
LEASE AGREEMENT

Dated as of June 1, 2022

by and between the

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, as Lessor

and the

CITY OF MARINA, as Lessee

| (2022 Transportation Infrastructure Financing Project)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	
DEFINITIONS AND EXHIBITS	
Section 1.1. Definitions	2
Section 1.2. Interpretation	2
Section 1.3. Exhibits	2
ARTICLE II	
REPRESENTATIONS, COVENANTS AND WARRANTIES	
Section 2.1. Representations, Covenants and Warranties of the City	3
Section 2.2. Representations, Covenants and Warranties of Corporation	3
ARTICLE III	
DEPOSIT OF MONEYS	
Section 3.1. Deposit of Moneys	5
Section 3.2. Payment of Project Costs	5
Section 3.3. City to Act as Agent of the Corporation	5
Section 3.3. Payment of Delivery Costs	6
ARTICLE IV	
AGREEMENT TO LEASE; TERM OF THIS LEASE AGREEMENT; LEASE PAYMENTS	
Section 4.1. Lease 7	
Section 4.2. Term of Agreement	7
Section 4.3. Possession	7
Section 4.4. Lease Payments	7
Section 4.5. Quiet Enjoyment	8
Section 4.6. Title	9
Section 4.7. Additional Payments	9
ARTICLE V	
MAINTENANCE; TAXES; INSURANCE; USE LIMITATIONS; AND OTHER MATTERS	
Section 5.1. Maintenance, Utilities, Taxes and Assessments	10
Section 5.2. Modification of Property	10
Section 5.3. Public Liability and Property Damage Insurance	11
Section 5.4. Fire and Extended Coverage Insurance; No Earthquake Insurance	11
Section 5.5. Rental Interruption Insurance	11
Section 5.6. Title Insurance	12
Section 5.7. Insurance Net Proceeds; Form of Policies	12
Section 5.8. Advances	12
Section 5.9. Installation of City's Equipment	12
Section 5.10. Liens	13
Section 5.11. Private Activity Bond Limitation	13
Section 5.12. Federal Guarantee Prohibition	13
Section 5.13. Rebate Requirement	13
Section 5.14. No Arbitrage	13
Section 5.15. Maintenance of Tax-Exemption	13
ARTICLE VI	
DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS	
Section 6.1. Eminent Domain	14
Section 6.2. Application of Net Proceeds	14
Section 6.3. Abatement of Lease Payments in the Event of Damage or Destruction	14
ARTICLE VII	
DISCLAIMER OF WARRANTIES; ACCESS; INDEMNIFICATION	
Section 7.1. Disclaimer of Warranties	16

Section 7.2. Access to the Property	16
Section 7.3. Release and Indemnification Covenants	16

ARTICLE VIII

ASSIGNMENT, SUBLEASING AND AMENDMENT

Section 8.1. Assignment by the Corporation	17
Section 8.2. Assignment and Subleasing by the City	17
Section 8.3. Amendment of Lease Agreement	17

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined	21
Section 9.2. Remedies on Default	21
Section 9.3. No Remedy Exclusive	22
Section 9.4. Agreement to Pay Attorneys' Fees and Expenses	23
Section 9.5. No Additional Waiver Implied by One Waiver	23
Section 9.6. Application of Proceeds	23
Section 9.7. Trustee and Certificate Owners to Exercise Rights	23
Section 9.8. No Right to Terminate for Corporation Default	23

ARTICLE X

PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit	24
Section 10.2. Prepayment Option	24
Section 10.3. Mandatory Prepayment from Net Proceeds of Insurance, Title Insurance or Eminent Domain	25
Section 10.4. Credit for Amounts on Deposit	25

ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices	26
Section 11.2. Binding Effect	26
Section 11.3. Severability	26
Section 11.4. Net-net-net Lease	26
Section 11.5. Further Assurances and Corrective Instruments	26
Section 11.6. Execution in Counterparts	26
Section 11.7. Applicable Law	27
Section 11.8. Corporation and City Representatives	27
Section 11.9. Captions	27

EXHIBIT A:	DESCRIPTION OF THE SITE
EXHIBIT B:	DESCRIPTION OF THE FACILITY
EXHIBIT C:	SCHEDULE OF LEASE PAYMENTS

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease Agreement"), dated for convenience as of June 1, 2022, by and between the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation organized and existing under the laws of the State of California, as lessor (the "Corporation"), and the CITY OF MARINA, a municipal corporation and general law city, duly organized and existing under and by virtue of the laws of the State of California, as lessee (the "City");

WITNESSETH:

WHEREAS, pursuant to that certain Site and Facility Lease, dated as of June 1, 2022 (the "Site and Facility Lease"), the City has leased those certain parcels of real property situated in Monterey County, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (the "Site"), and those certain improvements located on the Site, more particularly described in Exhibit B attached hereto and made a part hereof (the "Facility" and, with the Site, the "Property"), to the Corporation, all for the purpose of enabling the City to finance the cost of transportation infrastructure improvements within the geographic boundaries of the City (the "Project");

WHEREAS, the Corporation proposes to lease the Property to the City pursuant to this Lease Agreement and to assign its right to receive lease payments under this Lease Agreement (the "Lease Payments"), its right to enforce payment of the Lease Payments and otherwise to enforce its interest and rights under this Lease Agreement in the event of a default hereunder by the City, to U.S. Bank Trust Company, National Association, as trustee (the "Trustee"), pursuant to that certain Assignment Agreement, dated as of June 1, 2022, by and between the Corporation and the Trustee;

WHEREAS, pursuant to that certain Trust Agreement, dated as of June 1, 2022, by and among the City, the Corporation and the Trustee, the Trustee will execute and deliver certificates of participation (the "Certificates") in the Lease Payments; and

WHEREAS, the proceeds of the Certificates, together with other available moneys, will be applied by the City to (a) finance the Project, and (b) pay delivery costs incurred in connection with the execution, delivery and sale of the Certificates;

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease Agreement shall have the respective meanings specified in Section 1.01 of the Trust Agreement, dated as of June 1, 2022, by and among the City, the Corporation and the Trustee.

Section 1.2. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender, 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 shall 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 Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.3. Exhibits. The following exhibits are attached to, and by this reference made a part of, this Lease Agreement:

Exhibit A: The description of the Site.

Exhibit B: The description of the Facility.

Exhibit C: The schedule of Lease Payments to be paid by the City hereunder with respect to the Property, showing the Lease Payment Date and amount of each such Lease Payment.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Corporation as follows:

(a) *Due Organization and Existence*. The City is a municipal corporation and general law city, duly organized and existing under and by virtue of the laws of the State.

(b) *Authorization*. The laws of the State authorize the City to enter into the Site and Facility Lease, this Lease Agreement and the Trust Agreement and to enter into the transactions contemplated by and to carry out the City's obligations under all of the aforesaid agreements. The City has duly authorized and executed all of the aforesaid agreements and such agreements constitute the legal, valid and binding agreements of the City, enforceable against the City in accordance with their respective terms.

