



CITY OF BRISBANE AND BRISBANE GUADALUPE VALLEY MUNICIPAL IMPROVEMENT DISTRICT FINANCING AUTHORITY AGENDA REPORT

Meeting Date: 3/3/2022

From: Stuart Schillinger, Assistant City Manager

Subject: City Council Resolution Approving the form and authorizing the execution of certain lease financing documents to finance the costs associated with acquisition of the building and land of the former Bank of America Branch located at 70 Old County Road in Brisbane and authorizing and directing certain actions thereto

Subject: Authority Resolution approving the form and authorizing the execution of certain lease financing documents in connection with the financing by the City of Brisbane of a portion of the costs associated with acquisition of the building and land of the former Bank of America Branch Located at 70 Old County Road in Brisbane and authorizing and directing certain actions thereto

Community Goal/Result

Fiscally Prudent

Economic Development

Community Building

Purpose

Purchase property at the corner of Old County Road and Bayshore to ensure community values are taken into account in determining the future development of the site, likely for commercial purposes and/or housing.

Recommendation

Approve the Resolutions described above.

Background

On December 9, 2021 the City Council approved the purchase of the old Bank of America Building located at the corner of Old County Road and Bayshore Drive. The purchase price was \$4,250,000. The purchase closed February 22, 2022. The City Council directed staff to use bond financing to pay for the purchase of the property using the new Library for the collateral.

Staff worked with our Financial Advisor (Marty Johnson) and developed the option using a private placement with a bank. Staff presented this option to the City Council's infrastructure subcommittee. The advantages for this option compared to a public offering are; 1) it allowed

the City to lock in an interest rate more quickly in an increasing interest rate environment, 2) it allows for a shorter call feature, and 3) it allows banks to bid on the debt and currently banks are offering similar or lower overall costs compared to a public placement. Based on feedback from the Infrastructure Committee the City developed a 20-year privately placed debt instrument. The 20 year structure allows the City to lower the overall interest payment compared to 25 or 30 year terms.

Since no determination has been made for the ultimate use of the project the debt instrument will be taxable instead of tax exempt. Tax exempt debt can be used when the purpose of the bond is for governmental purposes. Since it is unknown whether the ultimate use of the land will be for affordable housing, market rate housing, commercial use, or governmental use the City needs to issue the debt instrument as taxable.

Currently, the annual payments for the instrument will be from the General Fund, if at some future date the City Council determines the use of the property will be for affordable housing the City can payback the General Fund for its outlay on the project from the Affordable Housing Fund. If it makes financial sense, a Tax-Exempt refinancing could be done to lower the annual payment.

Discussion

City staff and the City's Financial Advisor have developed a repayment schedule that wraps this debt around existing debt the General Fund is paying. The idea of wrapping this new debt around existing debt allows the City to minimize the initial impact of the additional debt service. The City currently has two issues outstanding that the General Fund is paying. One is a Pension Obligation Bond which comes due in FY 2023. The second is the City Hall remodel which will be paid off in 2029. The annual payment for the Pension Obligation Bond is about \$393,000 for FY 2023 and the annual payment for the City Hall remodel is about \$155,000 a year through 2029. There will be no payment due in FY 2022 on the new loan. The payments on the new loan will be structured as interest only in FY 2023 (~\$132,400), payments of ~\$212,000 through FY 2029 and then payments of \$368,000 through maturity in FY 2042. This means through the year 2029 the City will pay a total of \$368,000 annually; \$155,000 will go towards paying off the Remodel Bond and \$213,000 going to pay off the purchase of the Bank of America site loan. After 2029 the City will pay \$368,000 to pay off the Bank of America site loan.

The City will pay approximately \$136,000 per year in interest for the first 5 years of the loan. When a decision for the ultimate use of the land is made staff will be able to return to the City Council with additional options that may save the City more money and/or move the payment to a fund other than the General Fund.

If the City Council chooses not borrow the \$4,250,000 and instead pay cash from General Fund it would reduce the amount of cash to meet other needs including our Fund Balance Policy. As

stated at the January 20, 2022 Council meeting between required reserves, and committed reserves there is no additional liquid funds available for other projects. Therefore, spending cash instead of borrowing the funds will bring us below the liquid reserves required by our reserve policy. We might not have enough easily accessible funds available if there was an emergency or recession that required us to make up for additional expenses or lost revenue quickly. Reducing the City's cash balance would also reduce the amount of interest the City could earn.

Fiscal Impact

The annual payment for the privately placed note will increase from \$213,000 in FY 2023 to \$368,000 in 2042. The note will be paid off after 20 years. The City will be able to call the loan in FY 2028 without penalty. The total amount of interest paid over the life of the loan will be \$1,848,800. The interest paid in the first 5 years will be \$681,651. A portion of this interest payment can be offset by the interest on the money the City will keep by using financing.

The piece of property that will secure the loan is the new City Library located on Visitacion Avenue. The library's value exceeds the amount of the issue by over \$2,000,000 so there is enough value there to provide the note holders enough collateral for the loan. Additionally, having a facility or building that is of higher value to the community is better than one of less value to the community.

Measure of Success

The community ends up with a use on the property that is acceptable.

Attachments

- 1) City Council Resolution Approving the form and authorizing the execution of certain lease financing documents to finance the costs associated with acquisition of the building and land of the former Bank of America Branch located at 70 Old County Road in Brisbane and authorizing and directing certain actions thereto
- 2) : Authority Resolution approving the form and authorizing the execution of certain lease financing documents in connection with the financing by the City of Brisbane of a portion of the costs associated with acquisition of the building and land of the former Bank of America Branch Located at 70 Old County Road in Brisbane and authorizing and directing certain actions thereto
- 3) Placement Agent Agreement – Entering into an Agreement with Oppenheimer & Co. Inc.– The placement agent assists the City with finding a purchaser for the City's debt instrument

- 4) Letter Agreement for Funding – Bank of the West will loan the City \$4,335,000 at a rate of 3.250% per annum. The letter details how the funds will be allocated between the City of Brisbane (\$4253,040); Quint and Thimming LLP (City’s Bond Counsel -\$28,450); JNA Consulting Group LLC (City’s Financial Advisor - \$27,500); Oppenheimer (Placement Agent - \$20,000) and Hawkins Delafield and Wood LLP (Counsel to the Bank \$20,000)
- 5) Site and Facility Lease – Details the term of the lease through March 1, 2024. The City leases the facility to the Brisbane/Guadalupe Valley Municipal Improvement Financing Authority for the advance payment of \$4,335,000 the City will pay the Financing Authority back over time on the prearranged payment schedule.
- 6) Lease Agreement between Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority and the City – The City leases back the Library property as set forth in the terms of this lease agreement. Lease payments from the City to the Financing Authority will budgeted annually from any source legally available to the City to make the payments.
- 7) Assignment Agreement between the Authority and the Bank whereby the Authority assigns its right to receive lease payment from the City directly to the bank.
- 8) Supplemental Agreement between the City of Brisbane and The Bank of The West. This provides a direct contract between the Bank and the City and is required by the Bank.

Stuart Schillinger

Stuart Schillinger, Assistant City Manager

Clayton L. Holstine

Clay Holstine, City Manager

CITY OF BRISBANE

RESOLUTION NO. _____

RESOLUTION APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS TO FINANCE THE COSTS ASSOCIATED WITH ACQUISITION OF THE BUILDING AND LAND OF THE FORMER BANK OF AMERICA BRANCH LOCATED AT 70 OLD COUNTY ROAD IN BRISBANE AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO

RESOLVED, by the City Council (the "Council") of the City of Brisbane (the "City"), as follows:

WHEREAS, the City, working with the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority (the "Authority") has determined that, due to prevailing interest rates and for other reasons it is in the best interest of the City at this time to finance the costs associated with the acquisition of the building and land of the former Bank of America branch located at 70 Old County Road in Brisbane for future City use (the "Project"), and to implement a lease financing for such purposes;

WHEREAS, it is in the public interest and for the public benefit that the City authorizes and directs execution of the Lease Agreement (hereinafter defined) and certain other financing documents in connection therewith;

WHEREAS, the documents below specified have been filed with the City and the members of the Council, with the aid of its staff, have reviewed said documents; and

WHEREAS, pursuant to section 5852.1 of the California Government Code, which became effective on January 1, 2018 by the enactment of Senate Bill 450, certain information relating to the Lease Agreement is set forth in Exhibit A attached to this Resolution, and such information is hereby disclosed and made public;

NOW, THEREFORE, it is hereby DECLARED and ORDERED, as follows:

Section 1. The Council hereby approves the financing of the Project.

Section 2. The below-enumerated documents, in the forms on file with the City Clerk, be and are hereby approved, and the Mayor, the City Manager, the Assistant City Manager or the Finance Director, or the designee thereof (each, a "Designated Officer"), are hereby authorized and directed to execute said documents, with such changes, insertions and omissions as may be approved by such officials, the execution thereof to be conclusive evidence of such approval, and the City Clerk is hereby authorized and directed to attest to such official's signature:

(a) a letter agreement for funding, by and among Bank of the West (the "Assignee"), the City and the Authority, whereby the Assignee agrees to acquire certain rights of the Authority, including but not limited to the Lease Payments (hereinafter defined) to be made by the City under the Lease Agreement and the rights of the Authority under the Site and Facility Lease (hereinafter defined);

(b) a site and facility lease, by and between the City, as lessor, and the Authority, as lessee (the "Site and Facility Lease"), pursuant to which the City will lease certain existing real property and the improvements thereon (the "Property") to the Authority;

(c) a lease agreement, by and between the Authority, as lessor, and the City, as lessee (the "Lease Agreement"), pursuant to which the Authority will lease the Property back to the City and pursuant to which the City will agree to make semi-annual lease payments (the "Lease Payments"), so long as the principal amount of the Lease Agreement is not greater than \$4,355,000, the maximum annual Lease Payments are not greater than \$368,925.00 (subject to the effect of the Default Rate if applicable) and the term of the Lease Agreement does not extend beyond March 1, 2042 (subject to the extension described in the Lease Agreement);

(d) a placement agent agreement by and between the City and Oppenheimer & Co. Inc.;
and

(e) a supplemental agreement, by and between the City and the Assignee.

Section 3. The Mayor, the City Manager, the Finance Director, the City Clerk, any deputy to the City Clerk and all other appropriate officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates as may be necessary to effect the purposes of this resolution and the financing herein authorized.

Section 5. This Resolution shall take effect upon its adoption by this Council.

I, the undersigned hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the City Council of the City of Brisbane in a regular meeting assembled on the 3rd day of March, 2022, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Mayor

City Clerk

EXHIBIT A**GOVERNMENT CODE SECTION 5852.1 DISCLOSURE**

The following information consists of estimates that have been provided by the Municipal Advisor which has been represented to have been provided in good faith:

- (A) True Interest Cost of the Lease Agreement: 3.250139%
- (B) Finance Charges: \$105,000.00
- (C) Net Proceeds to be Received: \$4,250,000.00 (net of finance charges)
- (D) Total Payment Amount through Maturity: \$6,204,599.83

The foregoing estimates constitute good faith estimates only and are based on market conditions prevailing at the time of preparation of such estimates.

