
LEASE AGREEMENT

Dated as of _____ 1, 2016

between the

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA
as lessor

and the

CITY OF SANTA ROSA
as lessee

Relating to

\$ _____
City of Santa Rosa
2016 Certificates of Participation
(Courthouse Square Project and 2007 Lease Refinancing)

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LEASE AGREEMENT

This LEASE AGREEMENT (this "Lease"), dated as of _____ 1, 2016, is between the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation (the "Corporation"), and the CITY OF SANTA ROSA, a charter city and municipal corporation duly organized and existing under the Constitution of the State of California (the "City").

BACKGROUND:

1. For the purpose of financing the acquisition and improvement of two buildings, the City previously caused execution and delivery of the \$9,960,000 initial principal amount City of Santa Rosa 2007 Certificates of Participation (Building Acquisition Project) (the "2007 COPs") pursuant to a Trust Agreement, dated as of June 1, 2007 (the "2007 Trust Agreement"), by and among U.S. Bank National Association, as trustee (the "2007 Trustee"), the City and the Santa Rosa Public Financing Authority (the "Authority").

2. The 2007 COPs represent undivided fractional interests in lease payments (the "2007 Lease Payments") made by the City for the use and occupancy of the real property and improvements constituting the Circadian Fire Station and the Rincon Valley Library pursuant to a Lease Agreement, dated as of June 1, 2007 (the "2007 Lease Agreement"), by and between the City and the Authority.

3. In order to take advantage of prevailing market conditions and realize savings for the benefit of the City, the City Council of the City has determined to refinance its lease payment obligation under the 2007 Lease Agreement and to cause the prepayment of the 2007 COPs.

4. The City Council also has determined that it is in the public interest and for the common benefit to finance a portion of the costs of the Courthouse Square reunification project.

5. The Board of Directors of the Corporation has determined that the public convenience and necessity require assisting the City with financing the Courthouse square reunification project and refinancing the 2007 Lease Agreement and the 2007 COPs.

6. In order to provide funds to finance a portion of the Courthouse Square reunification project costs and refinance the 2007 Lease Agreement, (a) the City and the Corporation will enter into a Site and Facilities Lease, dated as of _____ 1, 2016 (the "Site and Facilities Lease"), pursuant to which the City will lease certain real property more particularly described on Exhibit A and the improvements thereon (the "Leased Property") to the Corporation, (b) the Corporation and the City will enter into this Lease, pursuant to which the Corporation will lease the Leased Property to the City in consideration for certain semi-annual lease payments to be made by the City and (c) the City will cause execution and delivery of the 2016 Certificates of Participation (Courthouse Square Project and 2007 Lease Refinancing) (the "Certificates").

7. The Corporation has agreed to assign its right to receive such lease payments to [Trustee], as trustee (the "Trustee"), under an Assignment Agreement, dated as of _____ 1, 2016 (the "Assignment Agreement"), by and between the Corporation and the Trustee, and in consideration of such assignment the Trustee will execute and deliver the Certificates, each evidencing a direct, undivided fractional interest in such lease payments, in accordance with a

Trust Agreement (the "Trust Agreement"), by and among the City, the Corporation and the Trustee.

8. The Site and Facilities Lease and the Assignment Agreement are being recorded in the real property records of Sonoma County concurrently with a memorandum of this Lease.

9. The City is authorized to enter into a lease-leaseback arrangement with the Corporation under Section 37350 of the California Government Code.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Corporation formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

SECTION 1.1. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease have the respective meanings specified in the recitals hereof and in Appendix A to the Trust Agreement.

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 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 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 Corporation as of the Closing Date:

- (a) Due Organization and Existence. The City is a charter city and municipal corporation duly organized and validly existing under the Constitution of the State of California, has full legal right, power and authority under the laws of the State of California to enter into this Lease, the Site and Facilities Lease and the Trust Agreement and to carry out and consummate all transactions

contemplated hereby and thereby, and by proper action the City has duly authorized the execution and delivery of this Lease, the Site and Facilities Lease and the Trust Agreement.

