

LEASE AGREEMENT

by and between

CITY OF SAN LUIS OBISPO

and

SAN LUIS OBISPO PUBLIC FINANCING AUTHORITY

Dated as of [September 1, 2023]

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LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Lease Agreement”), dated as of [September 1, 2023], is by and between the CITY OF SAN LUIS OBISPO, a municipal corporation and charter city organized and existing under the laws of the State of California (the “City”), as lessee, and the SAN LUIS OBISPO PUBLIC FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the “Authority”), as lessor.

RECITALS

WHEREAS, the Authority is a joint exercise of powers authority duly organized and operating pursuant to Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California;

WHEREAS, Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorizes and empowers joint powers authorities to issue bonds to assist local agencies in financing projects and programs consisting of certain public improvements or working capital or liability and other insurance needs whenever a local agency determines that there are significant public benefits from so doing;

WHEREAS, the City desires to finance costs of the acquisition, design, engineering, fabrication, construction, improvement and installation of a parking structure in the City’s Cultural Arts District and certain other public capital improvements (the “Project”);

WHEREAS, the City previously entered into a lease agreement (the “2012 Lease”) with the City of San Luis Obispo Capital Improvement Board (the “Capital Improvement Board”) for the purpose of refinancing certain outstanding obligations of the City;

WHEREAS, the Capital Improvement Board previously issued its City of San Luis Obispo Capital Improvement Board 2012 Refunding Lease Revenue Bonds (the “2012 Bonds”) pursuant to an Indenture of Trust dated as of June 1, 2012, by and between the Capital Improvement Board and U.S. Bank National Association, as trustee, in the aggregate principal amount of \$5,050,000 for the purpose of refinancing prior leases and defeasing prior obligations of the City;

WHEREAS, the City proposes to refinance the 2012 Lease to allow for the defeasance and refunding of the 2012 Bonds;

WHEREAS, the Authority is empowered pursuant to the aforementioned Article 4 to issue its bonds and to apply the proceeds thereof to assist in financing the Project and the refinancing of the 2012 Lease to allow for the defeasance and refunding of the 2012 Bonds;

WHEREAS, in order to finance the Project and to refinance and defease the 2012 Bonds, the City is leasing certain real property, and the improvements thereto (the “Property”), to the Authority pursuant to a Ground Lease, dated as of the date hereof, and the City is subleasing the Property back from the Authority pursuant to this Lease Agreement;

WHEREAS, the Property is more particularly described in Exhibit A attached hereto;

WHEREAS, in order to provide the funds necessary to finance the Project and to refinance and defease the 2012 Bonds, the Authority is issuing \$[PAR AMOUNT] aggregate principal amount of its San Luis Obispo Public Financing Authority Lease Revenue Bonds (Cultural Arts District Parking Project),

Series 2023 (the “Bonds”), payable from the base rental payments to be made by the City pursuant to this Lease Agreement; and

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

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

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease Agreement, have the meanings herein specified, which meanings shall be equally applicable to both the singular and plural forms of any of the terms herein defined. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

“Additional Rental Payments” means all amounts payable by the City as Additional Rental Payments pursuant to Section 3.03 hereof.

“Authority” means the San Luis Obispo Public Financing Authority, a joint powers authority organized and existing under the laws of the State, and any successor thereto.

“Authorized Representative” means (a) with respect to the Authority, the Chairperson, the Vice Chairperson, the Executive Director, the Deputy Executive Director and the Treasurer of the Authority, and any other Person designated as an Authorized Representative of the Authority in a Written Certificate of the Authority filed with the Trustee, and (b) with respect to the City, the Mayor, the Mayor Pro Tem, the City Manager, the Deputy City Manager, the Treasurer, and the Finance Director of the City, and any other Person designated as an Authorized Representative of the City in a Written Certificate of the City filed with the Trustee.

“Base Rental Deposit Date” has the meaning given to such term in Section 3.02 hereof.

“Base Rental Payments” means all amounts payable to the Authority from the City as Base Rental Payments pursuant to Section 3.02 hereof.

“Bonds” means the San Luis Obispo Public Financing Authority Lease Revenue Bonds (Cultural Arts District Parking Project), Series 2023.

“City” means the City of San Luis Obispo, a municipal corporation and charter city organized and existing under the laws of the State, and any successor thereto.

“Code” means the Internal Revenue Code of 1986.

“Closing Date” means [CLOSING DATE].

“Fair Rental Value” means, with respect to the Property, the annual fair rental value thereof.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other twelve-month period hereafter selected and designated as the official fiscal year period of the City.

“Ground Lease” means the Ground Lease, dated as of [September 1, 2023], by and between the City and the Authority, as originally executed and as it may from time to time be amended in accordance with the provisions thereof and hereof.

“Indenture” means the Indenture, dated as of [September 1, 2023], by and among the Authority, the City and U.S. Bank Trust Company, National Association, as Trustee, as originally executed and as it may be amended or supplemented from time to time in accordance with the provisions thereof.

“Interest Payment Dates” means June 1 and December 1 of each year, commencing December 1, 2023.

“Lease Agreement” means this Lease Agreement, dated as of [September 1, 2023], by and between the City and the Authority, as the same may be amended or supplemented pursuant to the provisions hereof.

“Lease Default Event” means any event or circumstance specified in Section 7.01 hereof as a Lease Default Event.

“Net Proceeds” means any insurance proceeds or condemnation award in excess of \$50,000, paid with respect to any of the Property, remaining after payment therefrom of all reasonable expenses incurred in the collection thereof.

“Opinion of Bond Counsel” means a written opinion of counsel of recognized national standing in the field of law relating to municipal bonds, appointed and paid by the Authority and satisfactory to and approved by the Trustee.

“Outstanding” has the meaning ascribed to such term in the Indenture.

“Permitted Encumbrances” means with respect to the Property, as of any particular time (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or that the City may, pursuant to provisions of Section 6.06 hereof, permit to remain unpaid, (b) this Lease Agreement, (c) the Ground Lease, (d) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law as normally exist with respect to properties similar to the Property for the purposes for which it was acquired or is held by the City, (e) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions that exist of record as of the Closing Date, (f) any license with respect to the use of, or lease agreement for, the solar equipment and footprint thereof as may be entered into by the City in support of a loan by the State of California Energy Commission that the City certifies in writing does not affect the intended use of the Property or impair the security granted to the Trustee for the benefit of the Owners of the Bonds by the Indenture; and (g) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the Closing Date that the City certifies in writing do not affect the intended use of the Property or impair the security granted to the Trustee for the benefit of the Owners of the Bonds by the Indenture.