(c) *No Violations*. Neither the execution and delivery of the Site and Facility Lease, this Lease Agreement or the Trust Agreement, the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction, agreement or instrument to which the City is now a party or by which the City is bound, constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, or upon the Property, except Permitted Encumbrances.

(d) *Execution and Delivery*. The City has duly authorized and executed the Site and Facility Lease, this Lease Agreement and the Trust Agreement in accordance with all applicable laws.

Section 2.2. Representations, Covenants and Warranties of Corporation. The Corporation represents, covenants and warrants to the City as follows:

(a) *Due Organization and Existence*. The Corporation is a nonprofit public benefit corporation, organized and existing under and by virtue of the laws of the State; has power to enter into the Site and Facility Lease, this Lease Agreement, the Assignment Agreement and the Trust Agreement; is possessed of full power to own and hold, improve and equip real and personal property and to lease and sell the same; has duly authorized the execution and delivery of all of the aforesaid agreements and such agreements constitute the legal, valid and binding agreements of the Corporation, enforceable against the Corporation in accordance with their respective terms.

(b) *No Encumbrances*. The Corporation will not pledge the Lease Payments or other amounts derived from the Property and from its other rights under this Lease Agreement and will not mortgage or encumber the Property, except as provided under the terms of this Lease Agreement and the Trust Agreement.

(c) *No Violations*. Neither the execution and delivery of the Site and Facility Lease, this Lease Agreement, the Assignment Agreement or the Trust Agreement, the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, constitutes a default under

any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Property, except Permitted Encumbrances.

(d) *No Assignments.* Except as provided herein, the Corporation will not assign this Lease Agreement, its right to receive Lease Payments from the City or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.2.

(e) *Execution and Delivery.* The Corporation has duly authorized and executed this Lease Agreement in accordance with all applicable laws.

(f) *No Advisory Relationship.* The Corporation is not acting as a municipal advisor or financial advisor to the City, and has no financial advisory relationship, as that term is defined in section 53590(c) of the California Government Code and has not assumed any advisory responsibility to the City with respect to the transaction contemplated hereby and the discussions, undertakings and proceedings leading thereto.

ARTICLE III

DEPOSIT OF MONEYS

Section 3.1. Deposit of Moneys. On the Closing Date, the Corporation shall cause to be deposited with the Trustee the net proceeds of sale of the Certificates. Amounts required to pay Delivery Costs shall be deposited in the Delivery Costs Fund, and the amount estimated to be required to pay Project Costs shall be deposited in the Project Fund.

Section 3.2. Payment of Project Costs. Payment of Project Costs shall be made from the moneys deposited in the Project Fund, which moneys shall be disbursed for such purpose in accordance and upon compliance with Section 3.03 of the Trust Agreement.

Section 3.3. City to Act as Agent of the Corporation.

(a) *Appointment of City.* The Corporation hereby appoints the City as its agent to carry out all phases of the construction of the Project, and the City, as agent of the Corporation, assumes all rights, duties, responsibilities and liabilities of the Corporation regarding construction, except as limited herein.

(b) *Contracts, Bids and Payments.* The City, as agent of the Corporation, may enter into any purchase order, agreement or contract required for construction of the Project upon being assured that moneys sufficient for the payment thereof are then on deposit in the Project Fund or other available moneys of the City. The benefits of all bids received by the City for the Project shall be and shall be deemed to be assigned by the City to the Corporation.

(c) *Project Description.* The City, as agent of the Corporation, shall have the right to make any changes in the description of the Project or of any component thereof whenever the City deems such changes to be necessary and appropriate.

(d) *Supervision of Construction.* The City, as agent of the Corporation, shall have sole responsibility for, and shall supervise construction of the Project. The City shall monitor the performance by any vendor to the extent the City deems appropriate. The City shall permit the Corporation or its assignee to inspect the Project at any and all reasonable times which are deemed appropriate by the Corporation or its assignee.

(e) *Enforcement of Contracts.* The Corporation hereby assigns to the City all rights and powers to enforce and execute in its own name or the name of the Corporation such purchase orders or contracts as are required for the Project which enforcement may be at law or in equity; *provided, however,* that the assignment made by the Corporation herein shall not prevent the Corporation or its assignee from asserting said rights and powers in its own behalf following written notice to the City.

(f) *Fixed Price.* The Corporation shall not be responsible for payment of, nor shall it pay nor permit to be paid by the Trustee pursuant to the Trust Agreement, any amount for the Project in excess of the amount available therefor in the Project Fund held by the Trustee pursuant to the Trust Agreement. The City shall pay said excess amount to the extent of lawfully available funds.

(g) *Inspection of Records.* The Corporation shall have the right to inspect periodically the books and records of the City relating to the Project, and the City shall permit the Corporation to make such inspections thereof at all reasonable times as the City shall deem appropriate.

(h) *Specifications.* The City agrees that it will assure that the Project will be constructed in accordance with final plans and specifications approved by the City. Upon completion of construction of the Project, the City will assure that there is filed with the Trustee a certificate executed by a City Representative and stating that such construction has been completed in accordance with specifications therefor approved by the City.

(i) *Nondiscrimination.* Each contract entered into between the City, as the agent for the Corporation, and any vendor shall provide that such vendor shall not discriminate against any other vendor or any employee or applicant for employment because of the race, religious creed, color, national origin, or sex of such person, unless based upon a bona fide occupational qualification. In addition, in determining vendors, or in employing persons, if any, for the purposes of construction of the Project, the City shall not discriminate on the basis of race, religious creed, color, national origin, or sex of such person, unless based upon a bona fide occupational qualification.

(j) *Performance Security.* The City shall require the provision of bid bonds or performance bonds in such percentage of the bid or contract price as it deems desirable in advertising for and in awarding contracts or making purchase orders.

Section 3.3. Payment of Delivery Costs. Payment of Delivery Costs shall be made from the moneys deposited in the Delivery Costs Fund, which moneys shall be disbursed for such purpose in accordance and upon compliance with Section 3.02 of the Trust Agreement.

ARTICLE IV

AGREEMENT TO LEASE; TERM OF THIS LEASE AGREEMENT; LEASE PAYMENTS

Section 4.1. Lease.

(a) The Corporation hereby leases the Property to the City, and the City hereby leases the Property from the Corporation, upon the terms and conditions set forth in this Lease Agreement.

(b) The leasing of the Property by the City to the Corporation pursuant to the Site and Facility Lease shall not affect or result in a merger of the City's leasehold estate pursuant to this Lease Agreement and its fee estate as lessor under the Site and Facility Lease.

