owing, then the term of this Lease shall be extended until the date upon which all Lease Payments shall be fully paid, or provision therefor made in accordance with Article IX. Notwithstanding the foregoing, the term of this Lease shall in no event be extended more than ten years beyond April 1, 2042, such extended date being the "Maximum Lease Term." If prior to the final Termination Date, all Lease Payments shall be fully paid, or provision therefor made in accordance with Article IX, the Lease shall be discharged by its terms and all Lease Payments shall have been paid in full, and the term of this Lease shall end simultaneously therewith.

Section 4.4 Lease Payments.

(a) **Obligation to Pay.** Subject to the provisions of Section 6.3 and Article IX, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the respective amounts that are specified in Appendix B (including any supplements thereto), to be due and payable in immediately available funds on each of the respective Lease Payment Dates that are specified in Appendix B. The Lease Payments that are payable in any Rental Period with respect to the Leased Property shall be for the use of the Leased Property during such Rental Period. The interest components of the Lease Payments have been calculated based on an interest rate of 2.99% per annum, on the basis of a 360 day year of twelve 30 day months.

(b) **Effect of Prepayment.** If the City prepays all Lease Payments in full under Article IX, the City's obligations under this Section will thereupon cease and terminate. If the City prepays the Lease Payments in part but not in whole under Section 9.3, amounts so paid in respect of principal

components shall be applied by the Authority as prepayment to the remaining unpaid principal components of the Lease Payments owing hereunder and the remaining Lease Payments will be reduced on a pro rata basis.

(c) **Rate on Overdue Payments.** Upon the occurrence and continuation of an Event of Default hereunder, the unpaid principal portion of the Lease Payments shall bear interest at the Default Rate, to the extent such increased rate is permitted by law. The Default Rate shall remain in effect until such time as the applicable Event of Default is cured to the reasonable satisfaction of the Bank. Any unpaid interest on the Lease Payments, including Default Rate interest, shall accrue until paid.

(d) **Fair Rental Value.** The Lease Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and will be paid by the City in each Rental Period for and in consideration of the right of the use and occupancy, and the continued quiet use and enjoyment, of the Leased Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments that are due in each Rental Period are not in excess of the fair rental value of the Leased Property in the corresponding Rental Period. In making this determination, consideration has been given to the estimated fair market value of the Leased Property, the replacement costs of the Leased Property, other obligations of the Authority and the City under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

(e) **Source of Payments; Budget and Appropriation.** The Lease Payments are payable from any source of legally available funds of the City, subject to the provisions of Sections 6.3 and 9.1. The City covenants to take such action as may be necessary to include all Lease Payments in each of its annual budgets during the Term of this Lease and to make the necessary annual appropriations for all such Lease Payments. The covenants on the part of the City herein contained constitute duties imposed by law and it is the duty of each and every public official of the City 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 City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

Section 4.5 Quiet Enjoyment. Throughout the Term of this Lease, the Authority will provide the City with quiet use and enjoyment of the Leased Property and the City will peaceably and quietly have, hold and enjoy the Leased Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease. The Authority will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent that the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the Leased Property as provided in Section 7.2.

Section 4.6 Title. At all times during the Term of this Lease, the Authority shall hold leasehold title to the Leased Property, including all additions which comprise fixtures, repairs, replacements or modifications thereto, subject to Permitted Encumbrances and the provisions of Section 8.2.

Upon the termination of this Lease (other than under Section 8.2(b)), all right, title and interest of the Authority in and to the Leased Property shall be transferred to and vested in the City. Upon the payment in full of all Lease Payments allocable to the Leased Property, or upon the deposit by the City of security for such Lease Payments as provided in Section 9.1, all right, title and interest of the Authority in and to the Leased Property shall be transferred to and vested in the City. The Authority

agrees to take any and all steps and to execute and record any and all documents that are reasonably required by the City to consummate any such transfer of title.

Section 4.7 Substitution of Property. With the prior written consent of the Bank, which consent shall not be unreasonably withheld or delayed, the City may substitute other land, facilities or improvements (the “**Substitute Property**”) for the Leased Property or any portion thereof (the “**Former Property**”), provided that the City has satisfied all of the following requirements, which are hereby declared to be conditions precedent to such substitution:

- (a) The City has certified to the Authority and the Bank that no Event of Default has occurred and is continuing.
- (b) The City has filed with the Authority and the Bank, and caused to be recorded in the Office of the Kings County Recorder, sufficient memorialization of an amended Appendix A to this Lease which adds thereto a description of such Substitute Property and deletes therefrom the description of such Former Property.
- (c) The City has obtained an ALTA or CLTA policy of title insurance, naming the Bank as an additional insured, which insures the Authority’s leasehold estate in such Substitute Property, in an amount at least equal to the outstanding aggregate principal amount of the Lease Payments that remain unpaid as of the substitution date.
- (d) The City has certified in writing to the Authority and the Bank that such Substitute Property is essential to the City’s efficient and economic operation, serves an essential governmental function of the City and constitutes property which the City is permitted to lease under the laws of the State of California.
- (e) The substitution of the Substitute Property for the Former Property does not cause the City to violate any of its covenants, representations and warranties herein. No event giving rise to an abatement of Lease Payments has occurred and is continuing with respect to the Substitute Property.
- (f) The City has certified in writing to the Authority and the Bank that the estimated value of the Substitute Property is at least equal to the outstanding aggregate principal amount of the Lease Payments that remains unpaid as of the substitution date, and that the useful life of the Substitute Property extends to or beyond the Term of this Lease (as it may be extended under Section 4.3). If requested by the Bank, the City will deliver to the Bank valuations of the Substitute Property that are prepared or confirmed by an independent third party, which might include, without limitation, an appraisal or a valuation by an insurance company.

Upon the satisfaction of all conditions that are precedent to any substitution under this Section 4.7, the Term of this Lease will thereupon end as to the Former Property and commence as to the Substitute Property. The Authority and the City shall execute, deliver and cause to be recorded all documents that are required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Former Property.