“Project” means costs of the acquisition, design, engineering, fabrication, construction, improvement and installation of a parking structure in the City’s Cultural Arts District [and certain other

public capital improvements], as described in Exhibit B hereto, all or a portion of the costs of which are to be financed with proceeds of the Bonds.

“**Property**” means the real property described in Exhibit A hereto and any improvements thereto.

“**Rental Payments**” means, collectively, the Base Rental Payments and the Additional Rental Payments.

“**Rental Period**” means the period from the Closing Date through [December 31, 2024] and, thereafter, the twelve-month period commencing on [January 1] of each year during the term of the Lease Agreement.

“**Scheduled Termination Date**” means [December 1, 20__].

“**State**” means the State of California.

“**Trustee**” means U.S. Bank Trust Company, National Association, as trustee under the Indenture, or any successor thereto as trustee thereunder substituted in its place as provided therein.

“**Written Certificate**” and “**Written Request**” of the City mean, respectively, a written certificate or written request signed in the name of the City by an Authorized Representative of the City. Any such certificate or request may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

Section 1.02. Rules of Construction. (a) The terms defined herein expressed in the singular shall, unless the context otherwise indicates, include the plural and vice versa.

(b) The use herein of the masculine, feminine or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine or neuter gender, as appropriate.

(c) References herein to a document shall include all amendments, supplements or other modifications to such document, and any replacements, substitutions or novation of, that document.

(d) Any term defined herein by reference to another document shall continue to have the meaning ascribed thereto whether or not such other document remains in effect.

(e) The use herein of the words “including” and “includes,” and words of similar import, shall be deemed to be followed by the phrase “without limitation.”

(f) 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.

(g) All references herein to designated “Articles,” “Sections,” “Exhibits,” “subsections,” “paragraphs,” “clauses,” and other subdivisions are to the designated Articles, Sections, Exhibits, subsections, paragraphs, clauses, and other subdivisions of this Lease Agreement.

(h) The words “hereof” (except when preceded by a specific Section or Article reference) “herein,” “hereby,” “hereunder,” “hereinabove,” “hereinafter,” and other equivalent words and phrases

used herein refer to this Indenture and not solely to the particular portion hereof in which any such word is used.

ARTICLE II

LEASE OF PROPERTY; TERM

Section 2.01. Lease of Property. (a) The Authority hereby leases to the City and the City hereby leases from the Authority the Property, on the terms and conditions hereinafter set forth, and subject to all Permitted Encumbrances.

(b) The parties intend and agree that the leasing of the Property by the City to the Authority under the Ground Lease does not affect or result in a merger of the City's leasehold estate in the Property as lessee under this Lease Agreement and its leasehold or fee estate, as applicable, in the Property as lessor under the Ground Lease, and the Authority will continue to have a leasehold estate in the Property under the Ground Lease throughout the terms of both leases. This Lease Agreement constitutes a sublease with respect to the Property. The leasehold interest in the Property granted by the City to the Authority pursuant to the Ground Lease is independent of this Lease Agreement and this Lease Agreement is not an assignment or surrender of the leasehold interest in the Property granted to the Authority under the Ground Lease.

Section 2.02. Occupancy; Term. (a) The City shall take possession of the Property on the Closing Date.

(b) The term of this Lease Agreement shall commence on the Closing Date and shall end on the Scheduled Termination Date, unless such term is extended or sooner terminated as hereinafter provided.

(c) If all of the Property shall be taken under the power of eminent domain, and the City does not elect to cause alternate real property to be substituted for all or a portion of the Property pursuant to, and in accordance with the provisions of, Section 8.03 hereof, as provided in clause (i) of Section 5.07(c) hereof but, rather, elects to deliver or cause to be delivered any award made in eminent domain proceedings for such taking to the Trustee for the application to the redemption, pursuant to Section 4.01 of the Indenture, of all or a portion of the Outstanding Bonds, as provided in clause (ii) of Section 5.07(c) hereof, then, on the date that possession thereof shall be so taken, the term of this Lease Agreement shall terminate.

(d) If, prior to the Scheduled Termination Date, all Bonds shall be fully paid, or deemed paid in accordance with Article X of the Indenture, then, on the date of such payment or deemed payment, the term of this Lease Agreement shall terminate.

(e) If on the Scheduled Termination Date, the Rental Payments payable hereunder shall have been abated at any time and for any reason, then the term of this Lease Agreement shall be extended until the date upon which all such Rental Payments shall have been paid in full, except that the term of this Lease Agreement shall in no event be extended more than ten years beyond the Scheduled Termination Date.

(f) Upon the termination of the term of this Lease Agreement (other than as provided in Section 7.01 hereof), and the first date upon which the Bonds are no longer Outstanding, all right, title and interest in and to the Property shall vest in the City. Upon any such termination or expiration, the Authority and the Trustee shall execute such conveyances, deeds and other documents as may be necessary to effect such vesting of record.

ARTICLE III

RENTAL PAYMENTS

Section 3.01. Rental Payments. (a) Rental Payments, consisting of Base Rental Payments and Additional Rental Payments, shall be paid by the City to the Authority for and in consideration of the right to use and occupy the Property and in consideration of the continued right to the quiet use and enjoyment thereof during each Rental Period for which such Rental Payments are to be paid.

(b) The obligation of the City to make the Rental Payments, including the Base Rental Payments, does not constitute a debt of the City or of the State or of any political subdivision thereof within the meaning of any constitutional or statutory debt limit or restriction, and does not constitute an obligation for which the City or the State is obligated to levy or pledge any form of taxation or for which the City or the State has levied or pledged any form of taxation.

(c) If the term of this Lease Agreement shall have been extended pursuant to Section 2.02 hereof, the obligation of the City to pay Rental Payments shall continue to and including the Base Rental Deposit Date preceding the date of termination of this Lease Agreement, as so extended.

Section 3.02. Base Rental Payments. (a) The City, subject to the provisions of Section 3.07 hereof, shall pay Base Rental Payments to the Authority. The Base Rental Payments shall be due and payable no later than the fifth Business Day next preceding each Interest Payment Date (the "Base Rental Deposit Date") on which such Base Rental Payment is due in an amount equal to the principal, if any, of and interest on the Bonds due and payable on such Interest Payment Date, including principal due and payable by reason of mandatory sinking fund redemption of the Bonds.