The principal amount of the Lease Agreement, the true interest cost of the Lease Agreement, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Lease Agreement being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Lease Agreement sold being different from the estimated amount used for purposes of such estimates, (c) the actual amortization of the Lease Agreement being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Lease Agreement being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the City's financing plan, or a combination of such factors. The actual date of sale of the Lease Agreement and the actual principal amount of Lease Agreement sold will be determined by the City based on the timing of the need for proceeds of the Lease Agreement and other factors. The actual interest rates with respect to the Lease Agreement will depend on market interest rates at the time of sale thereof. The actual amortization of the Lease Agreement will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the City.

**BRISBANE/GUADALUPE VALLEY MUNICIPAL
IMPROVEMENT DISTRICT FINANCING AUTHORITY**

RESOLUTION NO. _____

**RESOLUTION APPROVING THE FORM AND AUTHORIZING THE
EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS IN
CONNECTION WITH THE FINANCING BY THE CITY OF BRISBANE OF A
THE COSTS ASSOCIATED WITH ACQUISITION OF THE BUILDING AND
LAND OF THE FORMER BANK OF AMERICA BRANCH LOCATED AT 70
OLD COUNTY ROAD IN BRISBANE AND AUTHORIZING AND
DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO**

RESOLVED, by the Board of Directors (the "Board") of the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority (the "Authority"), as follows:

WHEREAS, the City of Brisbane (the "City"), working with the Authority, has determined that, due to prevailing interest rates and for other reasons it is in the best interest of the City at this time to finance the costs associated with the acquisition of the building and land of the former Bank of America branch located at 70 Old County Road in Brisbane for future City use (the "Project"), and to implement a lease financing for such purposes

WHEREAS, it is in the public interest and for the public benefit that the Board authorize and direct execution of the Lease Agreement (hereinafter defined) and certain other financing documents in connection therewith to implement a lease financing for the purpose of financing the Project;

WHEREAS, the documents below specified shall be filed with the Board and the members of the Board, with the aid of its staff, shall review said documents;

NOW, THEREFORE, it is hereby ORDERED and DETERMINED, as follows:

Section 1. The below-enumerated documents, in the forms on file with the Secretary, be and are hereby approved, and the Chair, the Executive Director, the Treasurer, or any designee thereof, is hereby authorized and directed to execute said documents, with such changes, insertions and omissions as may be approved by such official, the execution thereof to be conclusive evidence of such approval and the Secretary is hereby authorized and directed to attest to such official's signature:

(a) a letter agreement for funding, by and among Bank of the West (the "Assignee"), the City and the Authority, whereby the Assignee agrees to acquire certain rights of the Authority, including but limited to the Lease Payments (hereinafter defined) to be made by the City under the Lease Agreement (hereinafter defined) and the rights of the Authority under the Site and Facility Lease (hereinafter defined);

(b) a site and facility lease, by and between the City, as lessor, and the Authority, as lessee (the "Site and Facility Lease"), pursuant to which the City will lease certain existing real property and the improvements thereon (the "Property") to the Authority;

(c) a lease agreement, by and between the Authority, as lessor, and the City, as lessee (the "Lease Agreement"), pursuant to which the Authority will lease the Property back to the City and pursuant to which the City will agree to make semi-annual lease payment (the "Lease Payments"); and

(d) an assignment agreement, by and between the Authority and the Assignee, as assignee, pursuant to which the Authority will assign to the Assignee certain of its rights under the Site and Facility Lease and the Lease Agreement, including its right to receive a portion of the Lease Payments thereunder.

Section 2. The Chairperson, the Executive Director, the Assistant Executive Director, the Treasurer/Auditor of the Authority, the Secretary and other officials of the Authority are hereby authorized and directed to execute such other agreements, documents and certificates and to take such other actions as may be necessary to effect the purposes of this resolution and the lease financing herein authorized.

Section 3. This Resolution shall take effect upon its adoption by the Board.

I, the Secretary of the Board of Directors of Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Board of Directors of the Authority in a regular meeting assembled on the 3rd day of March, 2022, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Secretary

PLACEMENT AGENT AGREEMENT

March 1, 2022

City of Brisbane
50 Park Place
Brisbane, CA 94005

Attention: Stuart Schillinger, Assistant City Manager

The undersigned, Oppenheimer & Co. Inc. (the “Placement Agent”), offers to enter into the following agreement (this “Agreement”) with the City of Brisbane (the “City”), which, upon acceptance by the City, will be binding upon the City and the Placement Agent.

The City acknowledges and agrees that (i) the placement of the 2022 Lease Agreement (hereinafter defined) pursuant to this Placement Agent Agreement is an arm’s-length commercial transaction between the City and the Placement Agent, (ii) in connection therewith and with the discussion, undertakings and procedures leading up to the consummation of such transaction, the Placement Agent is not acting as a fiduciary of or a financial advisor to the City, (iii) the Placement Agent has not assumed an advisory or fiduciary responsibility in favor of the City with respect to (a) the offering of the 2022 Lease Agreement or the process leading thereto (whether or not the Placement Agent has advised or is currently advising the City on other matters) or (b) any other obligation to the City except the 2022 Lease Agreement expressly set forth in this Placement Agent Agreement, and (iv) the City has consulted with its own legal and other professional advisors to the extent it deemed appropriate in connection with the offering of the 2022 Lease Agreement .

The Lease Agreement, dated as of March 1, 2022 (the “2022 Lease Agreement”), is by and between the City and the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority (the “Authority”). Pursuant to an Assignment Agreement, dated as of March 1, 2022, the Authority will assign to Bank of the West (the “Purchaser”), its right to receive lease payments made by the City under the 2022 Lease Agreement and all rights and remedies of the Authority thereunder.

Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth herein, the Placement Agent and the City hereby agree as follows:

1. Appointment of Placement Agent; Placement of Obligations; Closing.

(a) The City hereby appoints the Placement Agent to act, and the Placement Agent hereby agrees to act, as the exclusive placement agent for the City in connection with the private sale of the 2022 Lease Agreement, and the Placement Agent hereby accepts such appointment. As compensation for its services hereunder, the Placement Agent shall charge a fee not in excess of \$20,000. At the closing of any such sale, the City shall pay or cause to be paid such fee to the Placement Agent by wire transfer or immediately available funds. The above fee does not include any services the Placement Agent may render in the future to the City with respect to any offering or placement of municipal securities other than the 2022 Lease Agreement.

(b) The City understands that the Placement Agent will be acting as the agent of the City in the sale of the 2022 Lease Agreement and agrees that, in connection therewith, the Placement Agent will use its “best efforts” to place the 2022 Lease Agreement. The Placement Agent agrees that, in furtherance of its obligations hereunder, it shall provide substantially accurate and complete information to potential purchasers of the 2022 Lease Agreement to the extent that it is able.

(c) The City expressly agrees that nothing in this Agreement evidences or creates any expressed or implied commitment by the Placement Agent to purchase or place the 2022 Lease Agreement.

(d) On the closing date, the City will cause to be delivered (a) a final approving opinion of Quint & Thimmig LLP, as Bond Counsel to the City (“Bond Counsel”), dated the closing date, addressed to or with a reliance letter to the Placement Agent, in a form acceptable to the Placement Agent, to the effect that the 2022 Lease Agreement constitute valid and legally binding obligations of the City payable from and secured by the general fund of the City (b) one or more certificates in form and tenor satisfactory to the Placement Agent evidencing the proper execution and delivery of the 2022 Lease Agreement and receipt of payment therefor, including statements of the City, dated as of the date of such delivery, to the effect that there is no litigation pending or, to the knowledge of the signer or signers thereof, threatened relating to the issuance, sale and delivery of the 2022 Lease Agreement, (c) a letter or certificate of the Purchaser, addressed to the Placement Agent, in form and content acceptable to the Placement Agent.

2. Reliance. The City recognizes that, in providing services under this Agreement, the Placement Agent will rely upon and assume the accuracy and completeness of the financial, accounting, tax and other information discussed with or reviewed by the Placement Agent for such purpose, and the Placement Agent does not assume responsibility for the accuracy and completeness thereof. The Placement Agent will have no obligation to conduct any independent evaluation or appraisal of the assets or the liabilities of the City or any other party or to advise or opine on related solvency issues. Nothing in this Agreement is intended to confer upon any other person (including creditors, employees or other constituencies of the City) any rights or remedies hereunder or by reason hereof.

3. Termination. The Placement Agent’s authorization to carry out its duties hereunder may be terminated by the City or the Placement Agent at any time with or without cause, effective upon receipt of written notice to that effect by the other party. Notwithstanding the foregoing, in the event the City terminates this Agreement and within twelve (12) months after the City sells the 2022 Lease Agreement to an investor identified by the Placement Agent prior to such termination, the amounts payable under Section 1(a) shall be immediately due and payable to the Placement Agent by the City.

4. Notices. Any notice or other communication to be given to any of the parties to this Agreement may be given by delivering the same in writing as follows: to the City at 50 Park Place, Brisbane, CA 94005, Attention: Assistant City Manager, and to the Placement Agent at 580 California Street, Suite 2300, San Francisco, California 94104, Attention: Municipal Capital Markets Group.

5. Survival of Representations, Warranties and Agreements. This Agreement is made solely for the benefit of the City and the Placement Agent, and no other person shall acquire or have any right hereunder or by virtue hereof. All of the representations, warranties and agreements of the

City contained in this Agreement shall remain operative and in full force and effect regardless of delivery of any payment for the 2022 Lease Agreement.

6. Counterparts. The Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

7. Effectiveness. This Agreement shall become effective upon the execution of the acceptance hereof by duly authorized signatory of the City, which acceptance hereof shall be indicated on the signature page hereof, and shall be valid and enforceable as of the time of such acceptance. This Agreement may be executed by facsimile transmission and in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Very truly yours,

OPPENHEIMER & CO. INC.

By: _____
Managing Director

CITY OF BRISBANE

By: _____
Authorized Officer

LETTER AGREEMENT FOR FUNDING

March 24, 2022

City of Brisbane
50 Park Place
Brisbane, CA 94005
Attention: City Manager

Brisbane/Guadalupe Valley
Municipal Improvement District Financing Authority
50 Park Place
Brisbane, CA 94005
Attention: Executive Director

Re: \$4,355,000 Lease Agreement, dated as of March 1, 2022, by and between the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority and the City of Brisbane, assigned to Bank of the West

Ladies and Gentlemen:

The undersigned, Bank of the West (the "Bank"), offers, upon the terms and conditions set forth in the Supplemental Agreement (hereinafter defined), to fund \$4,355,000 to the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority (the "Authority"), which amount will be paid by the Authority to the City of Brisbane (the "City") and, in consideration therefor, the City has agreed to cause the Authority to assign (i) the rights, title and interest of the Authority under the Lease Agreement (hereinafter defined), including its rights to receive Lease Payments to be made by the City under the Lease Agreement, dated as of March 1, 2022 (the "Lease Agreement"), by and between the City and the Authority; provided that the Authority's rights to indemnification and payment or reimbursement for any costs or expenses thereunder have been retained by the Authority to the extent such rights accrue to the Authority and shall have been assigned to the Bank, as assignee, to the extent such rights accrue to the Bank, by entering into an assignment agreement, dated as of March 1, 2022 (the "Assignment Agreement"), with the Authority, and (ii) the rights, title and interest of the Authority under the Site and Facility Lease, dated as of March 1, 2022 (the "Site and Facility Lease"), by and between the City and the Authority.

Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Lease Agreement.

1. *Funding; Terms of Corporation's Obligations.* The City and the Authority agree to execute and deliver the Site and Facility Lease and the Lease Agreement, and the Bank agrees to receive the Authority's rights, title and interest under the Lease Agreement, as described more specifically above and in the Assignment Agreement., at an aggregate funding amount of \$4,355,000.

The City acknowledges that:

(a) The Bank is acting in this transaction solely for its own loan account and not as a fiduciary for the City or in the capacity of broker, dealer, municipal securities underwriter, placement agent, or municipal advisor;

(b) The Bank has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of the City (including to any financial advisor or placement agent engaged by the City) with respect to the structuring of the financing or the execution and delivery of the Lease Agreement;

(c) The Bank has no fiduciary duty pursuant to section 15B of the Securities Exchange Act of 1934, as amended, to the City with respect to the transactions relating to the structuring of the financing or the execution and delivery of the Lease Agreement and the discussions, undertakings, and procedures leading thereto;

(d) Each of the City, its financial advisor and its placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters) with respect to the lease financing transaction from its financial, legal, and other advisors (and not the Bank or its affiliates) to the extent that the City, its financial advisor or its placement agent (if any) desires to, should, or needs to obtain such advice;

(e) The Bank has expressed no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to the City's financial advisor or placement agent (if any), or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to the City's financial advisor or placement agent, with respect to any such matters; and

(f) the transaction between the City and the Bank is an arm's length, commercial transaction in which the Bank is acting and has acted solely as a principal and for its own interest, and the Bank has not made recommendations to the City with respect to the transactions relating to the Lease Agreement.

2. *Use of Funds.* The amount paid by the Bank shall be used by the City to (a) finance the renovation of a site and the structures thereon to replace the existing Brisbane City Hall (the "Project"), and (b) pay the costs related to the preparation, execution and delivery of the Lease Agreement, the Site and Facility Lease and the Assignment Agreement.

3. *Disposition of Proceeds.* On March 24, 2022, or at such other time or on such earlier or later date as the Bank, the Authority and the City mutually agree upon (the "Closing Date"), the Bank shall transfer, via wire transfer, the amount of \$4,355,000, as follows:

- (a) to the City, the sum of \$[4,253,050.00] to be deposited in a segregated fund and applied to finance the Project and to pay the remaining costs of the financing transaction, including payment by the City of the fee of the California Debt and Investment Advisory Commission;
 - (b) to Quint & Thimmig LLP, as bond counsel, the sum of \$28,450.00;
 - (c) to JNA Consulting Group, LLC, the municipal advisor, the sum of \$27,500.00;
 - (d) to Oppenheimer & Co. Inc., the placement agent, the sum of \$20,000.00;
 - (e) to Hawkins Delafield & Wood LLP, as a counsel to the Bank, the sum of \$20,000.00;
- and

(f) to Stewart Title Guaranty Company, as title insurer, the sum of \$[6,000.00].

4. *Lease Payments; Interest Rate.* The Lease Payments shall be as set forth in Exhibit A hereto and as shall be shown in Exhibit C to the Lease Agreement. Interest with respect to the principal components is computed at the rate of 3.250% per annum.

5. *Closing.* At 8:00 A.M. Pacific Daylight time, on the Closing Date, the City will deliver (or cause to be delivered) the Site and Facility Lease and the Lease Agreement executed by the City and the Authority, and the Assignment Agreement executed by the Authority and the Bank, and the Bank will fund \$4,355,000 for the assignment of the Authority's rights, title and interest in the Site and Facility Lease and the Lease Agreement as set forth in Section 1 hereof in federal or other immediately available funds.

6. *Representations and Warranties of the City.* The City represents and warrants to the Bank that:

(a) The City is a municipal corporation and general law city organized and existing under the Constitution and the laws of the State of California (the "State"), and has all necessary power and authority to enter into and perform its duties under this Agreement and the Site and Facility Lease, the Lease Agreement and the Supplemental Agreement (collectively, the "City Documents").

(b) To the best knowledge of the City, neither the execution and delivery of the City Documents, or the execution of this Agreement, and compliance with the provisions on the City's part contained therein, nor the consummation of any other of the transactions herein and therein contemplated, nor the fulfillment of the terms hereof and thereof, materially conflicts with or constitutes a material breach of or default under nor materially contravenes any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, nor does any such execution, delivery, adoption or compliance result in the security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the City under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided by the City Documents.

(c) The City Documents have been duly authorized by the City, and, assuming due authorization, execution and delivery by the other parties thereto, will constitute legal, valid and binding agreements of the City enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if sought and by the limitations on legal remedies imposed on actions against cities in the State.

(d) There is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory agency having jurisdiction over the City required for the execution and delivery of the City Documents or the consummation by the City of the other transactions contemplated by the City Documents.

(e) To the best knowledge of the City, there is, and on the Closing Date (as hereinafter defined) there will be, no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or threatened against the City to restrain or enjoin the payments to be made pursuant to the Lease Agreement, or in any way contesting or affecting the validity of the City Documents or the authority of the City to approve this Agreement, or enter into the City Documents or contesting the powers of the City to enter into

or perform its obligations under any of the foregoing or in any way contesting the powers of the City in connection with any action contemplated by this Agreement or to restrain or enjoin the payment of Lease Payments, nor is there any basis for any such action, suit, proceeding or investigation.

(f) By official action of the City prior to or concurrently with the execution hereof, the City has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations on its part contained in the City Documents and the consummation by it of all other transactions contemplated by this Agreement.

(g) The City is not in breach of or default under any material applicable law or administrative regulation of the State or the United States or any material applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject and in connection with which the City is obligated to make payments from its own funds, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument the consequence of which could be to materially and adversely affect the performance of the City under the City Documents.

(h) The City will deliver all opinions, certificates, letters and other instruments and documents reasonably required by the Bank and this Agreement.

(i) Any certificate of the City delivered to the Bank shall be deemed a representation and warranty by the City to the Bank as to the statements made therein.

(j) The financial statements of, and other financial information regarding the City delivered to the Bank fairly present the financial position and results of the operations of the City as of the dates and for the periods therein set forth and the audited financial statements have been prepared in accordance with generally accepted accounting principles consistently applied.

(k) Between the date of this Agreement and the Closing Date, the City will not, without the prior written consent of the Bank, offer or issue any certificates, notes or other obligations for borrowed money, or incur any material liabilities, direct or contingent, secured by a lien on the City's general fund.

(l) The City acknowledges that the Bank will treat the funding and assignment of the Authority's rights in the Lease Agreement described above as a loan and not a security.

7. *Representations and Warranties of the Authority.* The Authority represents, warrants, covenants and agrees with the Bank as follows:

(a) The Authority is a joint exercise of powers authority organized and existing under the constitution and laws of the State and the Board of Directors of the Authority, by adoption of a resolution of the Board of Directors of the Authority (the "Authority Resolution"), has duly approved the execution and delivery of the Site and Facility Lease, the Lease Agreement and the Assignment Agreement, and the Authority has full right, power and authority to execute, deliver and perform its obligations under the Site and Facility Lease, the Lease Agreement and the Assignment Agreement and to carry out and consummate the transactions contemplated by the Site and Facility Lease, the Lease Agreement and the Assignment Agreement.

(b) The Authority has, on or before the date hereof, duly adopted the Authority Resolution and taken all action necessary to be taken by it prior to such date for (i) the execution

and delivery of the Site and Facility Lease, the Lease Agreement and the Assignment Agreement and performance of its obligations thereunder, and (ii) the carrying out of, giving effect to, consummating and performing the transactions and obligations contemplated to be performed by it by the Site and Facility Lease, the Lease Agreement and the Assignment Agreement, provided that no representation is made with respect to compliance with the securities or "Blue Sky" laws of the various states of the United States, and the Resolution has not been amended, modified or repealed and is in full force and effect on the date hereof.

(c) The execution and delivery by the Authority of the Site and Facility Lease, the Lease Agreement and the Assignment Agreement, the compliance by it with the terms, conditions or provisions hereof and thereof, and the consummation on its part of the transactions herein and therein contemplated do not and will not, in any respect material for the performance by the Authority of its obligations under the Site and Facility Lease, the Lease Agreement and the Assignment Agreement, conflict with or constitute a breach of or a default under nor contravene any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or is otherwise subject, nor does any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Authority under any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, deed of trust, resolution, agreement or other instrument in any respect material to the performance by the Authority of its obligations under the Site and Facility Lease, the Lease Agreement and the Assignment Agreement, except as provided in the Site and Facility Lease, the Lease Agreement and the Assignment Agreement.

(d) Except as may be required under Blue Sky or other securities laws of any state, there is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory authority having jurisdiction over the Authority required for the consummation by the Authority of the transactions contemplated by the Site and Facility Lease, the Lease Agreement and the Assignment Agreement, which has not been duly obtained or made on or prior to the date hereof.

(e) There is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending against or, to the best knowledge of the Authority, threatened against or affecting the Authority wherein an unfavorable decision, ruling or finding would adversely affect (i) the validity or enforceability of, or the authority or ability of the Authority to perform its obligations under, the Site and Facility Lease, the Lease Agreement and the Assignment Agreement or (B) the transactions contemplated to be performed by it under the Site and Facility Lease, the Lease Agreement and the Assignment Agreement.

(f) The Authority covenants that it will not take any action which would cause interest payable with respect to the Lease Agreement to become subject to State personal income taxes.

(g) Any certificate of the Authority delivered to the Bank in connection with the transactions contemplated by this Letter Agreement for Funding shall be deemed a representation by the Authority to the Bank as to the statements made therein.

(h) All representations and warranties of the Authority in the Site and Facility Lease and the Lease Agreement are true and correct as of the date hereof.

8. *Conditions Precedent to the Closing.* The City agrees to satisfy the closing conditions set forth in Section 3.01 of that certain Supplemental Agreement, dated as of March 1, 2022, by and

between the City and the Bank (the "Supplemental Agreement"), together with the delivery by the Bank of a Bank letter in form and substance as attached hereto as Exhibit B.

9. *Events Permitting the Bank to Terminate.* The Bank may terminate its obligation to fund for the assignment of the Authority's rights, title and interest under the Site and Facility Lease and the Lease Agreement before the Closing Date if any of the following occurs:

(a) any legislative, executive or regulatory action (including the introduction of legislation) or any court decision that, in the judgment of the Bank, casts sufficient doubt on the legality of or the tax-exempt status of the interest component of obligations such as those represented by the Lease Agreement and the Lease Payments so as to materially impair the credit quality of such obligations, in the reasonable opinion of the Bank;

(b) any action by the Securities and Exchange Commission or a court that would require registration of the Lease Agreement under the Securities Act of 1933, as amended;

(c) any event occurs or becomes known that has a material adverse effect on the financial condition of the City or on the ability of the City or the Authority to perform under the Site and Facility Lease, the Lease Agreement or the Assignment Agreement; or

(d) any of the representations or warranties of the City made in this Letter Agreement for Funding are determined by the Bank to be untrue or materially inaccurate.