- (b) Due Execution. The representatives of the City executing this Lease, the Site and Facilities Lease and the Trust Agreement 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. This Lease, the Site and Facilities Lease and the Trust Agreement have been duly authorized, executed and delivered by the City and 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 this Lease, the Site and Facilities Lease and the Trust Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions 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 or administrative rule or regulation, or 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 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 City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site and Facilities Lease and the Trust Agreement 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 of this Lease, the Site and Facilities Lease and the Trust Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (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 contemplated by or the validity of this Lease, the Site and Facilities Lease or the Trust Agreement, 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 contemplated by this Lease, the Site and Facilities Lease or the Trust Agreement or the financial conditions, assets, properties or operations of the City.

SECTION 2.2. *Covenants, Representations and Warranties of the Corporation.* The Corporation makes the following covenants, representations and warranties to the City as of the Closing Date:

- (a) Due Organization and Existence. The Corporation is a California nonprofit public benefit corporation duly organized and existing under the laws of the State of California, has full legal right, power and authority to enter into this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the Corporation has duly authorized the execution and delivery of this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement.
- (b) Due Execution. The representatives of the Corporation executing this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement are fully authorized to execute the same under official action taken by the Board of Directors of the Corporation.
- (c) Valid, Binding and Enforceable Obligations. This Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement have been duly authorized, executed and delivered by the Corporation and constitute the legal, valid and binding agreements of the Corporation, enforceable against the Corporation in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions 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 or administrative rule or regulation, or 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 Corporation 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 Corporation, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement or the financial condition, assets, properties or operations of the Corporation.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Corporation, 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 of this Lease, the Site and Facilities Lease, the Trust Agreement or the Assignment Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

- (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 Corporation after reasonable investigation, threatened against or affecting the Corporation or the assets, properties or operations of the Corporation which, if determined adversely to the Corporation or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site and Facilities Lease, the Trust Agreement or the Assignment Agreement, or upon the financial condition, assets, properties or operations of the Corporation, and the Corporation 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 contemplated by this Lease, the Site and Facilities Lease, the Trust Agreement or the Assignment Agreement or the financial conditions, assets, properties or operations of the Corporation.

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS

SECTION 3.1. *Deposit of Moneys* . On the Closing Date, the Corporation shall cause the proceeds of sale of the Certificates to be deposited with the Trustee. Under Section 4.01 of the Trust Agreement, from the proceeds of sale of the Certificates (i) the estimated amount of the Costs of Issuance will be deposited into the Costs of Issuance Fund, (ii) the amount necessary to fund the Project will be deposited into the Acquisition and Construction Fund and (iii) the balance of such proceeds will be used to refinance the 2007 Lease Payments and the 2007 COPs as set forth herein and in the Trust Agreement.

SECTION 3.2. *Appointment of City as Agent of Corporation*. The Corporation hereby appoints the City as its agent to carry out all phases of the acquisition and construction of the Project under and in accordance with the provisions hereof. The City hereby accepts its appointment as agent of the Corporation and assumes all rights, liabilities, duties and responsibilities of the Corporation regarding the acquisition and construction of the Project. The City, as agent of the Corporation hereunder, shall enter into, administer and enforce all purchase orders or other contracts relating to the acquisition and construction of the Project. The City shall requisition the payment of Project Costs from amounts held by the Trustee in the Acquisition and Construction Fund, pursuant to and in accordance with Section 4.04 of the Trust Agreement. All contracts for, and all work relating to, the acquisition and construction of the Project are subject to all applicable provisions of law relating to the acquisition, construction, improvement, and equipping of like facilities and property by the City.

ARTICLE IV

LEASE PAYMENTS; SUBSTITUTION AND RELEASE OF PROPERTY

SECTION 4.1. *Lease of Leased Property.* The Corporation hereby leases the Leased Property to the City, and the City hereby leases the Leased Property from the Corporation, upon the terms and conditions set forth in this Lease.

SECTION 4.2. *Term.* The Term of this Lease commences on the date of execution and delivery hereof and ends on the date on which the Trust Agreement is discharged under Section 13.01 thereof, but under any circumstances not later than October 1, 20____. The provisions of this Section 4.2 are subject to the provisions of Section 4.6 relating to the substitution of property, the provisions of Section 4.7 relating to the release of property, and the provisions of Section 6.2 relating to the taking in eminent domain of the Leased Property or any portion thereof. The City may not terminate this Lease as a remedy for a default by the Corporation.