(b) If the term of this Lease Agreement shall have been extended pursuant to Section 2.02 hereof, the Base Rental Payments shall be established so that the Base Rental Payment payable on each Base Rental Deposit Date after the Scheduled Termination Date shall be equal to the principal, if any, of and interest on the Bonds remaining due and payable on such Base Rental Deposit Date; provided, however, that the Rental Payments payable in any Rental Period shall not exceed the annual fair rental value of the Property.

Section 3.03. Additional Rental Payments. (a) The City shall also pay, as Additional Rental Payments, such amounts as shall be required for the payment of the following:

- (i) all taxes and assessments of any type or nature charged to the Authority or the City or affecting the Property or the respective interests or estates of the Authority or the City therein;
- (ii) insurance premiums for all insurance required pursuant to Article V hereof; and
- (iii) all other payments not constituting Base Rental Payments required to be paid by the City pursuant to the provisions of this Lease Agreement.

(b) Amounts constituting Additional Rental Payments payable hereunder shall be paid by the City directly to the person or persons to whom such amounts shall be payable. The City shall pay all such amounts when due or at such later time as such amounts may be paid without penalty or, in any other case, within 60 days after notice in writing from the Trustee to the City stating the amount of Additional Rental Payments then due and payable and the purpose thereof.

Section 3.04. Fair Rental Value. The parties hereto have agreed and determined that the Fair Rental Value of the Property is not less than \$[RENTAL VALUE] as of the Closing Date. In making such determinations of Fair Rental Value, consideration has been given to the uses and purposes that may be served by the Property and the benefits therefrom that will accrue to the City and the general public. Payments of the Rental Payments for the Property during each Rental Period shall constitute the total rental for said Rental Period.

Section 3.05. Payment Provisions. Each installment of Base Rental Payments payable hereunder shall be paid in lawful money of the United States of America to or upon the order of the Authority at the Principal Office of the Trustee, or such other place or entity as the Authority shall designate. Each Base Rental Payment shall be deposited with the Trustee no later than the Base Rental Deposit Date preceding the Interest Payment Date on which such Base Rental Payment is due. Any Base Rental Payment that shall not be paid by the City when due and payable under the terms of this Lease Agreement shall bear interest from the date when the same is due hereunder until the same shall be paid a rate equal to the highest rate of interest on any of the Outstanding Bonds. Notwithstanding any dispute between the Authority and the City, the City shall make all Rental Payments when due without deduction or offset of any kind and shall not withhold any Rental Payments pending the final resolution of such dispute. In the event of a determination that the City was not liable for said Rental Payments or any portion thereof, said payments or excess of payments, as the case may be, shall be credited against subsequent Rental Payments due hereunder or refunded at the time of such determination.

Section 3.06. Appropriations Covenant. The City shall take such action as may be necessary to include all Rental Payments due hereunder as a separate line item in its annual budgets and to make necessary annual appropriations for all such Rental Payments. 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.

Section 3.07. Rental Abatement. (a) Except as otherwise specifically provided in this Section, during any period in which, by reason of material damage to, or destruction or condemnation of, the Property, or any defect in title to the Property, there is substantial interference with the City's right to use and occupy any portion of the Property, Rental Payments shall be abated proportionately, and the City waives the benefits of California Civil Code Sections 1932(1), 1932(2) and 1933(4) and any and all other rights to terminate this Lease Agreement by virtue of any such interference, and this Lease Agreement shall continue in full force and effect. The City and the Authority shall, in a reasonable manner and in good faith, determine the amount of such abatement; provided, however, that the Rental Payments due for any Rental Period shall not exceed the annual fair rental value of that portion of the Property available for use and occupancy by the City during such Rental Period. The City and the Authority shall provide the Trustee with a certificate setting forth the amount of abatement and the basis therefor. Such abatement shall continue for the period commencing with the date of interference resulting from such damage, destruction, condemnation or title defect and, with respect to damage to or destruction of the Property, ending with the substantial completion of the work of repair or replacement of the Property, or the portion thereof so damaged or destroyed.

(b) Notwithstanding the foregoing, to the extent that Net Proceeds of rental interruption insurance are available for the payment of Rental Payments, Rental Payments shall not be abated as provided in subsection (a) of this Section but, rather, shall be payable by the City as a special obligation payable solely from such Net Proceeds.

Section 3.08. Prepayment. (a) The City may cause all or a portion of the Bonds to be optionally redeemed pursuant to Section 4.02 of the Indenture by prepaying on any date on or after December 1, ____, all or a portion of the Base Rental Payments from any source of available funds, which prepayment shall be accomplished by the City's paying an amount sufficient to cause such Bonds to be redeemed pursuant to Section 4.02 of the Indenture on such prepayment date.

(b) The City may prepay, from any source of available funds, all or any portion of the Base Rental Payments by depositing with the Trustee moneys or securities as provided, and subject to the terms and conditions set forth, in Article X of the Indenture sufficient to make such Base Rental Payments when due or to make such Base Rental payments through a specified date on which the City has a right to prepay such Base Rental Payments pursuant to subsection (a) of this Section, and to prepay such Base Rental Payments on such prepayment date, at a prepayment price determined in accordance with subsection (a) of this Section.

(c) If less than all of the Base Rental Payments are prepaid pursuant to this Section then, as of the date of such prepayment pursuant to subsection (a) of this Section, or the date of a deposit pursuant to subsection (b) of this Section, the principal and interest components of the Base Rental Payments shall be recalculated in order to take such prepayment into account. The City agrees that if, following a partial prepayment of Base Rental Payments, the Property is damaged or destroyed or taken by eminent domain, or a defect in title to the Property is discovered, the City shall not be entitled to, and by such prepayment waives the right of, abatement of such prepaid Base Rental Payments and the City shall not be entitled to any reimbursement of such Base Rental Payments.

(d) If all of the Base Rental Payments are prepaid in accordance with the provisions of this Lease Agreement then, as of the date of such prepayment pursuant to subsection (a) of this Section, or deposit pursuant to subsection (b) of this Section, the term of this Lease Agreement shall be terminated.

(e) Before making any prepayment pursuant to this Article, the City shall give written notice to the Authority and the Trustee specifying the date on which the prepayment will be made, which date shall be not less than 45 days prior to the prepayment date, unless such notice shall be waived by the Authority and the Trustee.