10. *Supplemental Agreement to Control.* To the extent any provision of this Agreement conflicts with a similar provision in the Supplemental Agreement, the Supplemental Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Letter Agreement for Funding by their officers thereunto duly authorized as of the day and year first above written.

BANK OF THE WEST

By _____
Name _____
Title _____

The foregoing is hereby agreed to and accepted as of the date first above written:

CITY OF BRISBANE

By _____
Clayton L. Holstine
City Manager

BRISBANE/GUADALUPE VALLEY
MUNICIPAL IMPROVEMENT DISTRICT
FINANCING AUTHORITY

By _____
Clayton L. Holstine
Executive Director

EXHIBIT A

SCHEDULE OF THE PRINCIPAL COMPONENT OF LEASE PAYMENTS

Lease Payment Date	Principal Component	Interest Component	Total Lease Payment
9/1/22	—	\$ 61,726.08	\$ 61,726.08
3/1/23	—	70,768.75	70,768.75
9/1/23	\$ 35,000	70,768.75	105,768.75
3/1/24	35,000	70,200.00	105,200.00
9/1/24	38,000	69,631.25	107,631.25
3/1/25	38,000	69,013.75	107,013.75
9/1/25	38,000	68,396.25	106,396.25
3/1/26	38,000	67,778.75	105,778.75
9/1/26	38,000	67,161.25	105,161.25
3/1/27	40,000	66,543.75	106,543.75
9/1/27	43,000	65,893.75	108,893.75
3/1/28	43,000	65,195.00	108,195.00
9/1/28	44,000	64,496.25	108,496.25
3/1/29	44,000	63,781.25	107,781.25
9/1/29	122,000	63,066.25	185,066.25
3/1/30	122,000	61,083.75	183,083.75
9/1/30	126,000	59,101.25	185,101.25
3/1/31	126,000	57,053.75	183,053.75
9/1/31	131,000	55,006.25	186,006.25
3/1/32	130,000	52,877.50	182,877.50
9/1/32	134,000	50,765.00	184,765.00
3/1/33	135,000	48,587.50	183,587.50
9/1/33	139,000	46,393.75	185,393.75
3/1/34	139,000	44,135.00	183,135.00
9/1/34	143,000	41,876.25	184,876.25
3/1/35	144,000	39,552.50	183,552.50
9/1/35	148,000	37,212.50	185,212.50
3/1/36	148,000	34,807.50	182,807.50
9/1/36	153,000	32,402.50	185,402.50
3/1/37	153,000	29,916.25	182,916.25
9/1/37	158,000	27,430.00	185,430.00
3/1/38	158,000	24,862.50	182,862.50
9/1/38	164,000	22,295.00	186,295.00
3/1/39	163,000	19,630.00	182,630.00
9/1/39	168,000	16,981.25	184,981.25
3/1/40	169,000	14,251.25	183,251.25
9/1/40	174,000	11,505.00	185,505.00
3/1/41	174,000	8,677.50	182,677.50
9/1/41	180,000	5,850.00	185,850.00
3/1/42	180,000	2,925.00	182,925.00
Total	<u>\$4,355,000</u>	<u>\$1,849,599.83</u>	<u>\$6,204,599.83</u>

EXHIBIT B

FORM OF BANK'S LETTER

City of Brisbane
50 Park Place
Brisbane, CA 94005
Attention: City Manager

Brisbane/Guadalupe Valley
Municipal Improvement District Financing Authority
50 Park Place
Brisbane, CA 94005
Attention: Executive Director

Re: \$4,355,000 Lease Agreement, dated as of March 1, 2022, by and between the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority and the City of Brisbane, assigned to Bank of the West

Ladies and Gentlemen:

The undersigned, Bank of the West (the "Bank"), has agreed, upon the terms and conditions set forth in the Supplemental Agreement, dated as of March 1, 2022, by and between the City of Brisbane (the "City") and the Bank, to fund \$4,355,000 to the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority (the "Authority"), which amount will be paid by the Authority to the City and, in consideration therefor, the City has agreed to cause the Authority to assign its rights, title and interest under the Site and Facility Lease, dated as of March 1, 2022, by and between the City and the Authority (the "Site and Facility Lease"), and the Lease Agreement, dated as of March 1, 2022 (the "Lease Agreement"), by and between the City and the Authority, including its rights to receive lease payments to be made by the City under the Lease Agreement. In connection with such purchase, the Bank hereby agrees and certifies to the Authority and the City that:

(a) The Bank has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other obligations of a nature similar to the Lease Agreement to be able to evaluate the risks and merits of the extension of credit represented by the funding and assignment described above.

(b) The Bank is extending credit as represented by the funding and assignment described above for its own account and not with a view to, or for sale in connection with, any distribution thereof or any part thereof. The Bank has not offered to sell, solicited offers to buy, or agreed to sell the rights, title and interest of the Authority under the Lease Agreement or any part thereof, and the Bank has no current intention of reselling or otherwise disposing of such rights, title and interest under the Lease Agreement *provided, however*, such representation shall not preclude the Bank from transferring or selling of the rights, title and interest under the Lease Agreement in accordance with the Lease Agreement. The Bank is not acting in a broker-dealer capacity in connection with the extension of credit represented by the funding and assignment described above.

(c) As a sophisticated financial institution, the Bank has made its own credit inquiry and analysis with respect to the City and the Lease Agreement and has made an independent credit

decision based upon such inquiry and analysis and in reliance on the truth, accuracy, and completeness of the representations and warranties of the City set forth in the Lease Agreement and in the information set forth in any materials submitted to the Bank by the City. The City has furnished to the Bank all the information which the Bank, as a reasonable investor, has requested of the City as a result of the Bank having attached significance thereto in making its credit decision with respect to the Lease Agreement, and the Bank has had the opportunity to ask questions of and receive answers from knowledgeable individuals concerning the City and the Lease Agreement. The Bank is able and willing to bear the economic risk of the extension of credit represented by the funding and assignment described above.

(d) The Bank understands that the Lease Agreement has not been registered under the United States Securities Act of 1933 or under any state securities laws. The Bank agrees that it will comply with any applicable state and federal securities laws then in effect, if any, with respect to any disposition of the rights, title and interest of the Authority under the Lease Agreement by it, and further acknowledges that any current exemption from registration of the Lease Agreement does not affect or diminish such requirements.

(e) The Bank has authority to execute any instruments and documents required to be executed by the Bank in connection with the funding and assignment described above. The undersigned is a duly appointed, qualified, and acting officer of the Bank and is authorized to cause the Bank to make the representations and warranties contained herein on behalf of the Bank.

(f) The Bank acknowledges that rights, title and interest of the Authority under the Lease Agreement are transferable with certain requirements, as described in the Lease Agreement.

(g) The Bank acknowledges that the Lease Agreement is exempt from the requirements of Rule 15c2-12 of the Securities and Exchange Commission and that the City has not undertaken to provide any continuing disclosure with respect to the Lease Agreement but that the City has agreed to provide other ongoing information to the Bank.

(h) The Bank intends to treat the funding and assignment of the Authority's rights in the Lease Agreement described above as a loan and not a security.

BANK OF THE WEST

By _____
Name _____
Title _____

AFTER RECORDATION PLEASE RETURN TO:

Quint & Thimmig LLP
900 Larkspur Landing Circle, Suite 270
Larkspur, CA 94939-1726
Attention: Brian D. Quint, 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 FACILITY LEASE

Dated as of March 1, 2022

by and between the

CITY OF BRISBANE, as Lessor

and the

**BRISBANE/GUADALUPE VALLEY MUNICIPAL
IMPROVEMENT DISTRICT FINANCING AUTHORITY, as Lessee**

SITE AND FACILITY LEASE

THIS SITE AND FACILITY LEASE (this "Site and Facility Lease"), dated as of March 1, 2022, is by and between the CITY OF BRISBANE, a municipal corporation and general law city organized and existing under and by virtue of the laws of the State of California (the "City"), as lessor, and the BRISBANE/GUADALUPE VALLEY MUNICIPAL IMPROVEMENT DISTRICT FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California (the "Authority"), as lessee;

WITNESSETH:

WHEREAS, pursuant to this Site and Facility Lease, the City proposes to lease those certain parcels of real property situated in San Mateo County, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (the "Site"), and those certain improvements thereon, more particularly described in Exhibit B hereto (the "Facility" and, with the Site, the "Property"), to the Authority, all for the purpose of enabling the City to finance the costs associated with the acquisition of the building and land of the former Bank of America branch located at 70 Old County Road in Brisbane for future City use;

WHEREAS, the Authority proposes to lease the Property back to the City pursuant to that certain Lease Agreement, dated as of March 1, 2022, a memorandum of which is recorded concurrently herewith (the "Lease Agreement") and to assign all of its rights, title and interest in, to and under this Site and Facility Lease and the Lease Agreement, including its right to receive lease payments under the Lease Agreement (the "Lease Payments"), its right to enforce payment of the Lease Payments and otherwise to enforce its interest and rights under the Lease Agreement in the event of a default thereunder by the City, to Bank of the West (the "Assignee"), pursuant to that certain assignment agreement, dated as of March 1, 2022, by and between the Authority and the Assignee (the "Assignment Agreement"), and recorded concurrently herewith;

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED, as follows:

Section 1. Definitions. Capitalized terms used, but not otherwise defined, in this Site and Facility Lease shall have the meanings ascribed to them in the Lease Agreement.

Section 2. Site and Facility Lease. The City hereby leases to the Authority and the Authority hereby leases from the City, on the terms and conditions hereinafter set forth, the Property.

Section 3. Term. The term of this Site and Facility Lease shall commence on the date of recordation of this Site and Facility Lease in the Office of the County Recorder of the County of San Mateo, State of California, and shall end on March 1, 2042, unless such term is extended or sooner terminated as hereinafter provided. If, on March 1, 2042, the aggregate amount of Lease Payments or Additional Payments (each as defined in and as payable under the Lease Agreement) shall not have been paid by reason of abatement, default or otherwise, or provision shall not have been made for their payment in accordance with the Lease Agreement, then the term of this Site and Facility Lease shall be extended until such Lease Payments and Additional Payments shall be fully paid or provision made for such payment, but in no event later than March 1, 2052. If, prior to March 1, 2042, all Lease Payments and Additional Payments shall be fully paid or provision made for such payment in accordance with the Lease Agreement, the term of this Site and Facility Lease shall end.

Section 4. Advance Rental Payment. The City agrees to lease the Property to the Authority in consideration of the payment by the Authority of an advance rental payment of \$4,355,000. The City and the Authority agree that by reason of the assignment of the Lease Payments to the Assignee under and pursuant to the Assignment Agreement, the advance rental payment referenced in the preceding sentence shall be deemed to have been paid.