Section 4.8 Release of Property. With the prior written consent of the Bank, which consent shall not be unreasonably withheld or delayed, the City may release any portion of the Leased Property from this Lease (the “**Released Property**”) provided that the City has satisfied all of the following requirements, which are hereby declared to be conditions precedent to such release:

(a) The City has certified to the Authority and the Bank that no Event of Default has occurred and is continuing.

(b) The City has filed with the Authority and the Bank, and caused to be recorded in the Office of the Kings County Recorder, sufficient memorialization of an amendment hereof which removes the Released Property from this Lease.

(c) The City has certified in writing to the Authority and the Bank that the value of the property which remains subject to this Lease following such release is at least equal to outstanding aggregate principal amount of the Lease Payments that remain unpaid as of the release date. If requested by the Bank, the City will deliver to the Bank valuations that are prepared or confirmed by an independent third party, which might include, without limitation, an appraisal or a valuation by an insurance company.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Released Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release. The Authority and the City shall execute, deliver and cause to be recorded all documents that are required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Released Property.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND 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 improvement, repair and maintenance of the Leased Property are the sole responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services that are supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and 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 City or any assignee or sublessee thereof on the part of the City or any assignee. In exchange for the Lease Payments, the Authority agrees to provide only the Leased Property, as hereinbefore more specifically set forth. The City waives the benefits of Sections 1932(1), 1932(2), 1933(4), 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease.

The City shall not use, operate, or maintain the Leased Property (or cause the Leased Property to be used, operated or maintained) improperly, carelessly, in violation of any applicable laws or in a manner which is contrary to that contemplated hereby. The City shall provide all permits and licenses, if any, which are necessary for the Leased Property. In addition, the City agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body, including, without limitation, all anti-money laundering laws and regulations; provided that the City may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of the Authority, adversely affect the interest of the Authority in and to the Leased Property or its interest or rights hereunder.

The City will pay or cause to be paid all taxes and assessments of any type or nature, if any, that are charged to the Authority or the City which affect the Leased Property or the respective interests

or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City is obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority shall notify the City that, in its reasonable opinion, by nonpayment of any such items the interest of the Authority in the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the Authority will promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority.

Section 5.2 Modification of Leased Property. The City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of this Lease. Such additions, modifications and improvements may not in any way damage the Leased Property or cause the Leased Property to be used for purposes other than those which are authorized under the provisions of State of California and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements. The City will not permit any mechanic's or other lien to be established or to remain against the Leased Property for labor or materials that are furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under this Section; provided that if any such lien is established and the City first notifies the Authority of the City's intention to do so, the City may in good faith contest any lien that is filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and will provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

Section 5.3 Public Liability Insurance. The City shall maintain or cause to be maintained throughout the Term of this Lease a standard comprehensive general insurance policy or policies in protection of the City, the Authority and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Such policy or policies must provide coverage of at least [\$1,000,000 per occurrence, \$3,000,000 in aggregate and \$5,000,000] excess liability and may be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City will apply the proceeds of such liability insurance toward extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 5.4 Property Insurance; Flood Coverage.

(a) **Requirement to Maintain Property Insurance.** The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, property insurance against loss or damage to the Facilities by fire and lightning, with extended coverage insurance, vandalism and malicious mischief insurance and sprinkler system leakage insurance. Said extended coverage insurance shall cover loss or damage by fire, explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, including earthquake coverage if such coverage is available at commercially reasonable cost from a reputable insurer in the reasonable determination of the City. Such insurance shall be in an amount at least equal to the greater of: (i) the replacement value of the insured Facilities; or (ii) the aggregate unpaid principal components of the Lease Payments, and may be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage that is carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program of pooled insurance. The City will apply the Net Proceeds of such insurance as provided in Article VI.

(b) **Flood Insurance.** If at any time and for so long as the Leased Property is located in a 100 year flood area as shown on a Flood Insurance Rate Map published by the Federal Emergency Management Agency, the policy or policies of property insurance that are provided under this Section 5.4 shall include insurance against loss or damage to the Facilities due to flooding. If the City obtains an exception or waiver to the designation of the Facilities as being within a 100 year flood area from the Federal Emergency Management Agency, the City shall not be required to provide flood insurance as set forth in this subsection (b).

(c) **Federal or State Disaster Aid.** Should the Facilities be damaged or destroyed as a result of an event for which federal or State of California disaster aid is available, the Authority and/or the City shall promptly apply for disaster aid. Any disaster aid proceeds which are received shall be used to repair, reconstruct, restore or replace the damaged or destroyed portions of the Facilities, or, at the option of the City and the Authority, to prepay the Lease Payments if permitted under the disaster aid program and the law.

(d) **Self-Insurance.** As an alternative to providing the insurance required by this Section, the City may provide a self-insurance method or plan of protection if and to the extent that such self-insurance method or plan of protection: (i) affords reasonable coverage for the risks that are required to be insured against, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State of California other than the City; and (ii) has been approved in writing by the Bank. After the Closing Date and before a different self-insurance method or plan may be provided by the City, there shall be filed with the Authority and the Bank a certificate of an actuary, insurance consultant or other qualified person (who may be an employee of the City), 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 coverage for the risks that are required to be insured against and is sufficiently funded to afford such coverage. There shall also be filed a certificate of the City which sets forth the details of such substitute method or plan. In the event of a loss that is covered by any such self-insurance method, the liability of the City hereunder shall be limited to the amounts in the self-insurance reserve fund or funds created under such method.

Section 5.5 Rental Interruption Insurance. The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Leased Property as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum Lease Payments coming due and payable during any future 24 month period. Such insurance may be maintained as part of or in conjunction with any other insurance coverage that is carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. Such rental interruption or use and occupancy insurance shall not be self-insured and the City acknowledges that this requirement may limit its ability to self-insure under Section 5.4. The City will apply the Net Proceeds of such insurance towards the payment of the Lease Payments as the same become due and payable.

Section 5.6 Worker's Compensation Insurance. So long as required by law, the City shall carry worker's compensation insurance covering all employees on, in, near or about the Leased Property and, upon request, shall furnish to the Authority certificates that evidence such coverage throughout the Term of this Lease.