ARTICLE IV

QUIET ENJOYMENT; MAINTENANCE; ALTERATIONS; LIENS

Section 4.01. Quiet Enjoyment. The Authority hereby covenants and agrees that it will not take any action to prevent the City, so long as the City is keeping and performing the covenants and agreements herein contained, from having quiet and peaceable possession and enjoyment of the Property during the term hereof.

Section 4.02. 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 Rental Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever and notwithstanding any dispute between the City and the Authority.

Section 4.03. Right of Entry. The Authority shall have the right to enter upon and to examine and inspect the Property during reasonable business hours (and in emergencies at all times) for any purpose connected with the Authority's rights or obligations under this Lease Agreement, and for all other lawful purposes.

Section 4.04. Maintenance and Utilities. Throughout the term of this Lease Agreement, as part of the consideration for rental of the Property, all improvement, repair and maintenance of the Property shall be the responsibility of the City, and the City shall pay for 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, ventilation, air conditioning, water and all other utility services, and shall pay for or otherwise arrange for 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 Rental Payments, the Authority agrees to provide only the Property.

Section 4.05. Additions to Property. Subject to Section 4.07 hereof, the City and any sublessee shall, at its own expense, have the right to make additions, modifications and improvements to the Property. To the extent that the removal of such additions, modifications or improvements would not cause material damage to the Property, such additions, modifications and improvements shall remain the sole property of the City or such sublessee, and neither the Authority nor the Trustee shall have any interest therein. Such additions, modifications and improvements shall not in any way damage the Property or cause it 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 pursuant to this Section, shall be of a value that is at least equal to the value of the Property immediately prior to the making of such additions, modifications and improvements.

Section 4.06. Installation of City's Equipment. The City and any sublessee 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 the Property. All such items shall remain the sole property of the City or such sublessee, and neither the Authority nor the Trustee shall have any interest therein. The City or such sublessee may remove or modify such equipment or other personal property at any time, provided that such party shall repair and restore any and all damage to the Property resulting from the installation, modification or removal of any such items; and the Property, upon completion of any installations, modifications or removals made pursuant to this Section, shall be of a value that is at least equal to the value of the Property immediately prior to the making of such installations, modifications or removals. Nothing in this Lease Agreement shall prevent the City or any sublessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease purchase contract, 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 4.07. Mechanics', Etc. Liens. In the event the City shall at any time during the term of this Lease Agreement cause any changes, alterations, additions, improvements, or other work to be done or performed or materials to be supplied, in or upon the Property, the City shall pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the City in, upon or about the Property and that may be secured by a mechanics', materialmen's or other lien against the Property or the Authority's interest therein, and shall cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that, if the City desires to contest any such lien, it may do so as long as such contest is in good faith. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the City shall forthwith pay and discharge said judgment.

Section 4.08. Other Liens. The City shall keep the Property and all parts thereof free from judgments and materialmen's and mechanics' liens and free from all claims, demands, encumbrances and other liens of whatever nature or character, and free from any claim or liability that materially impairs the City in conducting its business or utilizing the Property, and the Trustee at its option (after first giving the

City ten days' written notice to comply therewith and failure of the City to so comply within such ten-day period) may defend against any and all actions or proceedings, or may pay or compromise any claim or demand asserted in any such actions or proceedings; provided, however, that, in defending against any such actions or proceedings or in paying or compromising any such claims or demands, the Trustee shall not in any event be deemed to have waived or released the City from liability for or on account of any of its agreements and covenants contained herein, or from its obligation hereunder to perform such agreements and covenants. The Trustee shall have no liability with respect to any determination made in good faith to proceed or decline to defend, pay or compromise any such claim or demand.

ARTICLE V

INSURANCE; NET PROCEEDS; EMINENT DOMAIN

Section 5.01. Public Liability and Property Damage Insurance; Workers' Compensation Insurance. (a) The City shall maintain or cause to be maintained, throughout the term of this Lease Agreement, a standard comprehensive general liability insurance policy or policies in protection of the City, the Authority and their respective members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the use or ownership 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 a single accident or event, and in a minimum amount of \$500,000 for damage to property (subject to a deductible clause of not to exceed \$100,000) resulting from a single accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of \$3,000,000 covering all such risks. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the City. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid. The City's obligations under this subsection may be satisfied by self-insurance, provided that such self-insurance complies with the provisions of Section 5.04 hereof.

(b) The City shall maintain or cause to be maintained casualty insurance insuring the Property against fire, lightning and all other risks covered by an extended coverage endorsement (excluding earthquake and flood) to the full insurable value of the Property, subject to a \$100,000 loss deductible provision. Full insurable value shall not be less than the aggregate principal amount of the Outstanding Bonds. The Net Proceeds of such casualty insurance shall be applied as provided in Section 5.05 hereof. The City's obligations under this subsection may be satisfied by self-insurance, provided that such self-insurance complies with the provisions of Section 5.04 hereof.

(c) The City shall maintain rental interruption insurance to cover the Authority's loss, total or partial, of Base Rental Payments resulting from the loss, total or partial, of the use of any part of the Property as a result of any of the hazards required to be covered pursuant to subsection (b) of this Section in an amount not less than the product of two times the maximum amount of Base Rental Payments scheduled to be paid during any Rental Period. The Net Proceeds of such rental interruption insurance shall be applied to the payment of Rental Payments during the period in which, as a result of the damage or destruction to the Property that resulted in the receipt of such Net Proceeds, there is substantial interference with the City's right to the use or occupancy of the Property. The City's obligations under this subsection may not be satisfied by self-insurance.

(d) The insurance required by this Section other than self-insured as provided shall be provided by reputable insurance companies with claims paying abilities determined, in the reasonable opinion of the

City's professionally qualified risk manager or an independent insurance consultant, to be adequate for the purposes hereof.

Section 5.02. Title Insurance. The City shall provide, on the Closing Date, at its own expense, one or more CLTA or ALTA title insurance policies for the Property, in the aggregate amount of not less than the aggregate principal amount of the Bonds. Said policy or policies shall insure (a) the fee interest of the City in the Property (b) the Authority's ground leasehold estate in the Property under the Ground Lease, and (c) the City's leasehold estate hereunder in the Property, subject only to Permitted Encumbrances; provided, however, that one or more of said estates may be insured through an endorsement to such policy or policies. The Net Proceeds of such title insurance shall be applied as provided as provided in Section 5.06 hereof.