SECTION 4.3. *Lease Payments.*

(a) Obligation to Pay. Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX, the City agrees to pay to the Corporation, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in Appendix B attached hereto and by this reference incorporated herein, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in Appendix B, and to be deposited by the City with the Trustee on each of the Lease Payment Dates specified in such Appendix B. 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 under Article IX and other than amounts required for payment of past due principal or interest represented by any Certificates not presented for payment) will be credited towards the Lease Payment then required to be paid; and no Lease Payment need be deposited with the Trustee 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 deposited with the Trustee. The Lease Payments payable in any Rental Period are for the use of the Leased Property during such Rental Period.

(b) Effect of Prepayment. If the City prepays all Lease Payments in full under Sections 9.2 or 9.3, and if the City has paid all Additional Payments then due and payable, 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 Sections 9.2 or 9.3, the principal components of the remaining Lease Payments will be reduced in integral multiples of \$5,000 among Lease Payment Dates on a basis which corresponds to the principal maturities of the Certificates which are prepaid thereby; and the interest component of each remaining Lease Payment will be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Certificates thereby prepaid under Sections 3.01(a) or 3.01(b) of the Trust Agreement, as the case may be.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section 4.3, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, from the

date of default to the date of payment at the highest rate of interest represented by any Outstanding Certificate.

(d) Fair Rental Value. The Lease Payments and Additional Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and the City will pay the Lease Payments and Additional Payments in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period. The Corporation and the City have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated fair market value of the Leased Property as of the Closing Date, other obligations of the City and the Corporation 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 Articles VI and IX.

The City covenants to take such action as may be necessary to include all estimated Lease Payments and all estimated Additional Payments due hereunder in each of its final approved budgets. The City further covenants to make all necessary appropriations (including any supplemental appropriations) from any source of legally available funds of the City for the full amount of Lease Payments and Additional Payments which come due and payable during the period covered by each such budget. The covenants on the part of the City contained herein are 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.

(f) Assignment. The City acknowledges that certain of the Corporation's rights under the Site and Facilities Lease and this Lease (including the payment of all Lease Payments) have been assigned by the Corporation to the Trustee in trust under the Assignment Agreement, for the benefit of the Owners of the Certificates, and the City consents to such assignment. The Corporation directs the City, and the City agrees to pay to the Trustee at its Office, all payments payable by the City under this Section 4.3 and all amounts payable by the City under Article IX.

SECTION 4.4. *Additional Payments.* In addition to the Lease Payments, the City shall pay when due, as additional rental for the Leased Property hereunder, (a) all costs and expenses incurred by the City hereunder or under the Trust Agreement, or incurred by the Corporation to comply with the provisions of the Trust Agreement, including without limitation all Costs of Issuance (to the extent not paid from amounts on deposit in the Costs of Issuance Fund), (b) annual compensation due to the Trustee and all of its reasonable costs and expenses (including amounts payable to the Trustee by virtue of indemnification) payable as a result of the performance of and compliance with its duties under the Trust Agreement and (c) all reasonable costs and expenses of attorneys, auditors, engineers and accountants engaged by the Corporation or the Trustee in connection with the Leased Property or the performance of their duties hereunder or under the Trust Agreement.

SECTION 4.5. *Title.* At all times during the Term of this Lease, the City will hold title to the Leased Property, subject to the Site and Facilities Lease and other Permitted Encumbrances,

including all additions which comprise fixtures, repairs, replacements or modifications thereto, and subject to the provisions of Section 5.2.

Upon the termination of this Lease (other than under Section 8.2(b) hereof), all right, title and interest of the Corporation in and to the Leased Property will 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 Corporation in and to the Leased Property will be transferred to and vested in the City. 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 4.6. *Substitution of Property.* The City has, and is hereby granted, the option at any time and from time to time to substitute other real property (the "Substitute Property") for the Leased Property or any portion thereof (the "Former Property"), provided that the City must satisfy all of the following requirements which are hereby declared to be conditions precedent to such substitution:

- (a) No Event of Default has occurred and is continuing.
- (b) The City has filed with the Corporation and the Trustee, and caused to be recorded in the office of the Sonoma County Recorder sufficient memorialization of, (i) an amendment hereof which adds to Appendix A hereto a description of such Substitute Property and deletes therefrom the description of such Former Property, and (ii) appropriate amendments to the Site and Facilities Lease and Assignment Agreement that adds thereto a description of such Substitute Property and deletes therefrom the description of such Former Property.
- (c) The City has obtained a CLTA policy of title insurance insuring the City's leasehold estate hereunder in such Substitute Property, subject only to Permitted Encumbrances, in an amount at least equal to the estimated fair market value thereof;
- (d) The City has certified in writing to the Corporation and the Trustee that such Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City.
- (e) The Substitute Property does not cause the City to violate any of its covenants, representations and warranties made herein or in the Trust Agreement.
- (f) The City has filed with the Corporation and the Trustee a certificate to the effect that the fair market value and the fair rental value of the Substitute Property and any other property that will be subject to this Lease and the Site and Facilities Lease are at least equal to the outstanding principal amount of the Certificates, and that the useful life of the Substitute Property at least equals the lesser of (i) the useful life of the Former Property, or (ii) the final Lease Payment Date of the Lease Payments allocable thereto.

- (g) The City has mailed written notice of such substitution to each rating agency which then maintains a rating on the Certificates.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such substitution.

The Corporation and the City will execute, deliver and cause to be recorded all documents required to discharge this Lease, the Site and Facilities Lease and the Assignment Agreement against the Former Property, and to cause the Substitute Property to become subject to all of the terms and conditions of this Lease, the Site and Facilities Lease and the Assignment Agreement.

SECTION 4.7. *Release of Property.* The City has the option at any time and from time to time to release any portion of the Leased Property from this Lease and the Site and Facilities 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) No Event of Default has occurred and is continuing.
- (b) The City has filed with the Corporation and the Trustee, and caused to be recorded in the office of the Sonoma County Recorder sufficient memorialization of, (i) an amendment hereof that removes the Released Property from this Lease, and (ii) appropriate amendments to the Site and Facilities Lease and Assignment Agreement that removes therefrom the description of the Released Property.
- (c) The City has certified in writing to the Corporation and the Trustee that the fair market value of the property which remains subject to this Lease and the Site and Facilities Lease following such removal is at least equal to the outstanding principal amount of the Certificates, and the fair rental value of the property which remains subject to this Lease and the Site and Facilities Lease following such removal is at least equal to the Lease Payments thereafter coming due and payable hereunder.
- (d) The City has mailed written notice of such removal to each rating agency which then maintains a rating on the Certificates.

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 Corporation and the City shall execute, deliver and cause to be recorded all documents required to discharge this Lease, the Site and Facilities Lease and the Assignment Agreement of record against the Released Property.

SECTION 4.8. *No Merger.* It is the express intention of the Corporation and the City that this Lease and the obligations of the parties hereunder are separate and distinct from the Site and Facilities Lease and the obligations of the parties thereunder, and that during the term of the Site and Facilities 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 Corporation and the City thereunder and hereunder.

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 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. In exchange for the Lease Payments herein provided, the Corporation agrees to provide only the Leased Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 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 will 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 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 Corporation notifies the City that, in its reasonable opinion, by nonpayment of any such items the interest of the Corporation 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 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 and the Trustee.

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 authorized under the provisions of state 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 remain

against the Leased Property for labor or materials 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 Corporation of the City's intention to do so, the City may in good faith contest any lien 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 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 will maintain or cause to be maintained, throughout the Term of this Lease, comprehensive general insurance in protection of the Corporation, the City and their respective members, officers, agents, employees and assigns. Such insurance must 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 insurance must provide coverage in such liability limits and 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 a program of self-insurance by the City, or in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City shall apply the proceeds of such insurance toward extinguishment or satisfaction of the liability with respect to which the net proceeds are paid.