Section 4.2. Term of Agreement. The Term of the Lease Agreement shall commence on the Closing Date, and shall end on May 1, 2047, unless such term is extended as hereinafter provided. If, on May 1, 2047, the Trust Agreement shall not be discharged by its terms or if the Lease Payments or Additional Payments, if any, payable hereunder shall have been abated at any time and for any reason, then the Term of the Lease Agreement shall be extended without the need to execute any amendment to this Section 4.2 until there has been deposited with the Trustee an amount sufficient to pay all obligations due under the Lease Agreement, but in no event shall the Term of the Lease Agreement extend beyond May 1, 2057. If, prior to May 1, 2047, the Trust Agreement shall be discharged by its terms, the Term of the Lease Agreement shall thereupon end.

Section 4.3. Possession. The City hereby agrees to accept and take possession of the Property on or prior to the date of recordation of this Lease Agreement.

Section 4.4. Lease Payments.

(a) *Obligation to Pay.* Subject to the provisions of Articles VI and X hereof, the City agrees to pay to the Corporation, its successors and assigns, as rental for the use and occupancy of the Property during each Rental Period, the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in Exhibit C hereto, to be due and payable on the respective Lease Payment Dates specified in Exhibit C hereto. Any amount held in the Lease Payment Fund on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole pursuant to Article X hereof and other than amounts required for payment of Certificates not yet surrendered) shall be credited towards the Lease Payment then due and payable; and no Lease Payment need be made on any Lease Payment Date if the amounts then held in the Lease Payment Fund are at least equal to the Lease Payment then required to be paid. The Lease Payments for the Property payable in any Rental Period shall be for the use of the Property for such Rental Period.

(b) *Effect of Prepayment.* In the event that the City prepays all remaining Lease Payments and all Additional Payments due under Section 4.7 hereof in full pursuant to Article X hereof, subject to Section 4.2 hereof, the City's obligations under this Lease Agreement shall thereupon cease and terminate including, but not limited to, the City's obligation to pay Lease Payments under this Section 4.4; subject however, to the provisions of Section 10.1 hereof in the case of prepayment by application of a security deposit. In the event that the City optionally prepays the Lease Payments in part but not in whole pursuant to Section 10.2 hereof or pursuant to Section 10.3 hereof as a result of any insurance or condemnation award with respect to any portion of the Property, such prepayment shall be credited entirely towards the prepayment of

the Lease Payments as follows: (i) the principal components of each remaining Lease Payment shall be reduced in such order as shall be selected by the City in integral multiples of \$5,000; and (ii) the interest component of each remaining Lease Payment shall be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Certificates thereby redeemed pursuant to Sections 4.01(a) or (b), as the case may be, of the Trust Agreement.

(c) *Rate on Overdue Payments.* In the event the City should fail to make any of the payments required in this Section 4.4, the payment in default shall continue as an obligation of the City until the amount in default shall have been fully paid and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the date of default to the date of payment at the rate per annum payable with respect to the Certificates. Such interest, if received, shall be deposited in the Lease Payment Fund.

(d) *Fair Rental Value.* The Lease Payments for each Rental Period shall constitute the total rental for each such Rental Period and shall 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 Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments for the Property represent the fair rental value of the Property. In making such determination, consideration has been given to the obligations of the parties under this Lease Agreement, the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and the general public.

(e) *Source of Payments; Budget and Appropriation.* Lease Payments and Additional Payments shall be payable from any source of available funds of the City, subject to the provisions of Articles VI and X hereof.

The City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments due hereunder in each of its budgets during the Term of the Lease Agreement and to make the necessary annual appropriations for all such Lease Payments and for Additional Payments due under Section 4.7 hereof. To that end, the Council shall direct budgetary staff to include in each annual budget proposal to the Council an appropriation sufficient to pay Lease Payments and Additional Payments. The City hereby expresses its present intent to appropriate Lease Payments and Additional Payments due under Section 4.7 hereof during the Term of the Lease Agreement. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the 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 Agreement agreed to be carried out and performed by the City.

(f) *Assignment.* The City understands and agrees that all Lease Payments have been assigned by the Corporation to the Trustee in trust, pursuant to the Assignment Agreement, for the benefit of the Owners of the Certificates, and the City hereby assents to such assignment. The Corporation hereby directs the City, and the City hereby agrees to pay to the Trustee at the Designated Corporate Trust Office, all payments payable by the City pursuant to this Section 4.4 and all amounts payable by the City pursuant to Article X hereof.

Section 4.5. Quiet Enjoyment. During the Term of the Lease Agreement, the Corporation shall provide the City with quiet use and enjoyment of the Property and the City shall, during such Term, peaceably and quietly have and hold and enjoy the Property without suit, trouble or hindrance from the Corporation, except as expressly set forth in this Lease Agreement. The Corporation 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 the Corporation may lawfully do so. Notwithstanding the foregoing, the Corporation shall have the right to inspect the Property as provided in Section 7.2. hereof.

Section 4.6. Title. During the Term of the Lease Agreement, the Corporation shall hold leasehold title to the Property and the City shall hold fee title to those portions of the Property which are newly acquired or constructed and any and all additions which comprise fixtures, repairs, replacements or modifications to the Property, except for those fixtures, repairs, replacements or modifications which are added to the Property by the City at its own expense and which may be removed without damaging the Property and except for any items added to the Property by the City pursuant to Section 5.8 hereof.

If the City prepays the Lease Payments in full pursuant to Article X hereof or makes the security deposit permitted by Section 10.1 hereof, or pays all Lease Payments during the Term of the Lease Agreement as the same become due and payable, subject to Section 4.2 hereof, and pays Additional Payments, if any, all right, title and interest of the Corporation in and to the Property shall be terminated. The Corporation agrees to take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer of title.

Section 4.7. Additional Payments. In addition to the Lease Payments, the City shall pay when due the following Additional Payments:

(a) Any fees and expenses incurred by the City in connection with or by reason of its leasehold estate in the Property as and when the same become due and payable.

(b) Any amounts due to the Trustee pursuant to the Trust Agreement for all services rendered under the Trust Agreement and for all reasonable expenses, charges, costs, liabilities, legal fees and other disbursements incurred in and about the performance of its powers and duties under the Trust Agreement.

(c) Any reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the City, the Corporation or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Lease Agreement or the Trust Agreement.

(d) Any reasonable out-of-pocket expenses of the City in connection with the execution and delivery of this Lease Agreement or the Trust Agreement, or in connection with the execution and delivery of the Certificates, including any and all expenses incurred in connection with the authorization, execution, sale and delivery of the Certificates, or incurred by the Corporation in connection with any litigation which may at any time be instituted involving this Lease Agreement, the Trust Agreement, the Certificates or any of the other documents contemplated hereby or thereby, or incurred by the Corporation in connection with the Continuing Disclosure Certificate, or otherwise incurred in connection with the administration thereof.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; USE LIMITATIONS; AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments. Throughout the Term of the Lease Agreement, as part of the consideration for the rental of the Property, all improvement, repair and maintenance of the Property shall be the responsibility of the City and the City shall pay, or otherwise arrange, for the payment of all utility services supplied to the 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 Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Corporation agrees to provide only the Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of section 1932 of the California Civil Code, but such waiver shall not limit any of the rights of the City under the terms of this Lease Agreement.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Corporation or the City affecting the 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 shall be obligated to pay only such installments as are required to be paid during the Term of the Lease Agreement 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 Corporation shall notify the City that, in the opinion of Independent Counsel, by nonpayment of any such items, the interest of the Corporation in the Property will be materially endangered or the Property or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Corporation with full security against any loss which may result from nonpayment, in form satisfactory to the Corporation. The City shall provide the Corporation with written notice of any such contest and shall provide such updates on the contest as the Corporation may reasonably request.