Section 5.03. Additional Insurance Provision; Form of Policies. (a) The City shall pay or cause to be paid when due the premiums for all insurance policies required by Section 5.01 hereof, and shall promptly furnish or cause to be furnished evidence of such payments to the Trustee. All such policies shall contain a standard lessee clause in favor of the Trustee and the general liability insurance policies shall be endorsed to show the Trustee, as an additional insured. All such policies shall provide that the Trustee shall be given 30 days' notice of the expiration thereof, any intended cancellation thereof or any reduction in the coverage provided thereby. The Trustee shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the City.

(b) The City shall cause to be delivered to the Trustee, within 90 days following the close of each Fiscal Year, a schedule of the insurance policies being maintained in accordance herewith and a Written Certificate of the City stating that such policies are in full force and effect and that the City is in full compliance with the requirements of this Article. The Trustee shall be entitled to rely upon said Written Certificate of the City as to the City's compliance with this Article. The Trustee shall not be responsible for the sufficiency of coverage or amounts of such policies.

Section 5.04. Self-Insurance. Any self-insurance maintained by the City pursuant to this Article shall comply with the following terms:

(a) the self-insurance program shall be approved in writing by the City's professionally qualified risk manager or by an independent insurance consultant;

(b) the self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid, the adequacy of each such fund shall be evaluated on a bi-annual basis by the City's professionally qualified risk manager or by an independent insurance consultant and any deficiencies in any self-insured claims reserve fund shall be remedied in accordance with the recommendation of the City's professionally qualified risk manager or such independent insurance consultant, as applicable; and

(c) in the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by the City's professionally qualified risk manager or by an independent insurance consultant, shall be maintained.

Section 5.05. Damage or Destruction. (a) If the Property or any portion thereof shall be damaged or destroyed, the City shall, within 30 days of the occurrence of the event of damage or destruction, notify the Trustee in writing of the City's determination as to whether or not such damage or destruction will result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof.

(b) If the City determines that such damage or destruction will not result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof, the City shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair or replacement thereof.

(c) If the City determines that such damage or destruction will result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof, then the City shall (i) apply sufficient funds from the Net Proceeds of any insurance (other than Net Proceeds of rental interruption insurance), including the proceeds of any self-insurance, received on account of such damage or destruction and other legally available funds to the repair or replacement of the Property or the portions thereof that have been damaged or destroyed to the condition that existed prior to such damage or destruction, provided that, within 40 days of the occurrence of the event of damage or destruction, the City delivers to the Trustee a Written Certificate of the City (A) certifying that the City has sufficient funds to so complete such repair or replacement of the Property or such portions thereof and identifying such funds and the location thereof, and (B) stating that such funds will not be used for any other purpose until such repair or replacement is completed, (ii) within 60 days of the occurrence of the event of damage or destruction, cause alternate real property to be substituted for all or a portion of the Property pursuant to, and in accordance with the provisions of, Section 8.03 hereof, or (iii) within 60 days of the occurrence of the event of damage or destruction, deliver sufficient funds from such Net Proceeds and other legally available funds to the Trustee for the application to the redemption, pursuant to Section 4.01 of the Indenture (A) of all of the Outstanding Bonds, or (B) of such portion of the Outstanding Bonds as shall result in (I) the annual fair rental value of the Property after such damage or destruction, and after any repairs or replacements made as a result of such damage or destruction, as certified in a Written Certificate of the City delivered to the Trustee, being at least equal to 105% of the maximum amount of the principal (including principal due and payable by reason of mandatory sinking fund redemption of such Bonds) of and interest on the Bonds coming due in the then current Rental Period or any subsequent Rental Period, and (II) the fair replacement value of the Property after such damage or destruction, and after any repairs or replacements made as a result of such damage or destruction, as certified in a Written Certificate of the City delivered to the Trustee, being at least equal to the aggregate principal amount of the Bonds then Outstanding.

Section 5.06. Net Proceeds of Title Insurance. (a) If a defect in title to the Property results in the creation of a right to receive Net Proceeds under any policy of title insurance with respect to the Property or any portion thereof, the City shall, within 30 days of the creation of such right, notify the Trustee in writing of the City's determination as to whether or not such title defect will result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof.

(b) If the City determines that such title defect will not result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof, such Net Proceeds shall be remitted to the City and used for any lawful purpose thereof.

(c) If the City determines that such title defect will result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof, then the City shall (i) within 60 days of the creation of such right to receive such Net Proceeds, cause alternate real property to be substituted for all or a portion of the Property pursuant to, and in accordance with the provisions of, Section 8.03 hereof, or (ii) immediately upon receipt thereof, deliver or cause to be delivered such Net Proceeds to the Trustee for the application to the redemption, pursuant to Section 4.01 of the Indenture, of all or a portion of the Outstanding Bonds.

Section 5.07. Eminent Domain. (a) If all or a portion of the Property shall be taken under the power of eminent domain, the City shall, no later than 45 days prior to the day that possession thereof shall be so taken, notify the Trustee in writing of the City's determination as to whether or not such taking will result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof.

(b) If the City determines that such taking will not result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof, any award made in eminent domain proceedings for such taking shall be remitted to the City and used for any lawful purpose thereof.

(c) If the City determines that such taking will result in a substantial interference with the City's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments pursuant to Section 3.07 hereof, then the City shall (i) no later than 60 days prior to the day that possession thereof shall be so taken, cause alternate real property to be substituted for all or a portion of the Property pursuant to, and in accordance with the provisions of, Section 8.03 hereof, or (ii) immediately upon receipt thereof, deliver or cause to be delivered any award made in eminent domain proceedings for such taking to the Trustee for the application to the redemption, pursuant to Section 4.01 of the Indenture, of all or a portion of the Outstanding Bonds.

ARTICLE VI

REPRESENTATIONS; COVENANTS

Section 6.01. Representations of the City. The City represents and warrants (a) that the City has the full power and authority to enter into, to execute and to deliver this Lease Agreement and to perform all of its duties and obligations hereunder, and has duly authorized the execution and delivery of this Lease Agreement, and (b) the Property will be used in the performance of essential governmental functions.

Section 6.02. Representation of the Authority. The Authority represents and warrants that the Authority has the full power and authority to enter into, to execute and to deliver this Lease Agreement and the Indenture, and to perform all of its duties and obligations hereunder and thereunder, and has duly authorized the execution and delivery of this Lease Agreement and the Indenture.