Section 5.7 Recordation Hereof; Title Insurance. On or before the Closing Date, the City shall, at its expense: (a) cause the Assignment Agreement, the Site Lease and this Lease, or a memorandum hereof, to be recorded in the Office of the Kings County Recorder with respect to the Leased Property; and (b) obtain an ALTA or CLTA policy of title insurance, naming the Bank as an additional insured, which insures the Authority's leasehold estate established under the Site Lease in the Leased Property, subject only to Permitted Encumbrances, in an amount equal to the original aggregate principal amount of the Lease Payments. The City shall apply the Net Proceeds that are received under such title insurance policy to prepay the remaining Lease Payments under Section 9.3.

Section 5.8 Form of Policies. All insurance policies (or riders) that are required by this Article V shall be taken out and maintained with responsible insurance companies that are organized under the laws of one of the states of the United States and qualified to do business in the State of California, and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten days before the cancellation or revision becomes effective. Each insurance policy or rider that is required by Sections 5.3, 5.4 and 5.5 shall name the City as the insured and loss payee and the Bank as additional insured and shall include a lender's loss payable endorsement for the benefit of the Bank. Prior to the Closing Date, the City will deposit with the Bank policies (and riders and endorsements, if applicable) which evidence any such insurance that is procured by the City, or a certificate or certificates of the respective insurers which state that such insurance is in full force and effect. Before the expiration of any such policy (or rider), the City will renew or replace such policy (or rider) with another policy which conforms to the provisions of this Article V unless such insurance is no longer obtainable, in which event the City shall notify the Bank of such fact.

Section 5.9 Installation of City's Personal Property. The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items shall remain the sole property of the City, in which the Authority has no interest, and may be modified or removed by the City at any time. The City must repair and restore any and all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the

unpaid portion of the purchase price thereof, provided that no such lien or security interest may attach to any part of the Leased Property.

Section 5.10 Liens. The City will not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than Permitted Encumbrances and such other encumbrances as the City certifies in writing to the Authority do not materially and adversely affect the leasehold estate in the Leased Property hereunder and which the Bank approves in writing, which approval may not be unreasonably withheld or delayed. Except as expressly provided in this Article V, the City will 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 City will reimburse the Authority for any expense that is incurred by the Authority in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.11 Advances. If the City fails to perform any of its obligations under this Article V, the Authority may take such action as may be necessary to cure such failure, including the advancement of money, and the City shall be obligated to repay all such advances as Additional Payments hereunder, with interest at the Default Rate.

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF PROCEEDS; ABATEMENT OF LEASE PAYMENTS

Section 6.1 Deposit of Net Proceeds. The Net Proceeds of any taking of the Leased Property or any portion thereof in eminent domain proceedings, and the Net Proceeds of any policy of insurance that is maintained under Sections 5.4, shall be paid to the City to be applied as set forth in Section 6.2. The Net Proceeds of any policy of insurance that is maintained under Section 5.5 shall be paid to the City to be applied as set forth in Section 5.5.

Section 6.2 Application of Net Proceeds. If the Leased Property is taken in eminent domain proceedings at any time during the Term of this Lease, or if the Leased Property is damaged because of an insured casualty which is covered by a policy of insurance or a program of self-insurance that is maintained under Section 5.4, the City shall as soon as practicable after such event, with the prior written consent of the Bank, apply the Net Proceeds resulting therefrom to one of the following:

- (a) repair the Leased Property to full use;
- (b) replace the Leased Property, at the City's sole cost and expense, with property of equal or greater value to the Leased Property immediately prior to the time of such destruction or damage, such replacement Leased Property to be subject to the Bank's reasonable approval, whereupon such replacement shall be substituted in this Lease by appropriate endorsement;
- (c) substitute additional property as provided in Section 4.7; or
- (d) prepay the Lease Payments in accordance with Section 9.3.

The City will notify the Authority and the Bank of which course of action it has elected to take within a reasonable time not to exceed 60 days after the occurrence of such eminent domain

proceedings or such destruction or damage. Such repair, replacement, substitution or prepayment shall commence not later than 60 days after the occurrence of such taking, destruction or damage and be pursued diligently to completion. The Authority may (but is not required to) in its own name or in the City's name execute and deliver proofs of claim, receive all such moneys, endorse checks and other instruments which represent payment of such moneys, and adjust, litigate, compromise or release any claim against the issuer of any such policy, and the City hereby grants to the Authority a power of attorney coupled with an interest to accomplish all or any of the foregoing.

Section 6.3 Abatement Due to Damage or Destruction. Except as otherwise specifically provided in this Section, during any period in which, by reason of material damage to, or destruction (other than by eminent domain, which is provided for in Section 6.5) of, the Leased Property, or any defect in title to the Leased Property, there is substantial interference with the City's right to use and occupy any portion of the Leased Property, Lease Payments shall be abated proportionately, and the City waives the benefits of Civil Code Sections 1932(1), 1932(2) and 1933(4) and any and all other rights to terminate this Lease by virtue of any such interference, and this Lease shall continue in full force and effect. The amount of such abatement shall be agreed upon by the City and the Authority; provided that the Lease Payments due for any Rental Period shall not exceed the annual fair rental value of that portion of the Leased Property that is available for use and occupancy by the City during such Rental Period. The City and the Authority shall calculate such abatement and shall provide the Bank with a certificate which sets forth such calculation and the basis therefor. Such abatement shall continue for the period which commences with the date of interference resulting from such damage, destruction or title defect and, with respect to damage to or destruction of the Leased Property, ending with the substantial completion of the work of repair or replacement of the Leased Property, or the portion thereof so damaged or destroyed; and the term of this Lease shall be extended as provided in Section 4.3, except that the term shall in no event be extended beyond the Maximum Lease Term.

Notwithstanding the foregoing, to the extent that moneys are available for the payment of Lease Payments in any of the funds and accounts that are established hereunder or from Net Proceeds, Lease Payments shall not be abated as provided above but, rather, shall be payable by the City as a special obligation payable solely from said funds and accounts or Net Proceeds.