SECTION 5.4. *Casualty Insurance.* The City will procure and maintain, or cause to be procured and maintained, at all times throughout the Term of this Lease, casualty insurance against loss or damage to the insured buildings, facilities and other improvements constituting any part of the Leased Property, in an amount that is expressly designated as coverage for the Leased Property and at least equal to the greater of (a) the replacement value of such buildings, facilities and improvements, or (b) the aggregate principal amount of the Outstanding Certificates. Such insurance must, as nearly as practicable, cover loss or damage by fire, explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and must include earthquake coverage if such coverage is available at reasonable cost from reputable insurers in the reasonable determination of the City, whose determination is final and conclusive. Such insurance may be subject to such deductibles as the City deems 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; provided that such insurance may not be maintained by the City in the form of self-insurance. The property and casualty insurance provided pursuant to this Section 5.4 (i) shall be provided pursuant to a policy that is specific to the Leased Property and provides coverage solely for the Leased Property or (ii) if provided pursuant to a policy that covers more than just the Leased Property, shall include a rider or endorsement to such policy that (A) provides that the coverage for the Leased Property under the policy shall never be less than the amount required by this Section 5.4 and that any payments under the policy in respect of other property covered by the policy shall not have the effect of reducing the coverage provided by the policy for the Leased Property and (B) meets the other conditions of this Section 5.4 and Section 5.7. The City shall apply the Net Proceeds of such insurance as provided in Section 6.1.

SECTION 5.5. *Rental Interruption Insurance.* The City will procure and maintain, or cause to be procured and maintained, at all times throughout the Term of this Lease, rental interruption

or use and occupancy insurance to cover loss, total or partial, of the use of the buildings, facilities and other improvements constituting any part 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 two consecutive Fiscal Years during the remaining Term of this Lease. 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; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance, if any, shall be paid to the Trustee and deposited in the Lease Payment Fund, and shall be credited towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable. The provider of such insurance shall be rated at least "A" by A.M. Best & Company.

SECTION 5.6. *Recordation Hereof; Title Insurance.* The City will, at its expense, cause the Site and Facilities Lease, the Assignment Agreement and this Lease (or a memorandum thereof in form and substance approved by Bond Counsel) to be recorded in the office of the Sonoma County Recorder on or before the Closing Date. Concurrent with such recordation, the City shall obtain a CLTA title insurance policy insuring the City's leasehold estate in the Leased Property hereunder, in an amount at least equal to the aggregate principal amount of the Certificates. All Net Proceeds received under such title insurance policy will be deposited with the Trustee in the Lease Payment Fund and credited towards the prepayment of the Lease Payments under Section 9.3.

SECTION 5.7. *Insurance Net Proceeds; Form of Policies.* Each policy of insurance maintained under Sections 5.4, 5.5 and 5.6 must name the Trustee as loss payee so as to provide that all proceeds thereunder are payable to the Trustee. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease. All such policies shall provide that the Trustee is given 30 days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The Trustee is not responsible for the sufficiency, adequacy or amount of any insurance or self-insurance herein required and is fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss. Annually not later than October 1 in each year during the Term hereof, the City must furnish or cause to be furnished to the Trustee a certificate stating that the City has complied with Sections 5.3, 5.4, 5.5, 5.6 and 5.7 hereof. The Trustee is entitled to rely on any such certificate as to the City's compliance with these provisions, and the Trustee has no further duties in that regard.

SECTION 5.8. *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 will remain the sole property of the City, in which neither the Corporation nor the Trustee has any interest, and may be modified or removed by the City at any time, provided that 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 attaches to any part of the Leased Property.

SECTION 5.9. *Liens.* The City may 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 as herein contemplated and except for such encumbrances as the City certifies in writing to the Trustee do not materially and adversely affect the leasehold estate in the Leased Property hereunder. Except as expressly provided in this Article, 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 Corporation for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

SECTION 5.10. *Advances.* If the City fails to perform any of its obligations under this Article V, the Corporation may take any necessary action to cure the failure, including the advancement of money, and the City shall repay all such advances as additional rental hereunder, with interest at the rate set forth in Section 4.3(c).

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

SECTION 6.1. *Application of Net Proceeds.* The Net Proceeds of any insurance award resulting from any damage to or destruction of the Leased Property by fire or other casualty shall be paid to the Trustee, as assignee of the Corporation under the Assignment Agreement, and deposited in the Insurance and Condemnation Fund to be applied as set forth in Section 6.01 of the Trust Agreement. The Net Proceeds of any eminent domain award with respect to the Leased Property resulting from any event described in Section 6.2 shall be paid by the City to the Trustee and deposited in the Insurance and Condemnation Fund to be applied as set forth in Section 6.02 of the Trust Agreement. For avoidance of doubt, the definition of Leased Property excludes personal property and, therefore, Net Proceeds does not include insurance proceeds or eminent domain award related to personal property.