Section 5.2. Modification of Property. The City shall, at its own expense, have the right to remodel the Property or to make additions, modifications and improvements to the Property. All additions, modifications and improvements to the Property shall thereafter comprise part of the Property and be subject to the provisions of this Lease Agreement. Such additions, modifications and improvements shall not in any way damage the Property, substantially alter its nature, cause the interest component of Lease Payments to be subject to federal income taxes or cause the Property to be used for purposes other than those authorized under the provisions of State and federal law; and the Property, upon completion of any additions, modifications and improvements made thereto pursuant to this Section 5.2, shall be of a value which is not substantially less than the value of the Property 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 remain against the Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City pursuant to this Section 5.2; provided that if any such lien is established and the City shall first notify the Corporation of the City's intention to do so, the City may in good faith contest any lien filed or established against the 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 shall provide the Corporation with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Corporation. The Corporation will cooperate fully in any such contest, upon the request and at the expense of the City.

Section 5.3. Public Liability and Property Damage Insurance. The City shall maintain or cause to be maintained, throughout the Term of the Lease Agreement, insurance policies, including a standard comprehensive general insurance policy or policies in protection of the Corporation, the City and the Trustee and their respective members, officers, agents and employees. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the City, and may be maintained through a nonprofit public benefit corporation created for such purpose or in the form of self-insurance by the City. Said policy or policies shall provide for indemnification of said parties against direct or consequential loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Property. Said policy or policies shall provide coverage in the minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$100,000 (subject to a deductible clause of not to exceed \$5,000) for damage to property resulting from each accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of \$3,000,000 covering all such risks. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

Section 5.4. Fire and Extended Coverage Insurance; No Earthquake Insurance. The City shall maintain, or cause to be maintained throughout the Term of the Lease Agreement, insurance against loss or damage to any part of the Property constituting structures, if any, by fire and lightning, with extended coverage and vandalism and malicious mischief insurance; provided, however, that the City shall not be required to maintain earthquake insurance with respect to the Property. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount equal to one hundred percent (100%) of the replacement cost of such portion of the Property, if any. Such insurance may be subject to deductible clauses of not to exceed \$100,000 for any one loss. Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage insurance carried by the City and may be maintained in whole or in part in the form of insurance maintained through a nonprofit public benefit corporation created for such purpose. The Net Proceeds of such insurance shall be applied as provided in Section 6.2(a) hereof. The City may not satisfy the requirements of this Section 5.4 for fire and extended coverage insurance with self-insurance.

Section 5.5. Rental Interruption Insurance. The City shall maintain, or cause to be maintained, throughout the Term of the Lease Agreement rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any part of the Property during the Term of the Lease Agreement as a result of any of the hazards covered in the insurance required by Section 5.4 hereof, if any, in an amount at least equal to two times maximum annual Lease Payments. The Net Proceeds of such insurance shall be paid to the Trustee and deposited in the Lease Payment Fund and shall be credited towards the payment of the Lease Payments in the order in which such Lease Payments come due and payable. Such insurance may be maintained as part of or in conjunction with any other insurance carried by the City and may be maintained in whole or in part in the form of insurance maintained through a nonprofit, public benefit corporation created for such purpose but not in the form of self-insurance by the City.

Section 5.6. Title Insurance.

(a) The City shall provide, from moneys in the Delivery Costs Fund or at its own expense, on the Closing Date, a CLTA title insurance policy in the amount of not less than the principal amount of the Certificates, insuring the City's leasehold estate in the Property, subject only to Permitted Encumbrances.

(b) The Net Proceeds of such title insurance shall be applied as provided in Section 6.2(c) hereof.

Section 5.7. Insurance Net Proceeds; Form of Policies. Each policy or other evidence of insurance required by Sections 5.3, 5.4, 5.5 and 5.6 hereof shall provide that all proceeds thereunder shall be payable to the Trustee as and to the extent required hereunder, shall name the Trustee as an additional insured and shall be applied as provided in Section 6.2 hereof. Insurance must be provided by an insurer rated "A" or better by S&P or A.M. Best Company. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease Agreement. All policies evidencing required insurance shall provide thirty (30) days' prior written notice to the Corporation, the City and the Trustee of any cancellation, reduction in amount or material change in coverage. The Trustee shall not be responsible for the sufficiency of any insurance herein required, including any forms of self-insurance and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss. The City shall cause to be delivered annually on or before each July 1 to the Trustee a certification, signed by a City Representative, stating compliance with the provisions of Section 5.3 through 5.6 of this Lease Agreement. The Trustee shall be entitled to rely on such certification without independent investigation. The City shall have the adequacy of any insurance reserves maintained by the City or by a nonprofit public benefit corporation, if applicable, for purposes of the insurance required by Section 5.3, 5.4 and 5.5 hereof reviewed at least annually, on or before each July 1, by an independent insurance consultant and shall maintain reserves in accordance with the recommendations of such consultant to the extent moneys are available for such purpose and not otherwise appropriated.

Section 5.8. Advances. If the City shall fail to perform any of its obligations under this Article V, the Corporation or the Trustee may, but shall not be obligated to, 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 soon as possible, with interest at a rate equal to the rate then payable with respect to the Certificates from the date of the advance to the date of repayment.

Section 5.9. Installation of City's Equipment. 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 items of equipment or other personal property in or upon any portion of the Property. All such items shall remain the sole property of the City in which neither the Corporation nor the Trustee shall have any interest and may be modified or removed by the City at any time provided that the City shall repair and restore any and all damage to the Property resulting from the installation, modification or removal of any such items. Nothing in this Lease Agreement shall prevent the City from purchasing or leasing items to be installed pursuant to this Section 5.9 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 shall attach to any part of the Property.

Section 5.10. Liens. The City shall 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 Property, other than the respective rights of the Corporation and the City as provided herein and Permitted Encumbrances. Except as expressly provided in this Article V, the City shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The City shall reimburse the Corporation for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.11. Private Activity Bond Limitation. The City shall assure that proceeds of the Certificates are not so used as to cause the Certificates or the Lease Agreement to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

Section 5.12. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Certificates or the Lease Agreement to be “federally guaranteed” within the meaning of section 149(b) of the Code.