Section 6.4 Substitution of Property under Certain Circumstances. In the event of damage to or destruction of all or a portion of the Leased Property due to uninsured casualty for which the proceeds of rental interruption insurance are not available, promptly after the occurrence of such event, to the extent that such action will not cause this Lease to be invalid, the Director of Finance of the City may bring forward a recommendation for City Council consideration to substitute and add as additional Leased Property hereunder other real or personal property of the City that is unimpaired and unencumbered, the fair rental value of which shall be at least equal to the Lease Payments that are due during each Fiscal Year for the remainder of the Term, provided that any such addition and substitution shall be subject to the approval of the City Council.

Section 6.5 Termination or Abatement Due to Eminent Domain. If the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease will cease with respect thereto as of the day possession is so taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain: (a) this Lease will continue in full force and effect with respect thereto and will not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary; and (b) there will be a partial abatement of Lease Payments in an amount to be determined by the City such that the resulting Lease Payments represent fair

consideration for the use and occupancy of the remaining usable portions of the affected Leased Property. The abatement period shall end upon the earlier of restoration of beneficial use and enjoyment to the City of the Leased Property, replacement or substitution thereof or prepayment of Lease Payments as provided herein. The City shall apply Net Proceeds in accordance with Sections 6.2 and 6.3.

ARTICLE VII

OTHER COVENANTS OF THE CITY

Section 7.1 Disclaimer of Warranties. THE AUTHORITY MAKES NO AGREEMENT, 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 THAT IS CONTEMPLATED BY THE CITY OF THE LEASED PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN AND THAT THE CITY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event will the Authority be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease for the existence, furnishing, functioning or use of the Leased Property by the City.

Section 7.2 Access to the Leased Property. The City agrees that the Authority, and the Authority's successors or assigns, have the right at all reasonable times, following at least 48 hours written notice provided to the City, to enter upon and to examine and inspect the Leased Property or any part thereof. The City further agrees that the Authority, and the Authority's successors or assigns, shall have such rights of access to the Leased Property or any component thereof, following at least 48 hours written notice provided to the City, as may be reasonably necessary to cause the proper maintenance of the Leased Property if the City fails to perform its obligations hereunder. Neither the City nor any of its assigns has any obligation to cause such proper maintenance.

Section 7.3 Release and Indemnification Covenants. The City hereby agrees, to the extent not prohibited by applicable law, to indemnify and defend the Authority, the Bank and their respective directors, officers, employees, agents, successors and assigns from and against all claims, losses and damages, including legal fees and expenses, arising out of: (a) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the City; (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease; (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property; (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Leased Property; (e) the acquisition, construction, improvement and equipping of the Leased Property; (f) the generation, use, presence, storage, disposal, abatement, management or clean-up of, or exposure to, any Hazardous Substances or toxic wastes at, on, in or from the Leased Property; or (g) the City's failure to comply with any Applicable Environmental Laws with respect to the Leased Property; provided, however, that in no event may such payments result in Lease Payments in any Rental Period which exceed the fair rental value of the Leased Property in such Rental Period. No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or gross negligence under this Lease by the Authority, the Bank or their respective officers, agents, employees, successors or assigns.

Section 7.4 Assignment by the Authority. (a) The Authority has assigned and transferred the Assigned Rights to the Bank pursuant to the Assignment Agreement. The City hereby consents to such assignment and transfer. The Authority hereby directs the City, and the City hereby agrees, to pay to the Bank all payments payable by the City under Section 4.4 and all amounts payable by the City under Article IX. Whenever in this Lease any reference is made to the Authority and such reference concerns any Assigned Rights, such reference shall be deemed to refer to the Bank.

(b) The beneficial interest in the Assigned Rights, and all proceeds therefrom, may be further participated, in part, or assigned and reassigned in whole, to one or more assignees or sub-assignees by the Bank (including, but not limited to, in connection with the creation of fractional interests with institutional investors so long as such assignment complies with applicable State law), without the necessity of obtaining the consent of the City; provided that any such assignment, transfer or conveyance: (i) shall be made only to investors each of whom is: (1) a “qualified institutional buyer” as defined in Rule 144A(a)(1) promulgated under the Securities Act of 1933, as amended (the “Securities Act”), or an “accredited investor” as defined in Sections 501(a)(1), (2), (3) and (7) of Regulation D promulgated under the Securities Act; and (2) purchasing the Assigned Rights for its own account with no present intention to resell or distribute the Assigned Rights, subject to each investor’s right at any time to dispose of the Assigned Rights or any interest therein as it determines to be in its best interests; (ii) shall transfer all, and not only a part, of the Assigned Rights; (iii) shall not be enforceable until such assignee, transferee or conveyee shall have provided to the City an Investor Letter, substantially in the form attached hereto as Appendix C; and (iv) shall not require the City to make Lease Payments, send notices or otherwise deal with respect to matters arising under this Lease with or to more than one trustee, owner, servicer or other fiduciary or agent or entity (herein referred to as the “Lease Servicer”) and any trust agreement, participation agreement or custodial agreement under which multiple ownership interests in the Assigned Rights are created shall provide the method by which the owners of such interests shall establish the rights and duties of a single Lease Servicer to act on their behalf with respect to the Assigned Rights, including with respect to the exercise of rights and remedies on behalf of such owners upon the occurrence of an Event of Default hereunder. The Authority (including the Bank) and the City hereby acknowledge and agree that the restrictions and limitations on transfer in this Section 7.4 shall apply to the first and subsequent assignees and sub-assignees of any beneficial interests in the Assigned Rights.

(c) No assignment, participation, transfer or conveyance permitted by this Section 7.4 that changes the Lease Servicer or its payment instructions or mailing address shall be effective until the City shall have received a written notice of assignment that discloses the name, payment instructions and address of each such assignee; provided that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests evidencing interests in the Assigned Rights, it shall thereafter be sufficient that the City receives notice of the name, payment instructions and address of such bank or trust company that acts as the Lease Servicer. The City shall not have the right to, and shall not, assert against the Bank or any successor thereto any claim, counterclaim or other right that the City may have against the Authority. If the Bank notifies the City of its intent to assign the Assigned Rights to a different Lease Servicer, the City agrees that it shall execute and deliver to the Bank a notice and acknowledgment of assignment in form reasonably required by the Bank within five (5) business days after its receipt of such request.