SECTION 6.2. *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 allocated thereto, 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 Leased Property.

SECTION 6.3. *Abatement Due to Damage or Destruction.* The amount of Lease Payments will be abated during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof. The amount of such abatement shall be determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Leased Property that are available for use and occupancy. 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. In the event of any such damage or destruction, this Lease shall continue in full force and effect and the City waives any right to terminate this Lease 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 the proceeds of hazard insurance, or rental interruption insurance, 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 a special fund for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS

SECTION 7.1. *Disclaimer of Warranties.* THE CORPORATION AND THE TRUSTEE MAKE 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 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 CORPORATION IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, 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 shall the Corporation be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease or the Trust Agreement for the existence, furnishing, functioning or the City's use of the Leased Property.

SECTION 7.2. *Access to the Leased Property.* The City agrees that the Corporation and any Corporation Representative, and the Corporation's successors or assigns, may at all reasonable times enter upon and to examine and inspect the Leased Property or any part thereof. The Corporation and any Corporation Representative have such rights of access to the Leased Property or any component thereof as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the City to perform its obligations hereunder; *provided, however*, that neither the Corporation nor any of its assigns has any obligation to cause such proper maintenance.

SECTION 7.3. *Release and Indemnification Covenants.* The City shall indemnify the Corporation, and the Trustee and their respective officers, agents, successors and assigns against all claims, losses and damages, including legal fees and expenses, arising out of any of the following:

- (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, or

- (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Leased Property.

No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or negligence under this Lease by the Corporation, the Trustee, or their respective officers, agents, employees, successors or assigns.

SECTION 7.4. *Assignment and Subleasing by the City.* After the date of recordation of this Lease, 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 must remain obligations of the City.
- (b) The City must, within 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 may cause the Leased Property to be used for a purpose which is not authorized under the provisions of the laws of the State of California.

SECTION 7.5. *Amendment of Lease Agreement.* The Corporation and the City may at any time amend or modify any of the provisions of this Lease, but only: (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Certificates; or (b) without the consent of the Trustee or any of the Certificate Owners, and 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, 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 cure any ambiguity, or to cure, correct or supplement any defective provision contained herein, for the purpose of conforming to the original intention of the City and the Corporation,
- (iii) to amend the description of any component of the Leased Property to reflect accurately the property originally intended to be included therein, or to effectuate any substitution of property as permitted by Section 4.6 or any release of property as permitted by Section 4.7,
- (iv) to obligate the City to pay additional amounts of rental hereunder for the use and occupancy of the Leased Property or any portion thereof, but only if (A) such additional amounts of rental are pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which are applied to finance public improvements of the City, and (B) the City has filed with the Trustee written evidence that the amendments made under this subsection (iv) will not of themselves cause a reduction or withdrawal of any rating then assigned to the Certificates, or

- (v) in any other respect whatsoever as the Corporation and the City deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments do not materially adversely affect the interests of the Owners of the Certificates.

The City must obtain and cause to be filed with the Trustee an opinion of Bond Counsel with respect to any amendment or modification hereof, stating that all conditions precedent to such amendment as set forth in this Section 7.5 have been satisfied. Promptly following the effective date of any amendment or modification under this Section, the City must mail written notice thereof to each rating agency which then maintains a rating on the Certificates.

SECTION 7.6. *Tax Covenants.*

- (a) Private Activity Bond Limitation. The City will assure that the proceeds of the Certificates are not so used as to cause the obligations of the City under this Lease 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.
- (b) Federal Guarantee Prohibition. The City will not take any action or permit or suffer any action to be taken if the result of such action would be to cause any of the obligations of the City under this Lease to be "federally guaranteed" within the meaning of section 149(b) of the Code.
- (c) Rebate Requirement. The City will 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 this Lease.
- (d) No Arbitrage. The City will 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 date of delivery of this Lease would have caused any of the obligations of the City under this Lease to be "arbitrage bonds" within the meaning of section 148 of the Code.
- (e) Maintenance of Tax-Exemption. The City will 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 date of delivery of this Lease.
- (f) Record Retention. The City will retain its records of all accounting and monitoring it carries out with respect to the Certificates for at least 3 years after the Certificates mature or are redeemed (whichever is earlier); however, if the Certificates are redeemed and refunded, the City will retain its records of accounting and monitoring at least 3 years after the earlier of the maturity or redemption of the obligations that refunded the Certificates.
- (g) Compliance with Tax Certificate. The City will comply with the provisions of the tax certificate and the use of proceeds certificate to be delivered with respect to the