Section 5.13. Rebate Requirement. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Certificates and the Lease Agreement.

Section 5.14. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Certificates which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Certificates or the Lease Agreement to be “arbitrage bonds” within the meaning of section 148 of the Code.

Section 5.15. Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest with respect to the Certificates from the gross income of the Owners of the Certificates to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.1. Eminent Domain.

(a) If all of the Property shall be 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 Agreement shall cease as of the day possession shall be so taken. If less than all of the Property shall be taken permanently, or if all of the Property or any part thereof shall be taken temporarily under the power of eminent domain, (1) this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (2) there shall be a partial abatement of Lease Payments as a result of the application of the Net Proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder, in an amount to be agreed upon by the City and the Corporation, and so certified to by the parties to the Trustee, such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portion of the Property, except to the extent of special funds are available for the payment of Lease Payments.

(b) The City hereby covenants and agrees, to the extent it may lawfully do so, that so long as any of the Certificates remain outstanding and unpaid, the City will not exercise the power of condemnation with respect to the leased property. The City further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the City should fail or refuse to abide by such covenant and condemns the leased property, the appraised value of the leased property shall not be less than the greater of (i) if such Certificates are then subject to redemption, the principal and interest components of the Certificates outstanding through the date of their redemption, or (ii) if such Certificates are not then subject to redemption, the amount necessary to defease such Certificates to the first available redemption date in accordance with the Trust Agreement.

Section 6.2. Application of Net Proceeds.

(a) *From Insurance Award.* The Net Proceeds of any insurance award resulting from any damage to or destruction of any portion of the Property constituting structures, if any, by fire or other casualty shall be paid by the City to the Trustee, as assignee of the Corporation under the Assignment Agreement, deposited in the Insurance and Condemnation Fund held by the Trustee and applied as set forth in Section 6.01 of the Trust Agreement.

(b) *From Eminent Domain Award.* The Net Proceeds of any eminent domain award resulting from any event described in Section 6.1 hereof shall be paid by the City to the Trustee, as assignee of the Corporation under the Assignment Agreement, deposited in the Insurance and Condemnation Fund and applied as set forth in Section 6.02 of the Trust Agreement.

(c) *From Title Insurance.* The Net Proceeds of any title insurance award shall be paid to the Trustee, as assignee of the Corporation under the Assignment Agreement, deposited in the Insurance and Condemnation Fund and applied as set forth in Section 6.03 of the Trust Agreement.

Section 6.3. Abatement of Lease Payments in the Event of Damage or Destruction. Lease Payments shall be abated during any period in which, by reason of damage or destruction, there is substantial interference with the use and occupancy by the City of the Property or any

portion thereof (other than any portions of the Property described in Section 5.2 hereof) to the extent to be agreed upon by the City and the Corporation and communicated by a City Representative to the Trustee. The parties agree that the amounts of the Lease Payments under such circumstances shall not be less than the amounts of the unpaid Lease Payments as are then set forth in Exhibit C, unless such unpaid amounts are determined to be greater than the fair rental value of the portions of the Property not damaged or destroyed (giving due consideration to the factors identified in the last sentence of Section 4.4(d)), based upon any appropriate method of valuation, in which event the Lease Payments shall be abated such that they represent said fair rental value. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction as communicated by a City Representative to the Trustee. In the event of any such damage or destruction, this Lease Agreement shall continue in full force and effect and the City waives any right to terminate this Lease Agreement by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that (a) the proceeds of rental interruption insurance or (b) amounts in the Insurance and Condemnation Fund and/or the Lease Payment Fund are available to pay Lease Payments which would otherwise be abated under this Section 6.3, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments. If an abatement event has occurred but remedied, the City shall be required to extend the Term of this Lease Agreement, as described in Section 4.2, so that amounts abated are recouped.

ARTICLE VII

DISCLAIMER OF WARRANTIES; ACCESS; INDEMNIFICATION

Section 7.1. Disclaimer of Warranties. THE CORPORATION MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROPERTY. IN NO EVENT SHALL THE CORPORATION OR ITS ASSIGNS BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE SITE AND FACILITY LEASE, THIS LEASE AGREEMENT OR THE TRUST AGREEMENT FOR THE EXISTENCE, FURNISHING, FUNCTIONING OR THE CITY'S USE OF THE PROPERTY.

Section 7.2. Access to the Property. The City agrees that the Corporation and any Corporation Representative, and the Corporation's successors or assigns, shall have the right at all reasonable times to enter upon and to examine and inspect the Property. The City further agrees that the Corporation, any Corporation Representative, and the Corporation's successors or assigns, shall have such rights of access to the Property as may be reasonably necessary to cause the proper maintenance of the Property in the event of failure by the City to perform its obligations hereunder.

Section 7.3. Release and Indemnification Covenants. The City shall and hereby agrees to indemnify and save the Corporation and the Trustee and their officers, agents, directors, employees, successors and assigns harmless from and against all charges, costs, claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on the Property by the City, (ii) any breach or default on the part of the City in the performance of any of its obligations under this Lease Agreement or the Trust Agreement, (iii) any act or omission of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, (iv) any act or omission of any sublessee of the City with respect to the Property, (v) the authorization of payment of Project Costs, or (vi) the authorization of payment of the Delivery Costs. Such indemnification shall include the costs and expenses of defending any claim or liability arising under this Lease Agreement or the Trust Agreement and the transactions contemplated thereby. No indemnification is made under this Section 7.3 or elsewhere in this Lease Agreement for willful misconduct, negligence or breach of duty under this Lease Agreement by the Corporation, its officers, agents, directors, employees, successors or assigns.

ARTICLE VIII

ASSIGNMENT, SUBLEASING AND AMENDMENT

Section 8.1. Assignment by the Corporation. The Corporation's rights under this Lease Agreement, including the right to receive and enforce payment of the Lease Payments to be made by the City under this Lease Agreement (but except for its rights to give consents and approvals hereunder), have been assigned to the Trustee pursuant to the Assignment Agreement.

Section 8.2. Assignment and Subleasing by the City. This Lease Agreement may not be assigned by the City. The City may sublease the Property or any portion thereof, but only with the written consent of the Corporation and subject to, and delivery to the Corporation and the Trustee of a certificate as to, all of the following conditions:

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

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

(c) No such sublease by the City shall cause the Property to be used for a purpose other than as may be authorized under the provisions of the Constitution and laws of the State; and

(d) The City shall furnish the Corporation and the Trustee with a written opinion of Bond Counsel, which shall be an Independent Counsel, stating that such sublease does not cause the interest components of the Lease Payments to become subject to federal income taxes or State personal income taxes.

Section 8.3. Amendment of Lease Agreement.

