

TO BE RECORDED AND WHEN RECORDED

RETURN TO:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Christopher K. Lynch, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

SITE AND FACILITIES LEASE

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

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 a portion of the Courthouse Square reunification project costs 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 this Site Lease, pursuant to which the City will lease certain real property more particularly described on Appendix A and the improvements thereon (the "Leased Property") to the Corporation, (b) the Corporation and the City will enter into a Lease Agreement, dated as of _____ 1, 2016 (the "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 U[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. A memorandum of the Lease and the Assignment Agreement are being recorded in the real property records of Sonoma County concurrently with this Site 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:

SECTION 1. *Lease of Leased Property.* The City hereby leases to the Corporation, and the Corporation hereby leases from the City, the Leased Property as described more fully in Appendix A hereto, on the terms and conditions hereinafter set forth.

SECTION 2. *Term; Possession.* The term of this Site Lease commences, and the Corporation becomes entitled to possession of the Leased Property, as of the date of recordation hereof. This Site Lease ends, and the right of the Corporation hereunder to possession of the Leased Property thereupon ceases, on the date on which all of the outstanding Certificates are paid in full, or provision is made for such payment in accordance with the Trust Agreement, and the Trust Agreement has been discharged under Section 13.01 thereof, but under any circumstances not later than October 1, 20____.

SECTION 3. *Rental.* The Corporation shall pay to the City as and for rental of the Leased Property hereunder, from the proceeds of sale of the Certificates, the amount of \$_____ to be paid on or before the date of execution and delivery hereof. In accordance with the Lease and the Trust Agreement the City shall cause the amount so paid to it to be applied to (i) finance a portion of the Project and (ii) prepay the 2007 Lease Payments and refinance the 2007 COPs. In addition to such payment, the Corporation shall cause a portion of the proceeds of sale of the

Certificates to be applied to make the deposit required under the Trust Agreement into the Costs of Issuance Fund and to cause to be paid all related underwriting, financing and other costs of issuance of the Certificates.

SECTION 4. *Leaseback to City.* The purpose for which the City agrees to lease the Leased Property to the Corporation hereunder is to enable the City to finance the Project and refinance the 2007 COPs from the rental payment made to it by the Corporation under Section 3. The Corporation hereby agrees to lease the Leased Property back to the City under the Lease.

SECTION 5. *Assignments and Subleases.* Unless the City is in default under the Lease, the Corporation may not assign its rights under this Site Lease or sublet all or any portion of the Leased Property, except as provided in the Lease, without the prior written consent of the City.

SECTION 6. *Right of Entry.* The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property, or any portion thereof, at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 7. *Termination.* The Corporation agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the Leased Property was in at the time of commencement of the term hereof, reasonable wear and tear excepted, and agrees that all buildings, improvements and structures then existing upon the Leased Property will remain thereon and title thereto will vest thereupon in the City for no additional consideration.

SECTION 8. *Default.* If the Corporation is in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Corporation, the City may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and this Site Lease may not be terminated by the City as a remedy for such default. Notwithstanding the foregoing, so long as the Lease remains in effect, the City shall continue to pay the Lease Payments to the Trustee.

SECTION 9. *Amendments.* The Corporation and the City may at any time amend or modify any of the provisions of this Site 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 or the Corporation contained in this Site 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 or the Corporation,
- (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 any provision thereof relating to the Tax Code, but only if and to the extent such amendment will not adversely affect the exclusion from gross

income of interest represented by any of the Certificates under the Tax Code, in the opinion of Bond Counsel,

- (iv) 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 of the Lease or any release or property as permitted by Section 4.7 of the Lease,
- (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 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 10. *Quiet Enjoyment.* The Corporation at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Leased Property, subject to the provisions of the Lease and subject only to Permitted Encumbrances.

SECTION 11. *Waiver of Personal Liability.* All liabilities under this Site Lease on the part of the Corporation are solely corporate liabilities of the Corporation as a nonprofit corporation, and the City hereby releases each and every member and officer of the Corporation of and from any personal or individual liability under this Site Lease. No member or officer of the Corporation or its governing board is at any time or under any circumstances individually or personally liable under this Site Lease for anything done or omitted to be done by the Corporation hereunder.

SECTION 12. *Taxes.* The City will pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property and any improvements thereon.

SECTION 13. *Eminent Domain.* If the whole or any part of the Leased Property, or any improvements thereon, are taken by eminent domain proceedings, the interest of the Corporation will be the aggregate amount of the then unpaid principal components of the Lease Payments payable under the Lease and the balance of the award, if any, will be paid to the City. The City hereby waives any and all rights that it has or may hereafter have to acquire the interest of the Corporation in and to the Leased Property through the eminent domain powers of the City.

SECTION 14. *Partial Invalidity.* If any one or more of the terms, provisions, covenants or conditions of this Site Lease are to any extent declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease will be affected thereby, and each provision of this Site Lease will be valid and enforceable to the fullest extent permitted by law.

SECTION 15. *Notices.* Any notice, request, complaint, demand or other communication under this Site Lease must be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy, telex or other form of telecommunication, at

its number set forth below. Notice will be effective either (a) upon transmission by telecopy, telex or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Corporation 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: Chief Financial Officer

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

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

SECTION 17. *Third Party Beneficiary.* The Trustee is hereby made a third 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 18. *Binding Effect.* This Site Lease inures to the benefit of and is binding upon the Corporation, the City and their respective successors and assigns, subject, however, to the limitations contained herein.

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

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

SECTION 21. *Execution in Counterparts.* This Site Lease may be executed in any number of counterparts, each of which is an original but all together constitute one and the same instrument. It is also agreed that separate counterparts of this Site Lease may be separately

executed by the Corporation and the City, all with the same force and effect as though the same counterpart had been executed by both the Corporation and the City.

SECTION 22. *Defined Terms.* All capitalized terms used herein and not otherwise defined have the respective meanings given those terms in the Trust Agreement.

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

CITY OF SANTA ROSA, as lessor

By _____
Finance Director

Attest:

City Clerk

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

By _____
Treasurer

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]