Section 7.5 Assignment and Subleasing by the City. This Lease may not be assigned by the City without the prior written consent of the Bank, which consent shall not be unreasonably withheld. With the prior written consent of the Bank, the City may sublease the Leased Property, or any portion thereof, subject to all of the following conditions:

(a) This Lease and the obligation of the City to make Lease Payments hereunder shall remain obligations of the City.

(b) The City shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the Bank a true and complete copy of such sublease.

(c) Any sublease shall be expressly subject and subordinate to this Lease.

(d) No such sublease by the City may cause the Leased Property to be used for a purpose other than an essential government function and as may be authorized under the provisions of the laws of the State of California.

Section 7.6 Amendment Hereof. This Lease may be amended by a written amendment that is executed by the parties hereto with the prior written consent of the Bank.

Section 7.7 Notification of Material Adverse Effect. The City shall timely inform the Bank of any Material Adverse Effect upon learning of the existence of such an effect.

Section 7.8 Environmental Covenants.

(a) Compliance with Laws; No Hazardous Substances. The City will comply with all Applicable Environmental Laws with respect to the Leased Property and will not allow the presence of, or otherwise use, store, generate, treat, transport or dispose of any Hazardous Substance thereon except: (i) in strict compliance with all Applicable Environmental Laws; and (ii) in a manner that would not cause any Hazardous Substance to flow, migrate, leak, leach, be released at or otherwise come to rest on or in the Leased Property.

(b) Notification of Bank. The City will transmit copies of all notices, orders or statements received from any governmental entity or any third party concerning violations or asserted violations of Applicable Environmental Laws with respect to the Leased Property and any operations conducted thereon or any conditions existing thereon to the Bank, and the City will notify the Bank in writing immediately of any release, discharge, spill or deposit of any Hazardous Substances that has occurred or is occurring that in any way affects or threatens to affect the Leased Property, or the people, structures, or other property thereon, provided that no such notifications shall create any liability or obligation on the part of the Bank.

(c) Access for Inspection. Subject to the notice requirements that are applicable to the Authority as set forth in Section 7.2, the City shall permit the Bank, its agents, or any experts designated by the Bank to have full access to the Leased Property during reasonable business hours for purposes of such independent investigation of compliance with all Applicable Environmental Laws, provided that the Bank has no obligation to do so, or any liability for any failure to do so, or any liability should it do so.

Section 7.9 Financial Statements; Budgets. Within 270 days following the end of each Fiscal Year of the City during the Term of this Lease, the City shall provide the Bank with: (i) a copy of its audited financial statements for such Fiscal Year; and (ii) a certification that the City is not aware of any default or Event of Default hereunder or otherwise in connection with this Lease. Such audited financial statements shall include a balance sheet, a statement of revenues, expenses and changes in fund balances for budget and actual, a statement of cash flows, notes, schedules and any attachments

to the financial statements and such other financial information as the Bank shall reasonably request. The City shall also provide the Bank with a copy of its annual budget within 30 days of its adoption and any interim updates or modifications to such budget. The City shall notify the Bank immediately of any material change in the City's financial position which could have an impact on payment of the Lease Payments, and shall furnish at the request of the Bank such additional information that the Bank may from time to time reasonably request.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1 Events of Default Defined. Any one or more of the following events constitutes an Event of Default hereunder:

- (a) Failure by the City to pay any Lease Payment or other payment that is required to be paid hereunder when specified herein or to maintain insurance as specified in Article V.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding clause (a) 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 City by the Authority or the Bank. However, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30 day period, the Authority and the Bank shall not unreasonably withhold their consent to an extension of such time (for a period not to exceed 60 days) if corrective action is instituted by the City within such 30 day period and diligently pursued until the default is corrected.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.
- (d) Any material representation, warranty or certification made by the City hereunder or in connection herewith shall have been materially incorrect or misleading when made.
- (e) Any default occurs under any other agreement for borrowing money or receiving credit under which the City may be obligated as borrower, if such default consists of: (i) the failure to pay any amount when due under such agreement; or (ii) the failure to perform any other obligation thereunder and such failure gives the holder of such agreement the right to accelerate the amounts payable thereunder.

Section 8.2 Remedies on Default. Whenever any Event of Default has happened and is continuing, the Default Rate shall apply and the Authority may exercise any and all remedies that are available under law or granted under this Lease; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise to declare any Lease Payments which are not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted hereunder;

provided that no termination of this Lease shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise any one or more of the following remedies:

(a) Enforcement of Payments Without Termination. If the Authority does not elect to terminate this Lease in the manner hereinafter provided for in subparagraph (b), the City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein, and the Authority may take whatever action at law or in equity that may appear necessary or desirable to collect each Lease Payment as it becomes due hereunder. The City shall reimburse the Authority for any deficiency arising out of the re-leasing of the Leased Property, or, if the Authority is unable to re-lease the Leased Property, then for the full amount of all Lease Payments to the end of the Term of this Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Property or the exercise of any other remedy by the Authority. The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to enter upon and re-lease the Leased Property upon the occurrence and continuation of an Event of Default, to remove all personal property whatsoever situated upon the Leased Property and to place such property in storage or other suitable place located in the County of Kings for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Authority to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City, the right to terminate this Lease shall vest in the Authority to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b). The City agrees to surrender and quit possession of the Leased Property upon demand of the Authority for the purpose of enabling the Leased Property to be re-let under this paragraph. Any rental obtained by the Authority in excess of all Lease Payments and Additional Payments due hereunder shall be paid to the City.

(b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease and re-lease all or any portion of the Leased Property. If the Authority terminates this Lease at its option and in the manner that is provided herein because of a default by the City (and notwithstanding any re-entry upon the Leased Property by the Authority in any manner whatsoever or the re-leasing of the Leased Property), the City nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring that are payable at the same time and in the same manner as is provided herein in the case of payment of Lease Payments and Additional Payments. Any surplus received by the Authority from such re-leasing shall be applied by the Authority to Lease Payments due under this Lease and, upon full payment of all Lease Payments and Additional Payments due hereunder, any such surplus shall be paid to the City as stated in paragraph (a) hereof. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Authority shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Authority shall have given written

notice to the City of the election on the part of the Authority to terminate this Lease. The City 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 Authority by such written notice.