(a) *Substitution of Site or Facility.* The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to substitute other land (a "Substitute Site") and/or a substitute facility (a "Substitute Facility") for the Site (the "Former Site"), or a portion thereof, and/or the Facility (the "Former Facility"), or a portion thereof, provided that the City shall satisfy all of the following requirements (to the extent applicable) which are hereby declared to be conditions precedent to such substitution:

(i) If a substitution of the Site, the City shall file with the Corporation and the Trustee an amended Exhibit A to the Site and Facility Lease which adds thereto a description of such Substitute Site and deletes therefrom the description of the Former Site;

(ii) If a substitution of the Site, the City shall file with the Corporation and the Trustee an amended Exhibit A to this Lease Agreement which adds thereto a description of such Substitute Site and deletes therefrom the description of the Former Site;

(iii) If a substitution of the Facility, the City shall file with the Corporation and the Trustee an amended Exhibit B to the Site and Facility Lease which adds thereto a description of such Substitute Facility and deletes therefrom the description of the Former Facility;

(iv) If a substitution of the Facility, the City shall file with the Corporation and the Trustee an amended Exhibit B to this Lease Agreement which adds thereto a description of such Substitute Facility and deletes therefrom the description of the Former Facility;

(v) The City shall certify in writing to the Corporation and the Trustee that such Substitute Site and/or Substitute Facility serve the purposes of the City, constitutes property that is unencumbered, subject to Permitted Encumbrances, and constitutes property which the City is permitted to lease under the laws of the State;

(vi) The City delivers to the Corporation and the Trustee a Certificate of a City Representative based on insurance values or any other reasonable basis of valuation received by the City (which need not require an appraisal) that the value of the Property following such substitution is equal to or greater than the Outstanding principal amount of the Certificates and confirms in writing to the Trustee that the indemnification provided pursuant to Section 11.03 of the Trust Agreement applies with respect to the Substitute Site and/or Substitute Facility;

(vii) The Substitute Site and/or Substitute Facility shall not cause the City to violate any of its covenants, representations and warranties made herein and in the Trust Agreement, as evidenced by a Certificate of a City Representative delivered to the Trustee;

(viii) The City shall obtain an amendment to the title insurance policy required pursuant to Section 5.6 hereof which adds thereto a description of the Substitute Site and deletes therefrom the description of the Former Site;

(ix) The City shall certify that the Substitute Site and/or the Substitute Facility is of the same or greater essentiality to the City as was the Former Site and/or the Former Facility;

(x) The City shall provide notice of the substitution to any rating agency then rating the Certificates which rating was provided at the request of the City or the Corporation; and

(xi) The City shall furnish the Corporation and the Trustee with a written opinion of Bond Counsel, which shall be an Independent Counsel, stating that such substitution does not cause the interest components of the Lease Payments to become subject to federal income taxes or State personal income taxes.

(b) *Release of Site.* The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to release any portion of the Site, provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such release:

(i) The City shall file with the Corporation and the Trustee an amended Exhibit A to the Site and Facility Lease which describes the Site, as revised by such release;

(ii) The City shall file with the Corporation and the Trustee an amended Exhibit A to this Lease Agreement which describes the Site, as revised by such release;

(iii) The City delivers to the Corporation and the Trustee a Certificate of a City Representative based on insurance values or any other reasonable basis of valuation

received by the City (which need not require an appraisal) that the value of the Property, as revised by such release, is equal to or greater than the Outstanding principal amount of the Certificates and confirms in writing to the Trustee and the Corporation that the indemnification provided pursuant to Section 11.03 of the Trust Agreement applies with respect to the Site, as revised by such release;

(iv) Such release shall not cause the City to violate any of its covenants, representations and warranties made herein and in the Trust Agreement, as evidenced by a Certificate of a City Representative delivered to the Trustee;

(v) The City shall obtain an amendment to the title insurance policy required pursuant to Section 5.6 hereof which describes the Site, as revised by such release; and

(vi) The City shall provide notice of the release to any rating agency then rating the Certificates which rating was provided at the request of the City or the Corporation.

(c) *Release of Facility.* The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to release any portion of the Facility, provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such release:

(i) The City shall file with the Corporation and the Trustee an amended Exhibit B to the Site and Facility Lease which describes the Facility, as revised by such release;

(ii) The City shall file with the Corporation and the Trustee an amended Exhibit B to this Lease Agreement which describes the Facility, as revised by such release;

(iii) The City delivers to the Corporation and the Trustee a Certificate of a City Representative based on insurance values or any other reasonable basis of valuation received by the City (which need not require an appraisal) that the value of the Property, as revised by such release, is equal to or greater than the Outstanding principal amount of the Certificates and confirms in writing to the Trustee and the Corporation that the indemnification provided pursuant to Section 11.03 of the Trust Agreement applies with respect to the Facility, as revised by such release;

(iv) Such release shall not cause the City to violate any of its covenants, representations and warranties made herein and in the Trust Agreement, as evidenced by a Certificate of a City Representative delivered to the Trustee; and

(v) The City shall provide notice of the release to any rating agency then rating the Certificates which rating was provided at the request of the City or the Corporation.

(d) *Generally.* The Corporation and the City may at any time amend or modify any of the provisions of this Lease Agreement, but only (i) with the prior written consent of the Owners of a majority in aggregate principal amount of the Outstanding Certificates, or (ii) without the consent of any of the Owners, but only if such amendment or modification is for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City contained in this Lease Agreement, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;

(ii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein, or in any other respect whatsoever as the Corporation and the City may deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments will not materially adversely affect the interests of the Owners; or

(iii) to amend any provision thereof relating to the Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest with respect to the Certificates under the Code, in the opinion of Bond Counsel.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

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

(a) Failure by the City to pay any Lease Payment, any Additional Payment or other payment required to be paid hereunder at the time specified herein.

(b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Lease Agreement (including failure to request appropriation pursuant to Section 4.4(e) hereof) or under the Trust Agreement, other than as referred to in clause (a) of this Section 9.1, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Corporation, the Trustee or the Owners of not less than five percent (5%) in aggregate principal amount of Certificates then outstanding; provided, however, if the failure stated in the notice can be corrected, but not within the applicable period, the Corporation, the Trustee (as directed by such Owners of not less than 5% in aggregate principal amount of Certificates then Outstanding) and such Owners shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the City within the applicable 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 a 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 Act, as amended, or under any similar acts which may hereafter be enacted.

Section 9.2. Remedies on Default. The Trustee shall have the right to re-enter and re-let the Property and to terminate this Lease Agreement.