Certificates, which are incorporated herein as if fully set forth herein. The covenants of this Section will survive payment in full or defeasance of the Certificates.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. *Events of Default Defined.* Each of the following events constitutes an Event of Default hereunder:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder in full 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 herein or in the Trust Agreement, other than as referred to in the preceding subsection (a), 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 Corporation, or the Trustee; *provided, however*, that if the City notifies the Corporation and the Trustee that in its reasonable opinion the failure stated in the notice can be corrected, but not within such 30 day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such 30 day period and thereafter diligently and in good faith cures such failure in a reasonable period of time.
- (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 Code, as amended, or under any similar acts which may hereafter be enacted.

Any Event of Default described in the preceding clause (a) will give rise to the exercise of remedies with respect to all of the Leased Property, and the City shall not have the right to allocate its Lease Payment to a particular portion of the Leased Property.

SECTION 8.2. *Remedies on Default.* Whenever any Event of Default has happened and is continuing, the Corporation may exercise any and all remedies available under law or granted under this Lease. Notwithstanding anything herein or in the Trust Agreement to the contrary, there is 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 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 Corporation may exercise each and every one of the following remedies, subject in all respects to the limitations set forth in Section 8.3:

- (a) Enforcement of Payments Without Termination. If the Corporation does not elect to terminate this Lease in the manner hereinafter provided for in subsection (b) of this Section, the City agrees to 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 Leased Property, or, if the Corporation 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 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 Leased 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 Leased Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place such property in storage or other suitable place in the County of Sonoma for the account of and at the expense of the City, and the City hereby 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 Leased 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 agrees that the terms of this Lease constitute full and sufficient notice of the right of the Corporation 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 Corporation in effecting such re-leasing 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 Corporation to be effected in the sole and exclusive manner hereinafter provided for in subsection (b) of this Section. The City agrees to surrender and quit possession of the Leased Property upon demand of the Corporation for the purpose of enabling the Leased Property to be re-let under this paragraph. Any rental obtained by the Corporation in excess of the unpaid Lease Payments shall be deposited with the Trustee in the Lease Payment Fund, to be applied as a credit against future Lease Payments.

- (b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Corporation at its option may terminate this Lease and re-lease all or any portion of the Leased Property. The Trustee shall provide the City with a reasonable period of time to remove its personal property in connection with a termination of this Lease and a re-lease of all or any portion of the Leased Property. If the Corporation terminates this Lease at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any re-entry upon the Leased Property by the Corporation in any manner whatsoever or the re-leasing of the Leased 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 and Additional Payments. Any surplus received by the Corporation from such releasing shall be deposited in the Lease Payment Fund. 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 Corporation 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 Corporation has given written notice to the City of the election on the part of the Corporation to terminate this Lease. The City 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 Corporation by such written notice.

- (c) Proceedings at Law or In Equity. If an Event of Default occurs and continues hereunder, the Corporation 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.

SECTION 8.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy is cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon 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 Corporation to exercise any remedy reserved to it in this Article VIII it is not 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 non-defaulting party employs attorneys or incurs 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 non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 8.5. *No Additional Waiver Implied by One Waiver.* If any agreement contained in this Lease is breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not constitute a waiver of any other breach hereunder.

SECTION 8.6. *Application of Proceeds.* All net proceeds received from the re-lease of the Leased Property under this Article VIII, and all other amounts derived by the Corporation or the Trustee as a result of the occurrence of an Event of Default, shall be paid to the Trustee and applied in accordance with Section 12.04 of the Trust Agreement.

SECTION 8.7. *Trustee and Certificate Owners to Exercise Rights.* Such rights and remedies as are given to the Corporation under this Article VIII have been assigned by the

Corporation to the Trustee under the Assignment Agreement for the benefit of the Certificate Owners, to which assignment the City hereby consents. The Trustee and the Certificate Owners shall exercise such rights as provided in the Trust Agreement.