Section 6.03. Recordation. The City shall record, or cause to be recorded, with the Riverside County Recorder, the Lease Agreement and the Ground Lease, or memoranda thereof, and a memorandum of the assignment of the City's right, title and interest in and to the Ground Lease and the Lease Agreement pursuant to Section 5.01 of the Indenture.

Section 6.04. Use of the Property. The City will not use, operate or maintain the Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease Agreement. In addition, the City agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Property) with all laws of the jurisdictions in which its operations may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Property; provided, however, that the City may contest in good faith the validity or application of any such law or rule in any reasonable manner that does not, in the opinion of the Authority, adversely affect the estate of the Authority in and to any of the Property or its interest or rights under this Lease Agreement.

Section 6.05. Other Liens. The City shall keep the Property and all parts thereof free from judgments and materialmen's and mechanics' liens and free from all claims, demands, encumbrances and

other liens of whatever nature or character, and free from any claim or liability that materially impairs the City in conducting its business or utilizing the Property, and the Trustee at its option (after first giving the City ten days' written notice to comply therewith and failure of the City to so comply within such ten-day period) may defend against any and all actions or proceedings, or may pay or compromise any claim or demand asserted in any such actions or proceedings; provided, however, that, in defending against any such actions or proceedings or in paying or compromising any such claims or demands, the Trustee shall not in any event be deemed to have waived or released the City from liability for or on account of any of its agreements and covenants contained herein, or from its obligation hereunder to perform such agreements and covenants. The Trustee shall have no liability with respect to any determination made in good faith to proceed or decline to defend, pay or compromise any such claim or demand.

Section 6.06. Taxes. (a) The City shall pay or cause to be paid all taxes and assessments of any type or nature charged to the Authority or affecting the Property or the respective interests or estates therein; provided, however, 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 this Lease Agreement as and when the same become due.

(b) After giving notice to the Authority and the Trustee, the City or any sublessee may, at the City's or such sublessee's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority shall notify the City or such sublessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Authority 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 or such sublessee shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss that may result from nonpayment, in form satisfactory to the Authority.

Section 6.07. No Liability; Indemnification. (a) The Authority and its directors, officers, agents and employees, shall not be liable to the City or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Property. To the extent permitted by law, the City shall, at its expense, indemnify and hold the Authority and the Trustee and all directors, members, officers and employees thereof harmless against and from any and all claims by or on behalf of Person arising from the acquisition, construction, occupation, use, operation, maintenance, possession, conduct or management of or from any work done in or about the Property or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances, or regulations affecting the Property or the occupancy or use thereof, but excepting the negligence or willful misconduct of the persons or entity seeking indemnity. The City also covenants and agrees, at its expense, to pay and indemnify and save the Authority and the Trustee and all directors, officers and employees thereof harmless against and from any and all claims arising from (i) any condition of the Property and the adjoining sidewalks and passageways, (ii) any breach or default on the part of the City in the performance of any covenant or agreement to be performed by the City pursuant to this Lease Agreement, (iii) any act or negligence of licensees in connection with their use, occupancy or operation of the Property, or (iv) any accident, injury or damage whatsoever caused to any person, firm or corporation in or about the Property or upon or under the sidewalks and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this Section, but excepting the negligence or willful misconduct of the person or entity seeking indemnity. In the event that any action or proceeding is brought against the Authority or the Trustee or any director, member, officer or employee thereof, by reason of any such claim, the City, upon notice from the Authority or the Trustee or such director, member, officer or employee thereof, covenants

to resist or defend such action or proceeding by counsel reasonably satisfactory to the Authority or the Trustee or such director, member, officer or employee thereof.

(b) In no event shall the Authority be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Lease Agreement or the City's use of the Property.

Section 6.08. Further Assurances. The City shall make, execute and deliver any and all such further agreements, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Lease Agreement and for the better assuring and confirming unto the Authority of the rights and benefits provided in this Lease Agreement.

ARTICLE VII

LEASE DEFAULT EVENTS AND REMEDIES

Section 7.01. Lease Default Events and Remedies. (a) If (i) the City shall fail (A) to pay any Rental Payment payable hereunder when the same becomes due and payable, time being expressly declared to be of the essence in this Lease Agreement, or (B) to keep, observe or perform any other term, covenant or condition contained herein to be kept or performed by the City, if such failure shall have continued for a period of 30 days after written notice thereof, specifying such failure and requiring the same to be remedied, shall have been given to the City by the Trustee, the Authority, or the Owners of not less than 5% of the aggregate principal amount of the Bonds at the time Outstanding; provided, however, that if the failure stated in the notice can be corrected, but not within such 30 day period, such failure shall not constitute a Lease Default Event hereunder if corrective action is instituted by the City within such 30 day period and the City shall thereafter diligently and in good faith cure such failure in a reasonable period of time, provided, further, that, unless consented to by the Trustee, such period of time shall not exceed 180 days, (ii) except as otherwise provided in Article VIII hereof, the City's interest in this Lease Agreement or any part thereof be assigned or transferred, either voluntarily or by operation of law or otherwise, (iii) the City or the Authority shall commence a voluntary case under Title 11 of the United States Code or any substitute or successor statute, or (iv) the City shall fail to observe and perform any of the covenants, agreements or conditions on its part in the Indenture contained, if such failure shall have continued for a period of 30 days after written notice thereof, specifying such failure and requiring the same to be remedied, shall have been given to the City by the Trustee, the Authority or the Owners of not less than 5% of the aggregate principal amount of the Bonds at the time Outstanding; provided, however, that if the failure stated in the notice can be corrected, but not within such 30 day period, such failure shall not constitute a Lease Default Event hereunder if corrective action is instituted by the City within such 30 day period and the City shall thereafter diligently and in good faith cure such failure in a reasonable period of time, provided, further, that, unless consented to by the Trustee, such period of time shall not exceed 180 days, such failure or event shall constitute a Lease Default Event under this Lease Agreement.

(b) Upon the occurrence of any Lease Default Event hereunder, the Authority, in addition to all other rights and remedies it may have at law, shall have the option to do any of the following:

(i) To terminate this Lease Agreement in the manner hereinafter provided on account of such Lease Default Event, notwithstanding any re-entry or re-letting of the Property as hereinafter provided for in subparagraph (ii) hereof, and to re-enter the Property and remove all persons in possession thereof and all personal property whatsoever situated upon the Property and place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the City. In the event of such termination, the City agrees to surrender immediately possession of the Property, without let or hindrance, and to pay the Authority all

damages recoverable at law that the Authority may incur by reason of such Lease Default Event, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Property and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. Neither notice to pay Rental Payments or to deliver up possession of the Property given pursuant to law nor any entry or re-entry by the Authority nor any proceeding in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Property nor the appointment of a receiver upon initiative of the Authority to protect the Authority's interest under this Lease Agreement shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of a Lease Default Event hereunder shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Authority shall have given written notice to the City of the election on the part of the Authority to terminate this Lease Agreement. The City covenants and agrees that no surrender of the Property or of the remainder of the term hereof or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever unless stated by the Authority by such written notice.