Whenever any Event of Default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Corporation to exercise any and all remedies available pursuant to law or granted pursuant to this Lease Agreement; *provided, however*, that notwithstanding anything herein or in the Trust Agreement to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof, the Corporation may exercise any and all rights of entry and re-entry upon the Property, and also, at its option, with or without such entry, may terminate this Lease Agreement; provided, that no such termination shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. In the event of such default and notwithstanding any re-entry by the Corporation, the City shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Lease Agreement and the performance of all conditions herein contained and, in any event, such rent and/or damages shall be payable to the Corporation at the time and in the manner as herein provided, to wit:

(a) In the event the Corporation does not elect to terminate this Lease Agreement in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain

liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Corporation for any deficiency arising out of the re-leasing of the Property, or, in the event the Corporation is unable to re-lease the Property, then for the full amount of all Lease Payments to the end of the Term of the Lease Agreement, 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 Corporation or any suit in unlawful detainer, or otherwise, brought by the Corporation for the purpose of effecting such re-entry or obtaining possession of the Property or the exercise of any other remedy by the Corporation. The City hereby irrevocably appoints the Corporation as the agent and attorney-in-fact of the City to enter upon and re-lease the Property in the event of default by the City in the performance of any covenants herein contained to be performed by the City and to remove all personal property whatsoever situated upon the Property, to place such property in storage or other suitable place within Monterey County, for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Corporation from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Property and the removal and storage of such property by the Corporation or its duly authorized agents in accordance with the provisions herein contained. The City hereby waives any and all claims for damages caused or which may be caused by the Corporation in re-entering and taking possession of the Property as herein provided and all claims for damages that may result from the destruction of or injury to the Property and all claims for damages to or loss of any property belonging to the City that may be in or upon the Property. The City agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Corporation to re-lease the Property in the event of such re-entry without effecting a surrender of this Lease Agreement, and further agrees that no acts of the Corporation in effecting such re-leasing shall constitute a surrender or termination of this Lease Agreement 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 Agreement shall vest in the Corporation to be effected in the sole and exclusive manner hereinafter provided for in paragraph (b) hereof.

(b) In an Event of Default hereunder, the Corporation at its option may terminate this Lease Agreement and re-lease all or any portion of the Property. In the event of the termination of this Lease Agreement by the Corporation at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any re-entry upon the Property by the Corporation in any manner whatsoever or the re-leasing of the Property), the City nevertheless agrees to pay to the Corporation all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments. Any surplus received by the Corporation from such re-leasing shall be credited towards the Lease Payments next coming due and payable. Neither notice to pay rent or to deliver up possession of the premises given pursuant to law nor any proceeding in unlawful detainer taken by the Corporation shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Corporation shall have given written notice to the City of the election on the part of the Corporation to terminate this Lease Agreement. The City covenants and agrees that no surrender of the Property and/or of the remainder of the Term of the Lease Agreement or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Corporation by such written notice.

Section 9.3. No Remedy Exclusive. No remedy 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 Agreement now or hereafter existing at law or in equity. No delay or omission

to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article IX it shall not be necessary to give any notice, other than such notice as may be required in this Article IX or by law.

Section 9.4. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement 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, pay to the non-defaulting party the reasonable fees and expenses of such attorneys and such other expenses so incurred by the non-defaulting party; *provided, however,* that the Trustee shall not be required to expend its own funds for any payment described in this Section 9.4.

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

Section 9.6. Application of Proceeds. All net proceeds received from the re-lease or other disposition of the Property under this Article IX, and all other amounts derived by the Corporation or the Trustee as a result of an Event of Default hereunder, shall be applied in accordance with Section 13.03 of the Trust Agreement.

Section 9.7. Trustee and Certificate Owners to Exercise Rights. Such rights and remedies as are given to the Corporation under this Article IX have been assigned by the Corporation to the Trustee under the Assignment Agreement, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners of the Certificates as provided in the Trust Agreement and herein.

Section 9.8. No Right to Terminate for Corporation Default. The City shall not have the right to terminate this Lease Agreement as a remedy for a default by the Corporation in the performance of its obligations hereunder.

ARTICLE X

PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit. Notwithstanding any other provision of this Lease Agreement, the City may, on any date, secure the payment of all or a portion of the Lease Payments remaining due by an irrevocable deposit with the Trustee or an escrow holder under an escrow deposit and trust agreement as referenced in Sections 13.01(b) and (c) of the Trust Agreement, of: (a) in the case of a security deposit relating to all Lease Payments, either (i) cash in an amount which, together with amounts on deposit in the Lease Payment Fund and the Insurance and Condemnation Fund, is sufficient to pay all unpaid Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Exhibit C, or (ii) Defeasance Obligations in such amount as will, in the written opinion of an independent certified public accountant or other firm of recognized experts in such matters, together with interest to accrue thereon and, if required, all or a portion of moneys or Defeasance Obligations or cash then on deposit and interest earnings thereon in the Lease Payment Fund and the Insurance and Condemnation Fund, be fully sufficient to pay all unpaid Lease Payments on their respective Lease Payment Dates; or (b) in the case of a security deposit relating to a portion of the Lease Payments, a certificate executed by a City Representative designating the portion of the Lease Payments to which the deposit pertains, and either (i) cash in an amount which is sufficient to pay the portion of the Lease Payments designated in such City Representative's certificate, including the principal and interest components thereof, or (ii) Defeasance Obligations in such amount as will, together with interest to be received thereon, if any, in the written opinion of an independent certified public accountant or other firm of recognized experts in such matters, be fully sufficient to pay the portion of the Lease Payments designated in the aforesaid City Representative's certificate.

In the event of a deposit pursuant to this Section 10.1 as to all Lease Payments and the payment of all fees, expenses and indemnifications owed to the Trustee, all obligations of the City under this Lease Agreement shall cease and terminate, excepting only the obligation of the City to make, or cause to be made, all payments from the deposit made by the City pursuant to this Section 10.1 and the obligations of the City pursuant to Section 5.12 hereof and title to the Property shall vest in the City on the date of said deposit automatically and without further action by the City or the Corporation. Said deposit and interest earnings thereon shall be deemed to be and shall constitute a special fund for the payments provided for by this Section 10.1 and said obligation shall thereafter be deemed to be and shall constitute the installment purchase obligation of the City for the Property. Upon said deposit, the Corporation will execute or cause to be executed any and all documents as may be necessary to confirm title to the Property in accordance with the provisions hereof. In addition, the Corporation hereby appoints the City as its agent to prepare, execute and file or record, in appropriate offices, such documents as may be necessary to place record title to the Property in the City.

Section 10.2. Prepayment Option. The Corporation hereby grants an option to the City to prepay the principal component of the Lease Payments in full, by paying the aggregate unpaid principal components of the Lease Payments as set forth in Exhibit C hereto, or in part, in a prepayment amount equal to the principal amount of Lease Payments to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

Said option may be exercised on any date, on and after April 15, _____. In the event of prepayment in part, the partial prepayment shall be applied against Lease Payments in such order of payment date as shall be selected by the City.

Lease Payments due after any such partial prepayment shall be in the amounts set forth in a revised Lease Payment schedule which shall be provided by, or caused to be provided by, the City to the Trustee and which shall represent an adjustment to the schedule set forth in Exhibit C attached hereto taking into account said partial prepayment.