Section 5. Purpose. The Authority shall use the Property solely for the purpose of leasing the Property to the City pursuant to the Lease Agreement and for such purposes as may be incidental thereto; *provided, however*, that in the event of default by the City under the Lease Agreement, the Authority and its assigns may exercise the remedies provided in the Lease Agreement.

Section 6. City's Interest in the Property. The City covenants that it is the owner in fee of the Property.

Section 7. City Representations and Certifications to the Authority and the Assignee. The City hereby certifies and represents, warrants, covenants and agrees as follows:

(a) This Site and Facility Lease is in full force and effect, and there have been no amendments, modifications, changes or additions since its execution.

(b) To the best of the City's knowledge, the Authority is not and will not be, in any respect, in default under the terms and provisions of this Site and Facility Lease. Further, to the best of the City's knowledge, the City knows of no event which would, currently or with the passage of time or giving of notice, or both, constitute a default under the terms of this Site and Facility Lease by either the Authority or the City.

(c) The City has not currently encumbered its fee interest in the Property to any lender or financial institution, whether by way of mortgage, deed of trust or other security instruments, except for this Site and Facility Lease and the Lease Agreement which is being recorded concurrently herewith and Permitted Encumbrances (as defined in the Trust Agreement).

(d) The City acknowledges and hereby consents to the Lease Agreement.

(e) Upon the Event of Default under the Lease Agreement, the City will standstill and allow the Authority or the Assignee to pursue any and all remedies available to the Authority or Assignee under either this Site and Facility Lease or the Lease Agreement.

(f) Except for the rental payment referenced in Section 4, no additional rent is or will be due under this Site and Facility Lease by the Authority through the term of this Site and Facility Lease and the Authority has satisfied all of its obligations under this Site and Facility Lease.

(g) During the term of the Site and Facility Lease, the City will not consent to any amendment, modification or termination of this Site and Facility Lease without the prior written consent of the Assignee.

(h) During the term of this Site and Facility Lease, the City will not encumber its interest in the Site without the prior written consent of the Assignee.

(i) The City acknowledges that this Site and Facility Lease cannot be terminated by the City for any reason, except according to Section 3.

(j) Notwithstanding any Site and Facility Lease provisions to the contrary, policies of fire, casualty, and extended coverage insurance shall be carried and maintained by the City in accordance with the terms of the Lease Agreement covering the building or buildings constructed on the Site, with a loss payable clause to Assignee.

Section 8. Assignments and Subleases. Unless the City shall be in default under the Lease Agreement, the Authority may not assign its rights under this Site and Facility Lease or sublet the Property, except as provided in the Lease Agreement and the Assignment Agreement, without the written consent of the City and the Assignee. The City consents to the assignment of the Authority's interest in this Site and Facility Lease to the Assignee. If the City is in default under the Lease Agreement, the Assignee (including their successors and assigns under the Lease Agreement) may fully and freely assign and sublease the Property or any portion thereof, subject to this Site and Facility Lease.

Section 9. Right of Entry. The City reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

Section 10. Termination. The Authority agrees, upon the termination of this Site and Facility Lease, to quit and surrender the Property in the same good order and condition as the same were in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Site at the time of the termination of this Site and Facility Lease shall remain thereon and title thereto shall vest in the City.

Section 11. Default. In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Site and Facility Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Authority, the City may, with the consent of the Assignee, exercise any and all remedies granted by law, except that no merger of this Site and Facility Lease and of the Lease Agreement shall be deemed to occur as a result thereof and the City shall have no right to terminate this Site and Facility Lease as a remedy for such default. Notwithstanding the foregoing, so long as the Lease Agreement remains in effect, the City will continue to pay the Lease Payments to the Assignee.

In the event of the occurrence of an Event of Default under the Lease Agreement or a breach or default of the certifications and representations, warranties and covenants of the City contained in Section 7, the Authority and/or the Assignee may (i) exercise the remedies provided in the Lease Agreement, (ii) use the Property for any lawful purpose, subject to any applicable legal limitations or restrictions, and (iii) exercise all options provided herein.

Section 12. Quiet Enjoyment. The Authority, at all times during the term of this Site and Facility Lease, shall peaceably and quietly have, hold and enjoy all of the Property subject to the provisions of the Lease Agreement.

Section 13. Waiver of Personal Liability. All liabilities under this Site and Facility Lease on the part of the Authority are solely liabilities of the Authority and the City hereby releases each and every Boardmember, director, officer, employee and agent of the Authority of and from any personal or individual liability under this Site and Facility Lease. No Boardmember, director, officer, employee or agent of the Authority shall at any time or under any circumstances be individually or personally liable under this Site and Facility Lease for anything done or omitted to be done by the Authority hereunder.

Section 14. Taxes. All assessments of any kind or character and all taxes, including possessory interest taxes, levied or assessed upon the Property or the Authority's interest in the Property created by this Site and Facility Lease (including both land and improvements) will be paid by the City in accordance with the Lease Agreement.

Section 15. Eminent Domain. In the event the whole or any part of the Property is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid principal component of the Lease Payments, any then unpaid interest component of the Lease Payments and any premium due with respect to the prepayment of Lease Payments to the date such amounts are remitted to the Authority or its assignee, and, subject to the provisions of the Lease Agreement, the balance of the award, if any, shall be paid to the City. The City hereby waives, to the extent permitted by law, any and all rights that it has or may hereafter have to acquire the interest of the Authority in and to the Property through the eminent domain powers of the City. However, the City hereby agrees, to the extent permitted by law, that the compensation to be paid in any condemnation proceedings brought by or on behalf of the City with respect to the Property shall be in an amount not less than the total unpaid principal component of Lease Payments, the interest component of Lease Payments accrued to the date of payment of all Lease Payments and any premium due with respect to the prepayment of Lease Payments under the Lease Agreement.

Section 16. Use of the Proceeds. The City and the Authority hereby agree that the lease to the Authority of the City's right and interest in the Property pursuant to Section 2 serves the public purposes of the City.

Section 17. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Site and Facility Lease shall, to any extent, be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding, order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site and Facility Lease shall be affected thereby, and each provision of this Site and Facility Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 18. Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid, at the addresses set forth in the Lease Agreement, or to such other addresses as the respective parties may from time to time designate by notice in writing.

Section 19. Binding Effect. This Site and Facility Lease shall inure to the benefit of and shall be binding upon the City and the Authority and their respective successors and assigns. The Assignee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

Section 20. Amendment. This Site and Facility Lease may not be amended except as may be required to conform to amendment made pursuant to Section 7.6 of the Lease Agreement.

Section 21. 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 and Facility Lease.

Section 22. Applicable Law. This Site and Facility Lease shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and performed in California.

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

Section 24. Execution in Counterparts. This Site and Facility Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same instrument.

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

CITY OF BRISBANE

By _____
Clayton L. Holstine
City Manager

BRISBANE/GUADALUPE VALLEY
MUNICIPAL IMPROVEMENT DISTRICT
FINANCING AUTHORITY

By _____
Clayton L. Holstine
Executive Director

[NOTARY ACKNOWLEDGMENTS TO BE ATTACHED]

EXHIBIT A

DESCRIPTION OF THE SITE

The land referred to herein is situated in the State of California, County of San Mateo, City of Brisbane, and described as follows:

PARCEL ONE:

LOTS 8, 9 AND 10, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAP OF SUBDIVISION NOS. 1, 2 AND 3 OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON OCTOBER 14, 1908 IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NOS. 007-281-070 and 007-281-080

JOINT PLANT NOS. 007-028-281-07A and 007-028-281-08A

PARCEL TWO:

LOTS 13 AND 14, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAPS OF SUBDIVISION NOS. 1, 2 AND 3, OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA ON OCTOBER 14, 1908, IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NO. 007-281-100

JOINT PLANT NO.007-028-281-10A

EXHIBIT B

DESCRIPTION OF THE FACILITY

The Facility consists of the new 7,670-square-foot Brisbane Public Library located at 163 Visitation Avenue in the City constructed in 2021. The library includes a Children's Area, Teen Space, History Room, Community Room and Makerspace, complete with 3D printer, GoPro camera kits and more.

LEASE AGREEMENT

Dated as of March 1, 2022

by and between the

**BRISBANE/GUADALUPE VALLEY MUNICIPAL
IMPROVEMENT DISTRICT FINANCING AUTHORITY, as Sublessor**

and the

CITY OF BRISBANE, as Sublessee

TABLE OF CONTENTS

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

Section 1.1. Definitions	2
Section 1.2. Interpretation	5

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 2.1. Covenants, Representations and Warranties of the City	6
Section 2.2. Covenants, Representations and Warranties of the Authority	8

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS

Section 3.1. Deposit of and Application of Funds	10
--	----

ARTICLE IV

LEASE OF PROPERTY; LEASE PAYMENTS

Section 4.1. Sublease of Property by the Authority Back to the City	11
Section 4.2. Term	11
Section 4.3. Lease Payments	11
Section 4.4. Quiet Enjoyment	13
Section 4.5. Title	13
Section 4.6. Release of Excess Property	13
Section 4.7. Substitution of Property	14

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments	15
Section 5.2. Modification of Property	15
Section 5.3. Public Liability Insurance	15
Section 5.4. Casualty Insurance	16
Section 5.5. Rental Interruption Insurance	16
Section 5.6. Worker's Compensation Insurance	16
Section 5.7. Recordation Hereof; Title Insurance	16
Section 5.8. Insurance Net Proceeds; Form of Policies	17
Section 5.9. Installation of City's Personal Property	17
Section 5.10. Liens	17
Section 5.11. Advances	17
Section 5.12. Environmental Covenants	17
Section 5.13. City Consents to Assignment Agreement	18

ARTICLE VI

EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.1. Eminent Domain	19
Section 6.2. Application of Net Proceeds	19
Section 6.3. Abatement of Lease Payments in the Event of Damage or Destruction	21

ARTICLE VII

OTHER COVENANTS OF THE CITY

Section 7.1. Disclaimer of Warranties	22
Section 7.2. Access to the Property; Grant and Conveyance of Right of Entry	22
Section 7.3. Release and Indemnification Covenants	22
Section 7.4. Assignment by the Authority	23
Section 7.5. Assignment and Subleasing by the City	23
Section 8.3. Amendment of Lease Agreement	23

Section 7.7. Financial Statements; Budgets; Other Information	25
Section 7.8. Records and Accounts	25
Section 7.9. Observance or Laws and Regulations	25
Section 7.10. Notices	25

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Events of Default Defined	27
Section 8.2. Remedies on Default	27
Section 8.3. No Remedy Exclusive	29
Section 8.4. No Additional Waiver Implied by One Waiver	29
Section 8.5. Assignee to Exercise Rights	29

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

Section 9.1. Security Deposit	30
Section 9.2. Optional Prepayment	30
Section 9.3. Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain	30