(c) Proceedings at Law or In Equity. If an Event of Default occurs and continues hereunder, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

(d) Remedies under the Site Lease. If an Event of Default occurs and continues hereunder, the Authority may exercise its rights under the Site Lease.

Section 8.3 No Remedy Exclusive. No remedy conferred upon or reserved to the Authority herein 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 that accrues upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy that is reserved to it in this Article VIII, it shall not be necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

Section 8.4 Agreement to Pay Attorneys' Fees and Expenses. If either party to this Lease defaults under any of the provisions hereof and the nondefaulting party should employ attorneys (including in-house legal counsel) or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys (including allocable costs and expenses of in-house legal counsel, if any) and such other expenses so incurred by the nondefaulting party.

Section 8.5 No Additional Waiver Implied by One Waiver. If any agreement in this Lease is breached by either party and thereafter waived by the other party, such waiver is limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

Section 9.1 Security Deposit. Notwithstanding any other provision of this Lease, the City may on any date secure the payment of the Lease Payments in whole or in part by depositing with a trustee, escrow agent or other fiduciary selected by the City and acceptable to the Bank 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 Bank, which cash so held is either: (a) sufficient to pay such Lease Payments without reinvestment, including the principal and interest components thereof, in accordance with the Schedule of Lease Payments in Appendix B; or (b) invested in whole or in part in non-callable Federal Securities in such amount as will, in the opinion of an independent certified public accountant (which opinion must be in form and substance, and with such an accountant, acceptable to the Bank and addressed and delivered to the Bank), together with interest to accrue thereon and any cash which is so deposited, be fully sufficient, without reinvestment of any earning or income on such amounts, to

pay such Lease Payments, when due under Section 4.4 or when due on any optional prepayment date under Section 9.2 as the City instructs at the time of said deposit. If the City posts a security deposit under this Section with respect to all unpaid Lease Payments, and notwithstanding the provisions of Section 4.3: (i) the Term of this Lease will continue; (ii) all obligations of the City under this Lease, and all security provided by this Lease for said obligations, will thereupon cease and terminate, excepting only the obligation of the City to make, or cause to be made, all of the Lease Payments from such security deposit and its obligation provided in the next succeeding paragraph; and (iii) the Authority's leasehold interest in the Leased Property will terminate on the date of said deposit automatically and without further action by the City or the Authority. The City hereby grants a first priority security interest in and the lien on said security deposit and all proceeds thereof in favor of the Bank. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

Notwithstanding anything in this Lease to the contrary, if the amount held in such security deposit shall at any time be insufficient (for whatever reason) to pay Lease Payments when due in full as provided in clause (a) or (b), as applicable, of the first paragraph of this Section, the City shall immediately pay to the Bank on the applicable due date or due dates the amount of any such shortfall from funds legally available for such purpose.

Section 9.2 Optional Prepayment.

(a) The Lease Payments are subject to optional prepayment prior to maturity on any Lease Payment Date, in whole or in part, in a manner determined by the City and specified to the Authority in writing by the City, at a prepayment price equal to the following prepayment prices plus accrued interest to the date fixed for redemption:

| <u>Prepayment Period</u> <u>(Both Dates Inclusive)</u> | <u>Redemption Price</u> |
|---|--------------------------------|
| Through April 1, 2024 | 103% |
| October 1, 2024 and April 1, 2025 | 102% |
| October 1, 2025 through April 1, 2027 | 101% |
| October 1, 2027 and thereafter | 100% |

(b) In order to optionally prepay the Lease Payments in accordance with section (a) above, the City shall, at least thirty (30) days prior to the date for prepayment, notify the Bank in writing of its intention to so prepay the Lease Payments.

Section 9.3 Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain. The City may prepay the unpaid principal components of the Lease Payments in whole or in part on any date, from and to the extent of any Net Proceeds to be used for such purpose under Sections 5.4 and 6.2, and shall so prepay to the extent the City does not elect to act under Section 6.2(a), (b) or (c) above, by paying a prepayment price equal to the principal components of the Lease Payments to be prepaid, together with the interest accrued to such prepayment date, without premium. The City shall give the Authority notice of its intention to exercise its option to prepay the Lease Payments under this Section not less than 60 days in advance of the date of exercise, or such shorter period of time as is acceptable to the Authority and the Bank.

ARTICLE X

MISCELLANEOUS

Section 10.1 Notices. Any notice, request, complaint, demand or other communication under this Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either: (a) upon transmission by facsimile transmission or other form of telecommunication; (b) 48 hours after deposit in the United States of America first class mail, postage prepaid; or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Authority and the Bank may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City: City of Corcoran
 832 Whitley Avenue
 Corcoran, California 93212
 Attn: City Manager

If to the Authority: Corcoran Joint Power Finance Authority
 c/o City of Corcoran
 832 Whitley Avenue
 Corcoran, California 93212
 Attn: Executive Director

If to the Bank: First Foundation Public Finance

 Attn: _____

Section 10.2 Binding Effect. This Lease inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns.

Section 10.3 Severability. If any provision of this Lease is held to be invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 10.4 Net-net-net Lease. This Lease is a "net-net-net lease" and the City hereby agrees that the Lease Payments are an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

Section 10.5 Further Assurances and Corrective Instruments. The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property that is leased hereby or intended so to be or for carrying out the expressed intention of this Lease.

Section 10.6 Execution in Counterparts. This Lease may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

Section 10.7 Applicable Law. This Lease is governed by and construed in accordance with the laws of the State of California.

Section 10.8 Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease.

Section 10.9 No Merger. It is the express intention of the Authority and the City that this Lease and the obligations of the parties hereunder are separate and distinct from the Site Lease and the obligations of the parties thereunder, and that during the term of the Site Lease and this Lease no merger of title or interest may occur or be deemed to occur as a result of the respective positions of the Authority and the City thereunder and hereunder.