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 the Trustee an amount of cash which, together with other available amounts on deposit in the funds and accounts established under the Trust Agreement, is either (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth 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 addressed and delivered to the Trustee), together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Lease Payments when due under Section 4.3(a) 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 if the City has paid or caused to be paid all Additional Payments then due and payable, and notwithstanding the provisions of Section 4.2, (a) 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 (b) under Section 4.6, title to the Leased Property will vest in the City on the date of said deposit automatically and without further action by the City or the Corporation. Said security deposit constitutes a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

SECTION 9.2. *Optional Prepayment.* The City may exercise its option to prepay the principal components of the Lease Payments in whole, or in part in any integral multiple of \$5,000, on any Interest Payment Date on or after October 1, 20____, by paying a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payment required to be paid on such date, without prepayment premium. Such prepayment price shall be deposited by the Trustee upon receipt in the Lease Payment Fund, to be applied to the prepayment of Certificates under Section 3.01(a) of the Trust Agreement. The City shall give the Trustee written notice of its intention to exercise its option not less than 45 days in advance of the date of exercise.

SECTION 9.3. *Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City is obligated to prepay the principal components of the Lease Payments, in whole on any date or in part on any Interest Payment Date, from and to the extent of any Net Proceeds of insurance award or eminent domain award with respect to the Leased Property theretofore deposited in the Lease Payment Fund for such purpose under Article VI hereof and Article VI of the Trust Agreement. The City and the Corporation hereby agree that such Net Proceeds, to the extent remaining after payment of any delinquent Lease Payments, shall be credited towards the City's obligations under this Section 9.3. Such prepayment price shall be

deposited by the Trustee in the Lease Payment Fund to be applied to the prepayment of Certificates under Section 3.01(b) of the Trust Agreement.

SECTION 9.4. *Credit for Amounts on Deposit.* If the City prepays the principal components of the Lease Payments in full under Sections 9.2 or 9.3, such that the Trust Agreement is discharged by its terms as a result of such prepayment, at the written election of the City filed with the Trustee any or all amounts then on deposit in the Lease Payment Fund will be credited towards the amounts then required to be so prepaid.

ARTICLE X

MISCELLANEOUS

SECTION 10.1. *Notices.* Any notice, request, complaint, demand or other communication under this Lease may 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 is effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 72 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 Corporation, the City and the Trustee 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 Corporation: Public Property Financing Corporation of California
2945 Townsgate Road, Suite 200
Westlake Village, California 91361

If to the City: City of Santa Rosa
90 Santa Rosa Avenue
Santa Rosa, California 95404
Attention: Finance Director

If to the Trustee: [Trustee]
Attn: Global Corporate Trust Services
[address to come]
Fax: 415-677-3768

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

SECTION 10.3. *Severability.* If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding does 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 Corporation, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 10.5. *Third Party Beneficiary.* The Trustee is made a party beneficiary hereunder with all rights of a third party beneficiary and the Trustee may enforce any right, remedy, or claim conferred, given or granted hereunder.

SECTION 10.6. *Further Assurances and Corrective Instruments.* The Corporation and the City shall, 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 hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

SECTION 10.7. *Execution in Counterparts.* This Lease 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.

SECTION 10.8. *Applicable Law.* This Lease is governed by and construed in accordance with the laws of the State of California.

SECTION 10.9. *Corporation and City Representatives.* Whenever under the provisions of this Lease 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 an Corporation Representative and for the City by a City Representative, and any party hereto shall be authorized to rely upon any such approval or request.

SECTION 10.10. *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 sections of this Lease.

IN WITNESS WHEREOF, the Corporation 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.

**PUBLIC PROPERTY FINANCING
CORPORATION OF CALIFORNIA, *as Lessor***

By _____
Treasurer

CITY OF SANTA ROSA, *as Lessee*

By _____
Finance Director

Attest:

City Clerk

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The property constituting the Leased Property consists of the land located in the City of Santa Rosa, County of Sonoma, State of California, which is described as follows, including all buildings, improvements and facilities at any time situated thereon:

[TO COME]

APPENDIX B**SCHEDULE OF LEASE PAYMENTS**

<u>Lease Payment Date*</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Aggregate Lease Payment</u>
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* Lease Payments are due no later than the 15th calendar day of the month preceding each of the listed payment dates.