ARTICLE X

MISCELLANEOUS

Section 10.1. Notices	32
Section 10.2. Binding Effect	32
Section 10.3. Severability	32
Section 10.4. Net-net-net Lease	32
Section 10.5. Supplemental Agreement to Control	32
Section 10.6. Further Assurances and Corrective Instruments	32
Section 10.7. Execution in Counterparts	33
Section 10.8. Applicable Law	33
Section 10.9. Captions	33

EXHIBIT A	DESCRIPTION OF THE SITE
EXHIBIT B	DESCRIPTION OF THE FACILITY
EXHIBIT C-1	SCHEDULE OF LEASE PAYMENTS

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease Agreement"), dated as of March 1, 2022, is by and between the BRISBANE/GUADALUPE VALLEY MUNICIPAL IMPROVEMENT DISTRICT FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under the laws of the State of California, as lessor (the "Authority"), and the CITY OF BRISBANE, a municipal corporation and general law city organized and existing under and by virtue of the laws of the State of California, as lessee (the "City");

WITNESSETH:

WHEREAS, pursuant to that certain Site and Facility Lease, dated as of March 1, 2022 (the "Site and Facility Lease"), the City has leased those certain parcels of real property situated in San Mateo County, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (the "Site"), and those certain improvements thereon, more particularly described in Exhibit B hereto (the "Facility" and, with the Site, the "Property"), to the Authority, all for the purpose of enabling the City to finance the costs associated with the acquisition of the building and land of the former Bank of America branch located at 70 Old County Road in Brisbane for future City use (the "Project");

WHEREAS, the Authority proposes to lease the Property back to the City pursuant to this Lease Agreement and to assign all of its rights, title and interest in, to and under this Lease Agreement, including its right to receive lease payments under this Lease Agreement (the "Lease Payments"), its right to enforce payment of the Lease Payments and otherwise to enforce its interest and rights under this Lease Agreement in the event of a default hereunder by the City and its rights under the Site and Facility Lease, to Bank of the West (the "Assignee"), pursuant to that certain assignment agreement, dated as of March 1, 2022, by and between the Authority and the Assignee; and

WHEREAS, the City and the Authority have agreed to enter into this Lease Agreement providing for Lease Payments with an aggregate principal component in the amount of up to \$4,355,000 for the purpose of implementing the financing transactions described above.

AGREEMENT:

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

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

Section 1.1. Definitions. All terms defined in this Section 1.1 have the meanings herein specified for all purposes of this Lease Agreement.

“Additional Payments” means the amounts specified as such in Section 4.3(b) of this Lease Agreement.

“Applicable Environmental Laws” means and shall include, but shall not be limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 USC Sections 9601 *et seq.*; the Resource Conservation and Recovery Act (“RCRA”), 42 USC Sections 6901 *et seq.*; the Federal Water Pollution Control Act, 33 USC Sections 1251 *et seq.*; the Clean Air Act, 42 USC Sections 7401 *et seq.*; the California Hazardous Waste Control Law (“HWCL”), California Health & Safety Code Sections 25100 *et seq.*; the Hazardous Substance Account Act (“HSAA”), California Health & Safety Code Sections 25300 *et seq.*; the Porter-Cologne Water Quality Control Act (the “Porter-Cologne Act”), California Water Code Sections 1300 *et seq.*; the Air Resources Act, California Health & Safety Code Sections 3900 *et seq.*; the Safe Drinking Water & Toxic Enforcement Act, California Health & Safety Code Sections 25249.5 *et seq.*; and the regulations under each thereof; and any other local, state, and/or federal laws or regulations, whether currently in existence or hereafter enacted, that govern:

- (a) the existence, cleanup, and/or remedy of contamination on property;
- (b) the protection of the environment from spilled, deposited, or otherwise emplaced contamination;
- (c) the control of hazardous wastes; or
- (d) the use, generation, transport, treatment, removal, or recovery of Hazardous Substances, including building materials.

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

“Assignee” means initially, Bank of the West, and its successors and assigns, as assignee of all rights, title and interests of the Authority hereunder, and (b) any other entity to whom the rights of the Authority hereunder are assigned, including subsequent assignees of the Assignee.

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

“Authority” means the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority, a joint exercise of powers authority, organized and existing under the laws of the State.

“Authority Representative” means the Chairman, the Executive Director, the Assistant Executive Director or the Treasurer/Auditor or the designee of any such official, or any other

person authorized by resolution of the Authority delivered to the Assignee to act on behalf of the Authority under or with respect to the Site and Facility Lease, the Lease Agreement and the Assignment Agreement.

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

"Closing Date" means the date this Lease Agreement or a memorandum thereof is recorded in the office of the County Recorder of the County of San Mateo.

"Contract" means any indenture, trust agreement, contract, agreement (other than this Lease Agreement), other contractual restriction, lease, mortgage or instrument.

"City" means the City of Brisbane, a municipal corporation and general law city organized and existing under the laws of the State.

"City Representative" means the Mayor, the City Manager, the Finance Director, or the designee of any such official, or any other person authorized by resolution delivered to the Authority and the Assignee to act on behalf of the City under or with respect to the Site and Facility Lease, this Lease Agreement and the Supplemental Agreement.

"Default Rate" means 4.250% per annum.

"Event of Default" means any of the events of default as defined in Section 8.1 and in Section 6.01 of the Supplemental Agreement.

"Facility" means those certain existing facilities more particularly described in Exhibit B to the Site and Facility Lease and in Exhibit B to the Lease Agreement.

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

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

"Governmental Authority" means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, city or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

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

"Interest Period" has the meaning set forth in the Supplemental Agreement.

"Lease Agreement" means this Lease Agreement, dated as of March 1, 2022, between the Authority and the City.

"Lease Payment Date" means March 1 and September 1 in each year, commencing September 1, 2022, and continuing to and including the date on which the Lease Payments are paid in full.

"Lease Payments" means all payments required to be paid by the City under Section 4.3, including any prepayment thereof under Sections 9.2 or 9.3.

"Material Adverse Effect" means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the City, (b) the ability of the City to carry out its business in the manner conducted as of the date of this Lease Agreement or to meet or perform its obligations under this Lease Agreement on a timely basis, (c) the validity or enforceability of this Lease Agreement, or (d) the exemption of the interest component of the Lease Payments for state income tax purposes.

"Material Litigation" means any action, suit, proceeding, inquiry or investigation against the City in any court or before any arbitrator of any kind or before or by any Governmental Authority, (a) if determined adversely to the City, may have a Material Adverse Effect, (b) seek to restrain or enjoin any of the transactions contemplated by this Lease Agreement, or (c) may adversely affect (i) the exemption of the interest component of the Lease Payments for state income tax purposes or (ii) the ability of the City to perform its obligations under this Lease Agreement.

"Net Proceeds" means any insurance or eminent domain award (including any proceeds of sale to a governmental entity under threat of the exercise of eminent domain powers), paid with respect to the Property, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

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

"Project" means the acquisition of the building and land of the former Bank of America branch located at 70 Old County Road in Brisbane for future City use to be financed from the proceeds of the Lease Agreement from the Assignee.

"Property" means, collectively, the Site and the Facility.

"Rental Period" means each period during the Term of the Lease commencing on and including March 2 in each year and extending to and including the next succeeding March 1. The first Rental Period begins on the Closing Date and ends on March 1, 2023.

“Site” means that certain real property more particularly described in Exhibit A to the Site and Facility Lease and in Exhibit A to the Lease Agreement.

“Site and Facility Lease” means the Site and Facility Lease, dated as of March 1, 2022, by and between the City, as lessor, and the Authority, as lessee, together with any duly authorized and executed amendments thereto.

“Special Counsel” means (a) Quint & Thimmig LLP, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations of municipal entities.

“State” means the State of California.

“Supplemental Agreement” means that certain Supplemental Agreement, dated as of March 1, 2022, by and between the City and the Assignee, together with any duly authorized and executed amendments thereto.

“Term of this Lease Agreement” or *“Term”* means the time during which this Lease Agreement is in effect, as provided in Section 4.2.

Section 1.2. Interpretation.

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

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

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

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

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

(a) *Due Organization and Existence*. The City is a municipal corporation and general law city, organized and existing under and by virtue of the laws of the State, has full legal right, power and authority under the laws of the State to enter into the Site and Facility Lease, this Lease Agreement and the Supplemental Agreement and to carry out and consummate all transactions on its part contemplated hereby and thereby, and by proper action the City has duly authorized the execution and delivery by the City of the Site and Facility Lease, this Lease Agreement and the Supplemental Agreement.

(b) *Due Execution*. The representative of the City executing the Site and Facility Lease, this Lease Agreement and the Supplemental Agreement has been fully authorized to execute the same by a resolution duly adopted by the City Council of the City.

(c) *Valid, Binding and Enforceable Obligations*. The Site and Facility Lease, this Lease Agreement and the Supplemental Agreement have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding agreements of the City enforceable against the City in accordance with their respective terms.

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

(e) *Consents and Approvals*. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with the execution and delivery of the Site and Facility Lease, this Lease Agreement and the Supplemental Agreement, or the consummation of any transaction therein and herein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation*. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other Governmental Authority pending and notice of which has been served on the City or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a Material Adverse Effect upon the consummation of the transactions contemplated by or the validity of

the Site and Facility Lease, this Lease Agreement and the Supplemental Agreement or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other Governmental Authority, which default might have consequences that would have a Material Adverse Effect on the consummation of the transactions contemplated by this Lease Agreement, or the financial condition, assets, properties or operations of the City.

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

(h) *No Defaults*. The City has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either under any financing lease of the same general nature as this Lease Agreement, or under any of its bonds, notes, or other debt obligations.

(i) *Fee Title*. The City is the owner in fee of title to the Property. No lien or encumbrance on the Property materially impairs the City's use of the Property for the purposes for which it is, or may reasonably be expected to be, held.

(j) *Use of the Property*. During the term of this Lease Agreement, the Property will be used by the City only for the purpose of performing one or more governmental or proprietary functions of the City consistent with the permissible scope of the City's authority.

(k) *Change in Financial Condition*. The City has experienced no material change in its financial condition since June 30, 2021.

(l) *Hazardous Substances*. To the best of the City's knowledge, the Property is free of all Hazardous Substances, and the City is in full compliance with all Applicable Environmental Laws.

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

(n) *Value of Property*. The value of the Property (property replacement cost), excluding the value of the land, is not less than \$5,000,000.

(o) *Essential to City Operations*. The Property is essential to the City's efficient and economic operations and the lease thereof for use by the City is in the best interest of the City.

(p) *Financial Statements*. The statement of financial position of the City as of June 30, 2014, and the related statement of activities and statement of cash flows and changes in financial position for the year then ended and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Assignee, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the City at such date and for such period, and were prepared in accordance with generally accepted accounting principles. Since the period of such statements, there has been no (i) change which would have a Material Adverse Effect and (ii) no material increase in the indebtedness of the City.

(q) *No Material Adverse Change.* Since the most current date of the information, financial or otherwise, supplied by the City to the Assignee:

(i) There has been no change in the assets, liabilities, financial position or results of operations of the City which might reasonably be anticipated to cause a Material Adverse Effect.