Section 10.10 Third Party Beneficiary. The Bank is made a beneficiary hereunder with all rights of a third party beneficiary.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Authority and the City have caused this Lease to be executed in their respective names by their duly authorized officers, all as of the date first above written.

CORCORAN JOINT POWERS FINANCE
AUTHORITY, as Lessor

By: _____

CITY OF CORCORAN, as Lessee

By: _____

ATTEST:

City Clerk

ACKNOWLEDGMENT

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

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

SIGNATURE OF NOTARY PUBLIC

ACKNOWLEDGMENT

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

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

SIGNATURE OF NOTARY PUBLIC

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

All that certain real property situated in the City of Corcoran, County of Kings, State of California, more particularly described as follows:

[TO COME]

APN: _____

APPENDIX B

SCHEDULE OF LEASE PAYMENTS

Interest Rate: 2.99%

| <i>Lease Payment Date</i> | <i>Principal Component</i> | <i>Interest Component</i> | <i>Total Lease Payment</i> |
|-----------------------------------|----------------------------|---------------------------|--------------------------------|
| 10/1/2022 | | | |
| 4/1/2023 | | | |
| 10/1/2023 | | | |
| 4/1/2024 | | | |
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| 4/1/2025 | | | |
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| 10/1/2040 | | | |
| 4/1/2041 | | | |
| 10/1/2041 | | | |
| 4/1/2042 | | | |
| Total | | | |

APPENDIX C

FORM OF INVESTOR LETTER

City of Corcoran
832 Whitley Avenue
Corcoran, California 93212
Attn: City Manager

Corcoran Joint Power Finance Authority_
832 Whitley Avenue
Corcoran, California 93212
Attn: Executive Director

Re: City of Corcoran 2022 Lease Agreement (Taxable Pension Liability Refunding)

The undersigned, a duly authorized representative of _____, and its successors, assigns and transferees (the “Purchaser”), hereby certifies to the City of Corcoran (the “City”) and the Corcoran Joint Powers Finance Authority (the “Authority”), as follows:

(i) The Purchaser has purchased on the date hereof all of the Authority’s right, title and interest in the Lease Agreement, dated as of January 1, 2022 (the “Lease”), by and between the City and the Authority, which Lease Agreement evidences payments in the aggregate principal amount of \$_____. Capitalized terms that are used herein and not defined have the meanings that are set forth in the Lease.

(ii) The Lease is being acquired by the Purchaser for its own loan account and not with a present intent for any resale or distribution thereof, in whole or in part, to others; provided, however, that the Purchaser shall not be precluded from transferring, participating or assigning its interest in the Lease in accordance with the terms and conditions set forth in Section 7.4 of the Lease. The Purchaser agrees that it is bound by and will abide by such provisions of the Lease relating to transfer and this letter. The Purchaser also covenants to comply with all applicable federal and state securities laws, rules and regulations in connection with any resale or transfer of the Lease by the Purchaser. The Purchaser is not participating, directly or indirectly, in a distribution of the Lease and will not take, or cause to be taken, any action that would cause the Purchaser to be deemed an “underwriter” of such Lease as defined in Section 2(11) of the Securities Act of 1933, as amended (the “Securities Act”). The Purchaser understands that it may need to bear the risks of the Lease for an indefinite period of time, since a sale of the Lease, or any portion thereof, prior to maturity may not be possible. The Purchaser understands that the City has no obligation to register the Lease for resale under the Securities Act or otherwise qualify the Lease for sale under the “Blue Sky” laws and regulations of any state. The Purchaser further understands that the Lease is being sold in a transaction that is exempt from the registration requirements of the Securities Act. The Purchaser acknowledges that: (i) the City will not be entering into a continuing disclosure undertaking pursuant to Section 15c2-12 of the Securities Exchange Act of 1934, as amended; provided, however, that the City has agreed to provide certain ongoing information to the Purchaser; (ii) the Lease has not been rated by any credit rating agency; and (iii) neither the City nor the Authority has provided any offering or other disclosure document with respect to the Lease.

(iii) The Purchaser has had access to all materials, books, records, documents, and information relating to the City, the Authority and the Lease, and has been able to verify the accuracy of, and supplement, the information contained therein.

(iv) The Purchaser has had an opportunity to ask questions of, and receive satisfactory answers from, duly designated representatives of the City concerning the terms and conditions pursuant to which the offer to purchase the Lease is being made, and any request for such information has been fully complied with to the extent that the City possesses such information or can acquire it without unreasonable effort or expense.

(v) The Purchaser has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks relating to the Lease and has evaluated: (i) the information furnished to it by the City and/or the Authority; (ii) its or such representative's personal knowledge of the business and affairs of the City and/or the Authority; (iii) the records, files, and plans of the City and/or the Authority, to all of which it or such representative has had full access; (iv) such additional information as it or such representative may have requested and have received from the City and/or the Authority; and (v) the independent inquiries and investigations undertaken by it or such representative.

(vi) The Purchaser certifies that it is a "Qualified Institutional Buyer," as such term is defined in Rule 144A promulgated under the Securities Act of 1933, as in effect on the date hereof (the "Securities Act"), or an "accredited investor" as defined in Sections 501(a)(1), (2), (3) and (7) of Regulation D promulgated under the Securities Act.

(vii) The Purchaser has made an independent investigation and evaluation of the financial condition and prospects of, and the risks associated with, the Lease, the City and the Authority, or has caused such investigation and evaluation to be made by persons it deems competent to do so, and it has not relied upon the City in making its lending decision to purchase the Lease.

(viii) No person has given any information or made any representation to the Purchaser except as authorized in writing by the City and/or the Authority. The Purchaser understands and agrees that any information or representation not contained therein must not, and will not, be relied upon and that nothing contained therein should be construed as legal or tax advice to the Purchaser.

(ix) No person has made any direct or indirect representation or warranty of any kind to the Purchaser with respect to the economic return which may accrue to the Purchaser. The Purchaser has consulted with its own counsel and other advisors with respect to making the loan as evidenced by the Lease.