Section 10.3. Mandatory Prepayment from Net Proceeds of Insurance, Title Insurance or Eminent Domain. The City shall be obligated to prepay the Lease Payments, in whole on any date or in part on any Lease Payment Date, from and to the extent of any Net Proceeds of an insurance, title insurance or condemnation award with respect to the Property theretofore deposited in the Lease Payment Fund for such purpose pursuant to Article VI hereof and Article VI of the Trust Agreement. The City and the Corporation hereby agree that such Net Proceeds shall be applied first to the payment of any delinquent Lease Payments, and thereafter shall be credited towards the City's obligations under this Section 10.3. Lease Payments due after any such partial prepayment shall be in the amounts set forth in a revised Lease Payment schedule which shall be provided by, or caused to be provided by, the City to the Trustee and which shall represent an adjustment to the schedule set forth in Exhibit C attached hereto taking into account said partial prepayment.

Section 10.4. Credit for Amounts on Deposit. In the event of prepayment of the principal components of the Lease Payments in full under this Article X, such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, remaining amounts on deposit in the Lease Payment Fund shall be credited towards the amounts then required to be so prepaid.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in first-class form with postage fully prepaid:

If to the Corporation: Public Property Financing Corporation of California
2945 Townsgate Road, Suite 200
Westlake Village, CA 91361
Attention: Treasurer
Phone: (805) 267-7140

To the City: City of Marina
211 Hillcrest Avenue
Marina, CA 93933
Attention: City Manager
Phone: (831) 884-1224

To the Trustee: U.S. Bank Trust Company, National Association
One California Street, Suite 1000
San Francisco, CA 94111
Attention: Global Corporate Trust
Phone: (415) 774-2273

The Corporation, the City and the Trustee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.2. Binding Effect. This Lease Agreement shall inure to the benefit of and shall be binding upon the Corporation and the City and their respective successors and assigns.

Section 11.3. Severability. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4. Net-net-net Lease. This Lease Agreement shall be deemed and construed to be a "net-net-net lease" and the City hereby agrees that the Lease Payments shall be an absolute net return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever.

Section 11.5. Third Party Beneficiary. The Trustee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

Section 11.6. Further Assurances and Corrective Instruments. The Corporation 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 Property hereby leased or intended so to be or for carrying out the expressed intentions of this Lease Agreement.

Section 11.7. Execution in Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Lease Agreement and of signature pages by facsimile or pdf transmission shall constitute effective execution and delivery of this

Lease Agreement to the parties hereto and may be used in lieu of the original Lease Agreement and signature pages for all purposes.

Section 11.8. Applicable Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.9. Corporation and City Representatives. Whenever under the provisions of this Lease Agreement the approval of the Corporation or the City is required, or the Corporation or the City is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by a Corporation Representative and for the City by a City Representative, and each party hereto shall be authorized to rely upon any such approval or request.

Section 11.10. Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease Agreement.

[Remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the Corporation has caused this Lease Agreement to be executed in its name by its duly authorized officers; and the City has caused this Lease Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

PUBLIC PROPERTY FINANCING
CORPORATION OF CALIFORNIA

By _____
Stefan A. Morton
Treasurer

CITY OF MARINA

By _____
Name _____
Title _____

EXHIBIT A

DESCRIPTION OF THE SITE

The land referred to herein is situated in the State of California, County of Monterey and described as follows:

The land referred to herein is situated in the State of California, County of Monterey and described as follows:

A portion of Lots 41 and 42 as shown on that map entitled "Locke-Paddon Company's Bayside Subdivision of Monterey City Lands" filed February 8, 1916 in Volume 2 of Maps and Ranches (Outside Lands) at Page 15, records of Monterey County California, also being a portion of that property described in that Deed to the Monterey Peninsula Regional Park District, a public entity, recorded April 25, 1991 in Reel 2634 of Official Records of Monterey County, California at Page 348, situate in the City of Marina, County of Monterey, State of California, being more particularly described as follows:

Beginning at the Intersection of the Southerly sideline of Seaside Circle (shown on map as Seaside Avenue, 40 feet wide) with the Westerly sideline of Marina Drive (30 feet wide) as shown on said map; thence from said point of beginning,

1) along the westerly side line of Marina Drive the following six courses, 87.39 feet along the arc of a curve to the left describer from a radius point which bears South 79° 10' 01" East, 1455.17 feet, through a central angle of 3° 26' 27", thence,

2) 10.56 feet along the arc of a curve to the left described from a radius point which bears South 82° 36' 28" East, 1512.47 feet, through a central angle of 0° 24' 00", thence

3) 31.47 feet along the arc of a curve to the left described from a radius point which bears South 83° 00' 28" East, 1717.09 feet, through a central angle of 1° 03' 00", thence

4) 31.26 feet along the arc of a curve to the left described from a radius point which bears South 84° 03' 28" East, 1989.91 feet, through a central angle of 0° 54' 00", thence

5) 31.05 feet along the arc of a curve to the left described from a radius point which bears South 84° 57' 28" East, 2371.88 feet, through a central angle of 0° 45' 00", thence

6) 24.34 feet along the arc of a curve to the left described from a radius point which bears South 85° 42' 27" East, 2944.83 feet, through a central angle of 0° 28' 25" to the intersection with the southeasterly line of said Lot 42; thence

7) along said southeasterly line of said Lot 42, South 36° 17' 00" West, 340 feet; thence

8) leaving said southeasterly line, North 53° 43' 00" West, 112.65 feet; thence

9) North 6° 15' 27" West, 384.59 feet to a point on the said southerly line of Seaside Circle, thence,

10) along the southerly line of Seaside Circle, North 83° 44' 33" East, 362.04 feet to said point of beginning.

APN: 033-121-009

EXHIBIT B

DESCRIPTION OF THE FACILITY

The Facility is the City of Marina Public Library, an 18,000 square foot, wood framed facility, built in 2007 and located on the Site at 190 Seaside Circle in the City. The library provides the following services: (1) books, talking books on CD, DVDs and magazines for all ages, (2) newspapers: *Monterey County Herald*, *Salinas Californian*, *Korea Times*, *New York Times*, (3) materials in English, Spanish, Korean and Vietnamese, (4) E-Books and E-Audio, (5) public computers with Internet, Microsoft Office, fax, scan, print, and copy, (6) public meeting rooms(s) reservation at the library front desk and online, (7) access to Westlaw, (8) two study rooms, (9) a homework Center, (10) a veterans resource center, (11) free wireless internet, (12) programs and events for children and adults, and (13) a telescope. The current insured value of the library, excluding the land value, is \$11,270,920.

EXHIBIT C

SCHEDULE OF LEASE PAYMENTS

Lease Payment Date	Principal Component	Interest Component	Total Lease Payment
10/15/2022			
4/15/2023			
10/15/2023			
4/15/2024			
10/15/2024			
4/15/2025			
10/15/2025			
4/15/2026			
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10/15/2045			
4/15/2046			
10/15/2046			
4/15/2047			
Total	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>