(ii) The City has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(iii) The City has not (A) incurred any material indebtedness, other than the Lease Payments, and trade accounts payable arising in the ordinary course of the City's business and not past due, or (B) guaranteed the indebtedness of any other person.

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

(s) *Facility.* The Facility complies with all applicable restrictive covenants, zoning ordinances, building laws and other Applicable Laws (including without limitation, the Americans with Disabilities Act, as amended).

(t) *No CUSIP Number; No Rating.* A CUSIP number will not be obtained for the Lease Agreement. No credit rating has been or will be assigned to the Lease Agreement.

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

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

(b) *Due Execution.* The representative of the Authority executing the Site and Facility Lease, this Lease Agreement and the Assignment Agreement is fully authorized to execute the same under official action taken by the Board of Directors of the Authority.

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

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

(e) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with the execution and delivery of the Site and Facility Lease, this Lease Agreement or the Assignment Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

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

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS

Section 3.1. Deposit of and Application of Funds. On the Closing Date, from the amounts funded by the Assignee pursuant to the Supplemental Agreement, the Authority shall cause the amount of \$4,355,000 to be transferred to the City and applied to the financing of the Project and to pay financing costs of the transaction. Such amounts shall be derived from amounts funded by the Assignee under the Supplemental Agreement.

ARTICLE IV

LEASE OF PROPERTY; LEASE PAYMENTS

Section 4.1. Sublease of Property by the Authority Back to the City.

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

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

Section 4.2. Term. The Term of this Lease Agreement commences on the date of recordation of this Lease Agreement or a memorandum hereof and ends on March 1, 2042, or the date on which all of the Lease Payments and Additional Payments have been paid in full pursuant to the terms of this Lease Agreement. If on March 1, 2042, the Lease Payments payable hereunder shall have been abated at any time and for any reason and not otherwise paid from rental interruption insurance or other sources, or the City shall have defaulted in its payment of Lease Payments or Additional Payments hereunder or any Event of Default has occurred and continues without cure by the City, then the term of this Lease Agreement shall be extended for the actual period of abatement or for so long as the default remains uncured, as necessary to accommodate the final payment of all Lease Payments and Additional Payments due hereunder, not to exceed ten (10) years. The provisions of this Section 4.2 are subject to the provisions of Section 6.1 relating to the taking in eminent domain of the Property or any portion thereof. Any abated Lease Payments shall be paid at the earliest opportunity or otherwise during the extended term described above.

Section 4.3. Lease Payments.

(a) *Obligation to Pay.* Subject to the provisions of Sections 6.1 and 6.3 and the provisions of Article IX, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the amounts specified in Exhibit C attached hereto and in the respective interest amounts computed in accordance with the rate of 3.250% per annum, to be due and payable in immediately available funds on each of the respective Lease Payment Dates specified in Exhibit C; *provided, however*, that if any Lease Payment Date is not a Business Day, such Lease Payment shall be due on the next succeeding Business Day. The Lease Payments payable in any Rental Period with respect to the Property shall be for the use of the Property during such Rental Period. Upon the making of each subsequent advance from the Bank to the City, Exhibit C to this Lease Agreement shall be amended to increase the principal component of the Lease Payments due under this Lease Agreement to the revised aggregate principal amount. Advances to be made after the first advance on the Closing Date shall be made only on the first Business Day of a month, upon five Business Days' notice to the Assignee. Any payment of the principal component of the Lease Payments shall be accompanied by payment of the amount set forth in Section 4.3(b)(v) and Section 2.02(c) of the Supplemental Agreement.

(b) *Additional Payments.* In addition to the Lease Payments set forth herein, the City agrees to pay as Additional Payments all of the following:

(i) all taxes and assessments of any nature whatsoever, including but not limited to excise taxes, ad valorem taxes, ad valorem and specific lien special assessments and

gross receipts taxes, if any, levied upon the Property or upon any interest of the Authority therein or in this Lease Agreement; provided, however, the City may, at the City's expense and in its name, in good faith contest any such taxes and assessments and, in the event of such contest, may permit such taxes and assessments to remain unpaid during the period of such contest and appeal therefrom unless the Authority shall notify the City that, in the opinion of Special Counsel, by nonpayment of any such items, the interest of the Authority in the Property will be materially endangered or the Property, or any portion thereof, will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes and assessments or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority;

(ii) insurance premiums, if any, on all insurance required under the provisions of Article V hereof;

(iii) any other reasonable fees, costs or expenses incurred by the Authority in connection with the execution, performance or enforcement of this Lease Agreement or any of the transactions contemplated hereby or related to the Property, including, without limitation, any amounts which may become due; provided, however, the City shall not be responsible for any costs incurred by the Authority associated with any assignment made by the Assignee; and

(iv) any amount required to reimburse the Assignee pursuant to Section 2.02(d) of the Supplemental Agreement, if any.

Amounts constituting Additional 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 Authority to the City stating the amount of Additional Payments then due and payable and the purpose thereof.

(c) *Effect of Prepayment.* If the City prepays the Lease Payments in part but not in whole under Section 9.3, the principal components of the remaining Lease Payments will be reduced on a pro rata basis; and the interest component of each remaining Lease Payment will be reduced on a pro rata basis.

(d) *Rate Upon Event of Default.* If the City fails to make any of the payments required in this Section 4.3, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay a rate equal to the Default Rate.

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

(f) *Source of Payments; Budget and Appropriation.* The Lease Payments are payable from any source of legally available funds of the City, subject to the provisions of Sections 6.1, 6.3 and 9.1. The City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments in each of its annual budgets during the Term of this Lease Agreement and to make the necessary annual appropriations for all such Lease Payments and Additional Payments. The covenants on the part of the City herein contained constitute duties imposed by law and it is the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease Agreement agreed to be carried out and performed by the City.

(g) *Allocation of Lease Payments.* All Lease Payments received shall be applied first to the interest components of the Lease Payments due hereunder, then to the principal components of the Lease Payments due hereunder, but no such application of any payments that are less than the total rental due and owing shall be deemed a waiver of any default hereunder.

(h) *No Offsets.* Notwithstanding any dispute between the Authority, or Assignee as the Authority's assignee, and the City, the City shall make all Lease Payments when due without deduction or offset of any kind and shall not withhold any Lease Payments pending the final resolution of such dispute.

(i) *Assignment Agreement.* The City understands and agrees that all Lease Payments have been assigned by the Authority to the Assignee under the Assignment Agreement executed concurrently herewith, and the City hereby consents to such assignment. The Authority hereby directs the City, and the City hereby agrees, to pay to the Assignee, all payments payable by the City under this Section 4.3 and all amounts payable by the City under Article IX. Lease Payments shall be paid to the Assignee pursuant to an invoice to be transmitted to the City by the Assignee not less than twenty (20) days prior to each Lease Payment Date.

Section 4.4. Quiet Enjoyment. Throughout the Term of this Lease Agreement, the Authority will provide the City with quiet use and enjoyment of the Property and the City will peaceably and quietly have and hold and enjoy the Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease Agreement. The Authority will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority and the Assignee have the right to inspect the Property as provided in Sections 5.12(c) and 7.2.

Section 4.5. Title. At all times during the Term of this Lease Agreement, the City shall hold title to the Property, including all additions which comprise fixtures, repairs, replacements or modifications thereto, subject to Permitted Encumbrances and subject to the provisions of Section 7.2.

Upon the termination of this Lease Agreement (other than under Section 8.2(b) hereof), all right, title and interest of the Authority in and to the Property shall be transferred to and vested in the City. Upon the payment in full of all Lease Payments allocable to the Property, or upon the deposit by the City of security for such Lease Payments as provided in Section 9.1, all right, title and interest of the Authority in and to the Property shall be transferred to and vested in the City. The Authority agrees to take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer.

Section 4.6. Release of Excess Property. The City may, at any time and from time to time, release any portion of the Property (the "Released Property") from the Lease, with the prior

written consent of the Assignee, which consent shall be at the Assignee's sole discretion, and upon satisfaction of all of the following requirements which are conditions precedent to such release:

(a) The City shall certify to the Authority and the Assignee that no Event of Default has occurred and is continuing, and no event giving rise to an abatement of Lease Payments under Section 6.3 has occurred or is continuing with respect to the Property to be remaining following release of the Released Property;

(b) The City shall file with the Authority and the Assignee, and cause to be recorded in the office of the San Mateo County Recorder, an amendment to this Lease Agreement which deletes the Released Property from the description of the Property;

(c) The City shall file with the Authority and the Assignee a written certificate of the City stating the City's determination that the estimated value of the real property which will remain leased under this Lease Agreement following such release is at least equal to the remaining principal components of the Lease Payments and upon request of the Assignee, the City shall provide to the Assignee additional information and documents to evidence the value of the remaining portion of the Property;

(d) The City shall file with the Authority and the Assignee a written certificate of the City stating the City's determination that the estimated fair rental value, for each remaining Rental Period and in the aggregate, of the Property remaining after release of the Released Property is at least equal to the remaining Lease Payments for each remaining Rental Period and in the aggregate; and

(e) The City shall file with the Authority and the Assignee such other information, documents and instruments as the Authority or the Assignee shall reasonably request, including (if requested by the Assignee) evidence of the insurable value of the Property to be remaining following release of the Released Property, indicating that such value is in excess of the then unpaid principal component of the Lease Payments and such endorsements to the title policy delivered on the Closing Date.

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

Section 4.7. Substitution of Property. (a) In the event of damage or destruction of the Property due to earthquake or other uninsured casualty for which rental interruption insurance is not available or in the event that following the condemnation of all or a portion of the Property the fair rental value of the Property remaining after such condemnation is less than the remaining Lease Payments due under this Lease Agreement, the City shall substitute under the Site and Facility Lease and this Lease Agreement one or more parcels of unimpaired and unencumbered real property, the fair rental value of which, for each remaining Rental Period and in the aggregate, shall be at least equal to the remaining Lease Payments hereunder.

(b) If for any reason the City is unable to so substitute real property for the Property with a fair rental value at least equal to the remaining Lease Payments hereunder, the City shall use its best efforts to obtain other financing in an amount necessary to prepay the principal component of the Lease Payments not supported by the fair rental value of the substituted property, if any.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments. Throughout the Term of this Lease Agreement, as part of the consideration for the rental of the Property, all improvement, repair and maintenance of the Property are the sole responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease Agreement.

The City will pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the City affecting the Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City is 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.

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

Section 5.2. Modification of Property. The City has the right, at its own expense, to make additions, modifications and improvements to the Property or any portion thereof. All additions, modifications and improvements to the Property will thereafter comprise part of the Property and become subject to the provisions of this Lease Agreement. Such additions, modifications and improvements may not in any way damage the Property, or cause the Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

Section 5.3. Public Liability Insurance. 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 Assignee and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Property. Such policy or policies must provide coverage with limits of at least \$1,000,000 per

occurrence, \$3,000,000 in the aggregate, for bodily injury and property damage coverage, and excess liability umbrella coverage of at least \$5,000,000, and in all events in form and amount (including any deductibles) satisfactory to the Assignee. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including, with Assignee's prior written consent, a self-insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City will apply the proceeds of such liability insurance toward extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 5.4. Casualty Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease Agreement, casualty insurance against loss or damage to all buildings situated on the Property and owned by the City, in an amount at least equal to the greater of the replacement value of the insured buildings and the aggregate principal amount of the Lease Payments outstanding, with a lender's loss payable endorsement. Such insurance must, as nearly as practicable, cover loss or damage by all "special form" perils. Such insurance shall be subject to a deductible of not to exceed \$250,000. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including, with the Assignee's prior written consent, a self-insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City will apply the Net Proceeds of such insurance as provided in Section 6.2.