(x) The Purchaser understands that the obligation of the City to pay Lease Payments and other amounts under the Lease constitutes a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City, nor shall anything contained in the Lease constitute a pledge of the full faith and credit or taxing power of the City.

(xi) The signatory of this letter is a duly authorized officer of the Purchaser with the authority to sign this letter on behalf of the Purchaser, and this letter has been duly authorized, executed and delivered by the Purchaser.

(xii) The Purchaser acknowledges and agrees that the City and the Authority take no responsibility for, and make no representation to the Purchaser, or any subsequent purchaser, with regard to, a sale, transfer or other disposition of the Lease in violation of the provisions hereof, or any securities law or income tax law consequences thereof. The Purchaser also acknowledges that, with respect to the Purchaser's obligations and liabilities, the Purchaser is solely responsible for compliance with the sales restrictions on the Lease in connection with any subsequent transfer of the Lease made by the Purchaser.

(xiii) The Purchaser acknowledges that the sale of the Lease to the Purchaser is made in reliance upon the certifications, representations and warranties herein by the addressees hereto.

(xiv) The interpretation of the provisions hereof shall be governed and construed in accordance with California law without regard to principles of conflicts of laws.

Dated: _____, as Purchaser

By: _____
Name:
Title:

CERTIFICATE OF ACCEPTANCE OF LEASE AGREEMENT

This is to certify that the interest in real property that has been conveyed by the Lease Agreement, dated as of January 1, 2022, by and between the Corcoran Joint Powers Finance Authority, as lessor, and the City of Corcoran, as lessee (the "City"), is hereby accepted by the undersigned officer on behalf of the City pursuant to the authority conferred by a resolution of the City Council of the City adopted on January 11, 2022, and the City consents to recordation thereof by its duly authorized officer.

Dated: January __, 2022

CITY OF CORCORAN,
as Lessee

By: _____

RECORDING REQUESTED BY:)
 City of Corcoran)
)
AND WHEN RECORDED MAIL TO:)
 Stradling Yocca Carlson & Rauth)
 660 Newport Center Drive, Suite 1600)
 Newport Beach, California 92660)
 Attn: Reed Glyer, Esq.)

SPACE ABOVE FOR RECORDER'S USE ONLY

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT, dated as of January 1, 2022 (this "Assignment"), is entered into by and between the CORCORAN JOINT POWERS FINANCE AUTHORITY, a joint exercise of powers entity that is organized and existing under and by virtue of the laws of the State of California (the "Authority"), and FIRST FOUNDATION PUBLIC FINANCE, a _____ that is organized and existing under the laws of the United States, including its successors and assigns (the "Bank").

RECITALS

- A. The City of Corcoran (the "City") and the Authority desire to refund all or a portion of the City's obligation to the California Public Employees' Retirement System ("PERS").
- B. In order to refund the obligation to PERS, the City will lease certain real property and the improvements located thereon (the "Property") to the Authority pursuant to a Site Lease, dated as of the date hereof (the "Site Lease"), and the City will sublease the Property back from the Authority pursuant to a Lease Agreement, dated as of the date hereof (the "Lease Agreement").
- C. The Property is more particularly described in Exhibit A.
- D. Under the Lease Agreement, the City is obligated to make Lease Payments (as such term is defined in the Lease Agreement) to the Authority.
- E. The Authority desires to assign without recourse certain of its rights in the Site Lease and the Lease Agreement, including its right to receive the Lease Payments, to the Bank in consideration for the Bank's delivery of funds to refund the obligation to PERS.
- F. All acts, conditions and things that are 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 Assignment Agreement 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 Assignment Agreement;

In consideration of the premises and of the mutual agreements and covenants herein and for other valuable consideration, the parties hereto do hereby agree as follows:

Section 1. Assignment. The Authority, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby sell, assign and transfer to the Bank, irrevocably and absolutely,

without recourse, for the benefit of the Bank, all of its right, title and interest in and to the Site Lease and the Lease Agreement, including, without limitation, the Authority's right to receive the Lease Payments to be paid by the City under and pursuant to the Lease Agreement; provided, however, that the Authority shall retain its obligations under the Lease Agreement and Site Lease and rights to indemnification, to give approvals and consents under the Lease Agreement and the Site Lease and to payment or reimbursement of its reasonable costs and expenses under the Lease Agreement. The Bank agrees that in connection and concurrently with the Assignment, it shall execute and deliver to the City an Investor Letter in substantially the form attached to the Lease Agreement as Appendix C.

Section 2. Acceptance. The Bank hereby accepts the foregoing assignment, subject to the terms and provisions of the Lease Agreement, and all such Lease Payments shall be applied and the rights so assigned shall be exercised by the Bank as provided in the Lease Agreement.

Section 3. Conditions. This Assignment Agreement shall impose no obligations upon the Bank beyond those that are expressly provided in the Lease Agreement. The Bank shall have the same rights, protections, immunities and indemnities hereunder as afforded to it under the Lease Agreements.

Section 4. Further Assurances. The Authority shall make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Assignment Agreement, and for the better assuring and confirming to the Bank, for the benefit of the Bank, the rights intended to be conveyed pursuant hereto.

Section 5. Governing Law. THIS ASSIGNMENT AGREEMENT SHALL BE GOVERNED EXCLUSIVELY BY THE PROVISIONS HEREOF AND BY THE LAWS OF THE STATE OF CALIFORNIA AS THE SAME FROM TIME TO TIME EXIST.

Section 6. Execution. This Assignment Agreement 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 Assignment Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement by their duly authorized officers as of the day and year first written above.

CORCORAN JOINT POWERS FINANCE
AUTHORITY

By: _____
Executive Director

[SIGNATURES CONTINUED ON NEXT PAGE.]

[SIGNATURE PAGE CONTINUED]

FIRST FOUNDATION PUBLIC FINANCE

By: _____

Authorized Officer

ACKNOWLEDGMENT

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

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

SIGNATURE OF NOTARY PUBLIC

ACKNOWLEDGMENT

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

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

SIGNATURE OF NOTARY PUBLIC

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

All that certain real property situated in the City of Corcoran, County of Kings, State of California, more particularly described as follows:

[TO COME]

APN: _____