(ii) Without terminating this Lease Agreement, (A) to collect each installment of Rental Payments as the same become due and enforce any other terms or provisions hereof to be kept or performed by the City, regardless of whether or not the City has abandoned the Property, or (B) to exercise any and all rights of entry and re-entry upon the Property. In the event the Authority does not elect to terminate this Lease Agreement in the manner provided for in subparagraph (i) hereof, the City shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the City and, if the Property is not re-let, to pay the full amount of the Rental Payments to the end of the term of this Lease Agreement or, in the event that the Property is re-let, to pay any deficiency in Rental Payments that results therefrom; and further agrees to pay said Rental Payments and/or Rental Payment deficiency punctually at the same time and in the same manner as hereinabove provided for the payment of Rental Payments hereunder, notwithstanding the fact that the Authority may have received in previous years or may receive thereafter in subsequent years Rental Payments in excess of the Rental Payments herein specified, and notwithstanding any entry or re-entry by the Authority or suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Property. Should the Authority elect to re-enter as herein provided, the City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to re-let the Property, or any part thereof, from time to time, either in the Authority's name or otherwise, upon such terms and conditions and for such use and period as the Authority may deem advisable and to remove all persons in possession thereof and all personal property whatsoever situated upon the Property and to place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the City, and the City hereby indemnifies and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Property and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Authority to re-let 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 Authority in effecting such re-letting shall constitute a surrender or termination of this Lease Agreement irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, upon the occurrence of a Lease Default Event hereunder, the right to terminate this Lease Agreement shall vest in the Authority to be effected in the sole and exclusive manner provided for in subparagraph (i) hereof. The City further agrees to pay the Authority the cost of any alterations or

additions to the Property necessary to place the Property in condition for re-letting immediately upon notice to the City of the completion and installation of such additions or alterations.

The City hereby waives any and all claims for damages caused or that may be caused by the Authority 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, or any other person, that may be in or upon the Property.

(c) In addition to the other remedies set forth in this Section, upon the occurrence of a Lease Default Event hereunder, the Authority shall be entitled to proceed to protect and enforce the rights vested in the Authority by this Lease Agreement or by law. The provisions of this Lease Agreement and the duties of the City and of its board, officers or employees shall be enforceable by the Authority by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. Without limiting the generality of the foregoing, the Authority shall have the right to bring the following actions:

(i) *Accounting*. By action or suit in equity to require the City and its board, officers and employees and its assigns to account as the trustee of an express trust.

(ii) *Injunction*. By action or suit in equity to enjoin any acts or things that may be unlawful or in violation of the rights of the Authority.

(iii) *Mandamus*. By mandamus or other suit, action or proceeding at law or in equity to enforce the Authority's rights against the City (and its board, officers and employees) and to compel the City to perform and carry out its duties and obligations under the law and its covenants and agreements with the City as provided herein.

(d) Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Authority to the further exercise thereof or the exercise of any or all other rights, powers or privileges. The term "re-let" or "re-letting" as used in this Section shall include, but not be limited to, re-letting by means of the operation by the Authority of the Property. If any statute or rule of law validly shall limit the remedies given to the Authority hereunder, the Authority nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

(e) In the event the Authority shall prevail in any action brought to enforce any of the terms and provisions of this Lease Agreement, the City agrees to pay a reasonable amount as and for attorney's fees incurred by the Authority in attempting to enforce any of the remedies available to the Authority hereunder.

(f) Notwithstanding anything to the contrary contained in this Lease Agreement, the Authority shall have no right upon a default by the City hereunder, a Lease Default Event hereunder or otherwise to accelerate Rental Payments.

(g) Notwithstanding anything herein to the contrary, the termination of this Lease Agreement by the Authority on account of a Lease Default Event hereunder shall not effect or result in a termination of the lease of the Property by the City to the Authority pursuant to the Ground Lease.

Section 7.02. Waiver. Failure of the Authority to take advantage of any default on the part of the City shall not be, or be construed as, a waiver thereof, nor shall any custom or practice that may grow up between the parties in the course of administering this instrument be construed to waive or to lessen the right of the Authority to insist upon performance by the City of any term, covenant or condition hereof, or

to exercise any rights given the Authority on account of such default. A waiver of a particular default shall not be deemed to be a waiver of any other default or of the same default subsequently occurring. The acceptance of Rental Payments hereunder shall not be, or be construed to be, a waiver of any term, covenant or condition of this Lease Agreement.

ARTICLE VIII

AMENDMENTS; ASSIGNMENT AND SUBLEASING; SUBSTITUTION OR RELEASE

Section 8.01. Amendments. (a) This Lease Agreement and the Ground Lease, and the rights and obligations of the Authority and the City hereunder and thereunder, may be amended at any time by an amendment hereto or thereto, which shall become binding upon execution by the City and the Authority, but only with the prior written consent of the Owners of a majority of the aggregate principal amount the Bonds then Outstanding, provided that no such amendment shall (i) extend the payment date of any Base Rental Payment or reduce any Base Rental Payment, without the prior written consent of the Owner of each Bond so affected, or (ii) reduce the percentage of the aggregate principal amount the Bonds, the consent of the Owners of which is required for the execution of any amendment of this Lease Agreement or the Ground Lease, without the prior written consent of the Owners of all the Bonds then Outstanding.

(b) This Lease Agreement and the Ground Lease, and the rights and obligations of the City and the Authority hereunder and thereunder, may also be amended at any time by an amendment hereto or thereto, which shall become binding upon execution by the City and the Authority, without the written consents of any Owners, but only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the agreements, conditions, covenants and terms required by the Authority or the City to be observed or performed herein or therein other agreements, conditions, covenants and terms thereafter to be observed or performed by the Authority or the City, or to surrender any right or power reserved herein or therein to or conferred herein or therein on the Authority or the City;

(ii) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or therein or in regard to questions arising hereunder or thereunder that the Authority or the City may deem desirable or necessary and not inconsistent herewith or therewith, and that shall not materially adversely affect the rights or interests of the Owners;

(iii) to make such additions, deletions or modifications as may be necessary or appropriate to assure the exclusion from gross income for federal income tax purposes of interest on the Bonds or maintain any federal interest subsidies expected to be received with respect to any Bonds; or

(iv) [Reserved];

(v) to provide for the substitution or release of a portion of the Property in accordance with the provisions of Section 8.03 hereof; or

(vi) to make such other changes herein or therein or modifications hereto or thereto as the Authority or the City may deem desirable or necessary, and that shall not materially adversely affect the interests of the Owners.

Section 8.02. Assignment and Subleasing. Neither this Lease Agreement nor any interest of the City hereunder shall be sold, mortgaged, pledged, assigned or transferred by the City by voluntary act or by operation of law or otherwise; provided, however, that the Property may be subleased in whole or in part by the City, provided that any such sublease shall be subject to all of the following conditions:

- (a) this Lease Agreement and the obligation of the City to make all Rental Payments hereunder shall remain the primary obligation of the City;
- (b) the City shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trustee a true and complete copy of such sublease;
- (c) any sublease of the Property by the City shall explicitly provide that such sublease is subject to all rights of the Authority under this Lease Agreement, including, the right to re-enter and re-let the Property or terminate this Lease Agreement upon a Lease Default Event hereunder; and
- (d) the City shall furnish the Authority and the Trustee with an Opinion of Bond Counsel to the effect that such sublease will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income tax purposes.

Section 8.03. Substitution or Release of the Property. The City shall have the right to substitute alternate real property for any portion of the Property or to release a portion of the Property from this Lease Agreement. The City shall bear all costs and expenses incurred in connection with any substitution or release. A substitution or release under this Section 8.03 will not cause a reduction in, or abatement of, the Base Rental Payments due from the City. Each substitution or release of any portion of the Property is subject to the following conditions, which are conditions precedent to such a substitution or release:

- (a) the City and the Authority must have executed, and the Trustee must have consented to, amendments to the Ground Lease and this Lease Agreement that contain the amended description of the Property as constituted after the substitution and release, and the City must have caused the amendments to be duly recorded with San Luis Obispo County Clerk/Recorder;
- (b) the City must have filed with the Trustee a Written Certificate of the City certifying that (1) the sum of Base Rental Payments plus Additional Rental Payments due under the Lease Agreement in any Rental Period is not in excess of the annual fair-rental value of the Property as constituted after the substitution or release, (2) the Property as constituted after the substitution or release has a useful life equal to or greater than the remaining term of the Bonds, and (3) the City has beneficial use and occupancy of the Property as constituted after such substitution or release;
- (c) the City must have obtained or caused to be obtained an ALTA or CLTA owner's title-insurance policy or policies (or an amendment or endorsement to an existing policy or policies) with respect to the Property as constituted after the substitution or release, in substantially the same form as required by Section 5.02 and in an amount at least equal to the principal amount of the Bonds then Outstanding.
- (d) The City must have filed or caused to be filed with the Trustee an Opinion of Counsel to the effect that the substitution or release will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income-tax purposes.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Assignment to Trustee. The City understands and agrees that, upon the execution and delivery of the Indenture (which is occurring simultaneously with the execution and delivery hereof), certain right, title and interest of the Authority in and to this Lease Agreement will be sold, assigned and transferred to the Trustee for the benefit of the Owners of the Bonds. The City hereby consents to such sale, assignment and transfer. Upon the execution and delivery of the Indenture, references in the operative provisions hereof to the Authority shall be deemed to be references to the Trustee, as assignee of the Authority.

Section 9.02. Validity and Severability. If for any reason this Lease Agreement shall be held by a court of competent jurisdiction to be void, voidable or unenforceable by the Authority or by the City, or if for any reason it is held by such a court that any of the covenants and conditions of the City hereunder, including the covenant to pay Rental Payments, is unenforceable for the full term hereof, then and in such event this Lease Agreement is and shall be deemed to be a lease agreement under which the Rental Payments are to be paid by the City annually in consideration of the right of the City to possess, occupy and use the Property, and all of the terms, provisions and conditions of this Lease Agreement, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

Section 9.03. Notices. All written notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

If to the City: San Luis Obispo Public Financing Authority
990 Palm Street
San Luis Obispo, California 93401
Phone: (805) 781-7114
Attention: Secretary/City Clerk

If to the Authority: San Luis Obispo Public Financing Authority
990 Palm Street
San Luis Obispo, California 93401
Phone: (805) 781-7114
Attention: Secretary/City Clerk

If to the Trustee: U.S. Bank Trust Company, National Association
633 W 5th Street, 24th Floor
Los Angeles, California 90071
Attention: Global Corporate Trust Services

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if

given by courier or delivery service or if personally served or delivered, upon delivery, (b) if given by telecopier, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, or (d) if given by any other means, upon delivery at the address specified in this Section.

Section 9.04. 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 Lease Agreement.

Section 9.05. Governing Laws. This Lease Agreement shall be governed by and construed in accordance with the laws of the State.

Section 9.06. Electronic Signature. Each of the parties hereto agrees that the transaction consisting of this Lease Agreement may be conducted by electronic means. Each party agrees, and acknowledges that it is such party's intent, that if such party signs this Lease Agreement using an electronic signature, it is signing, adopting, and accepting this Lease Agreement and that signing this Lease Agreement using an electronic signature is the legal equivalent of having placed its handwritten signature on this Lease Agreement on paper. Each party acknowledges that it is being provided with an electronic or paper copy of this Lease Agreement in a usable format.

Section 9.07. Execution in Counterparts. This Lease Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

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

**SAN LUIS OBISPO PUBLIC FINANCING
AUTHORITY, as Lessor**

By: _____
Derek Johnson, Treasurer

CITY OF SAN LUIS OBISPO, Lessee

By: _____
Derek Johnson, City Manager

EXHIBIT A

DESCRIPTION OF THE PROPERTY

All of that real property situated in the City of San Luis Obispo, County of San Luis Obispo, State of California, described as follows, and any improvements thereto:

[TO COME]

EXHIBIT B

DESCRIPTION OF THE PROJECT

The acquisition, design, engineering, fabrication, construction, improvement and installation of a parking structure in the City of San Luis Obispo's Cultural Arts District and other public capital improvements throughout the City.