Section 5.5. Rental Interruption Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease Agreement, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Property and the improvements situated thereon as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum Lease Payments coming due and payable during any future 24 month period assuming an interest rate of 3.25% per annum. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such rental interruption insurance shall not be self-insured by the City. The City will apply the Net Proceeds of such insurance towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

Section 5.6. Worker's Compensation Insurance. If required by applicable California law, the City shall carry worker's compensation insurance covering all employees on, in, near or about the Property and, upon request, shall furnish to the Authority certificates evidencing such coverage throughout the Term of this Lease Agreement. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including a self insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance.

Section 5.7. Recordation Hereof; Title Insurance. On or before the Closing Date, the City shall, at its expense, (a) cause this Lease Agreement, the Site and Facility Lease and the Assignment Agreement, or a memorandum hereof or thereof in form and substance approved by Special Counsel, to be recorded in the office of the San Mateo County Recorder with respect to the Property, and (b) obtain a CLTA title insurance policy satisfactory to the Assignee insuring the Assignee's interests in the leasehold estate established under the Site and Facility Lease and hereunder in the Property, subject only to Permitted Encumbrances, in an amount equal to the original principal components of the Lease Payments. The City will apply the Net Proceeds of such insurance as provided in Section 6.2.

Section 5.8. Insurance Net Proceeds; Form of Policies. All insurance policies (or riders) required by this Article V and provided by third party insurance carriers shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten days before the cancellation or revision becomes effective. Each insurance policy or rider required by Sections 5.3, 5.4 and 5.5 and provided by third party insurance carriers shall name the City and the Assignee as insured parties and the Assignee as loss payees and shall include a lender's loss payable endorsement for the benefit of the Assignee. In the case of coverage pursuant to Section 5.3, the Authority and the Assignee shall be added as additional insureds. Prior to the Closing Date, the City will deposit with the Assignee policies (and riders and endorsements, if applicable) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy (or rider), the City will furnish to the Assignee evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V unless such insurance is no longer obtainable, in which event the City shall notify the Assignee of such fact.

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

Section 5.10. Liens. The City will not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Assignee do not materially and adversely affect the leasehold estate in the Property hereunder and for which the Assignee provides its prior written approval, which approval shall be at Assignee's sole discretion. Except as expressly provided in this Article V, the City will promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The City will reimburse the Assignee for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.11. Advances. If the City fails to perform any of its obligations under this Article V, the Authority may take such action as may be necessary to cure such failure, including the advancement of money, and the City shall be obligated to repay all such advances as additional rental hereunder, with interest at the rate set forth in Section 4.3(c).

Section 5.12. Environmental Covenants.

(a) *Compliance with Laws; No Hazardous Substances.* The City will comply with all Applicable Environmental Laws with respect to the Property and will not use, store, generate, treat, transport, or dispose of any Hazardous Substance thereon or in a manner that would

cause any Hazardous Substance to later flow, migrate, leak, leach, or otherwise come to rest on or in the Property.

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

(c) *Access for Inspection.* The City will permit the Assignee, its agents, or any experts designated by the Assignee to have full access to the Property during reasonable business hours for purposes of such independent investigation of compliance with all Applicable Environmental Laws, provided that the Assignee has no obligation to do so, or any liability for any failure to do so, or any liability should it do so.

Section 5.13. City Consent to Assignment Agreement. The Authority's rights under this Lease Agreement (excluding the right to receive notices, the right to reimbursement of costs and to indemnification), including the right to receive and enforce payment of the Lease Payments, and the Site and Facility Lease, are being assigned to the Assignee pursuant to the Assignment Agreement. The City hereby consents to such assignment and to any additional assignment of such rights by the Assignee or its assignees. The City agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements, which may be reasonably requested by the Assignee or its assignees to protect their interests in the Property and in this Lease Agreement.

ARTICLE VI

EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.1. Eminent Domain. If all of the Property shall be taken permanently under the power of eminent domain or sold to a governmental entity threatening to exercise the power of eminent domain, the Term of this Lease Agreement shall cease as of the day possession shall be so taken. If less than all of the Property shall be taken permanently, or if all of the Property or any part thereof shall be taken temporarily under the power of eminent domain, (1) this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (2) there shall be a partial abatement of Lease Payments in an amount equal to the application of the Net Proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder, in an amount to be agreed upon by the City and the Assignee such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portion of the Property.

Section 6.2. Application of Net Proceeds.

(a) *From Insurance Award*.

(i) Any Net Proceeds of insurance against damage to or destruction of any part of the Property collected by the City in the event of any such damage or destruction shall be deposited by the City promptly upon receipt thereof in a special fund with the Assignee designated as the "Insurance and Condemnation Fund."

(ii) Within ninety (90) days following the date of such deposit, the City shall determine and notify the Authority and the Assignee in writing of its determination either (A) that the replacement, repair, restoration, modification or improvement of the Property is not economically feasible or in the best interest of the City and the Net Proceeds, together with other moneys available therefor, may be applied to the prepayment of Lease Payments pursuant to subparagraph (iii) below, or (B) that all or a portion of such Net Proceeds are to be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property and the fair rental value of the Property following such repair, restoration, replacement, modification or improvement will at least equal the unpaid principal component of the Lease Payments.

(iii) In the event the City's determination is as set forth in clause (A) of subparagraph (ii) above, such Net Proceeds and other available moneys shall be promptly applied to the prepayment of Lease Payments and other amounts pursuant to Section 9.3 of this Lease Agreement; *provided, however*, that in the event of damage or destruction of the Property in full, such Net Proceeds may be so applied only if sufficient, together with other moneys available therefor, to cause the prepayment of the principal components of all unpaid Lease Payments, all accrued and unpaid interest, Prepayment Premiums described in Section 9.2, and all other costs related to such prepayments pursuant to Section 9.3 of this Lease Agreement and otherwise such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Property; *provided further, however*, that in the event of damage or destruction of the Property in part, such Net Proceeds may be applied to the prepayment of Lease Payments only if the resulting Lease Payments following such prepayment from Net Proceeds represent fair consideration for the remaining portions of the Property and otherwise such Net Proceeds shall be applied to the prompt

replacement, repair, restoration, modification or improvement of the Property, evidenced by a certificate signed by a City Representative.

(iv) In the event the City's determination is as set forth in clause (B) of subparagraph (ii) above and the City certifies to the Assignee that such repair or replacement can be completed within 24 months, such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property by the City, and until the Property has been restored to its prior condition, the City shall not place any lien or encumbrance on the Property that is senior to this Lease Agreement without the prior written consent of the Assignee, at its sole discretion.

(b) *From Eminent Domain Award.* If all or any part of the Property shall be taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be deposited by the City in the Insurance and Condemnation Fund and shall be applied and disbursed as follows:

(i) If the City has given written notice to the Authority and the Assignee of its determination that (A) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under this Lease Agreement, and (B) such proceeds are not needed for repair or rehabilitation of the Property, the City shall so certify to the Authority and the Assignee, and the City shall credit such proceeds towards the prepayment of the Lease Payments pursuant to Section 9.3 of this Lease Agreement.

(ii) If the City has given written notice to the Authority and the Assignee of its determination that (A) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under this Lease Agreement, and (B) such proceeds are needed for repair, rehabilitation or replacement of the Property, the City shall so certify to the Authority and the Assignee, and the City shall apply such amounts for such repair or rehabilitation.

(iii) If less than all of the Property shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the City has given written notice to the Authority and the Assignee of its determination that such eminent domain proceedings have materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under the Lease Agreement. The City shall either apply such proceeds (A) to the prepayment of the Lease Payments pursuant to Section 9.3 of this Lease Agreement only if the resulting Lease Payments following such prepayment represent fair consideration for the use and occupancy of the remaining usable portion of the Property, or (B) together with other legally available funds, to the repair or rehabilitation of the Property only if the resulting Lease Payments following such repair or rehabilitation represent fair consideration for the use and occupancy of the remaining usable portion of the Property.

(iv) If all of the Property shall have been taken in such eminent domain proceedings, then the City shall credit such proceeds towards the prepayment of the Lease Payments pursuant to Section 9.3 of this Lease Agreement.

(v) In making any determination under this Section 6.2(b), the City may, but shall not be required to, obtain at its expense, the report of an independent engineer or other

independent professional consultant, a copy of which shall be filed with the Authority and the Assignee. Any such determination by the City shall be final.

(c) *From Title Insurance.* The Net Proceeds from a title insurance award shall be deposited by the City in the Insurance and Condemnation Fund and credited towards the prepayment of Lease Payments required to be paid pursuant to Section 9.3 of this Lease Agreement.

Section 6.3. Abatement of Lease Payments in the Event of Damage or Destruction. Lease Payments shall be abated during any period in which, by reason of damage or destruction, there is substantial interference with the use and occupancy by the City of the Property or any portion thereof to the extent to be agreed upon by the City and the Assignee. The parties agree that the amounts of the Lease Payments under such circumstances shall not be less than the amounts of the unpaid Lease Payments as are then set forth in Exhibit C, unless such unpaid amounts are determined to be greater than the fair rental value of the portions of the Property not damaged or destroyed, based upon an appropriate method of valuation, in which event the Lease Payments shall be abated such that they represent said fair rental value. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction as evidenced by a Certificate of a City Representative to the Authority and the Assignee. In the event of any such damage or destruction, this Lease Agreement shall continue in full force and effect and the City waives any right to terminate this Lease Agreement by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that (a) the proceeds of rental interruption insurance or (b) amounts in the Insurance and Condemnation Fund are available to pay Lease Payments which would otherwise be abated under this Section 6.3, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS OF THE CITY

Section 7.1. Disclaimer of Warranties. THE AUTHORITY MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CITY LEASES THE PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event is the Authority liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease Agreement for the existence, furnishing, functioning or use of the Property by the City.

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

The City further grants, conveys and confirms to the Authority, for the use, benefit and enjoyment of the Authority, its successors and assigns in interest to the Property, including the Assignee, and its sublessees, and their respective employees, invitees, agents, independent contractors, patrons, customers, guests and members of the public visiting the Property, a right of entry which shall be irrevocable for the Term of this Lease Agreement over, across and under the property of the City adjacent to the Property to and from the Property for the purpose of: (a) ingress, egress, passage or access to and from the Property by pedestrian or vehicular traffic; (b) installation, maintenance and replacement of utility wires, cables, conduits and pipes; and (c) other purposes and uses necessary or desirable for access to and from and for operation and maintenance of the Property.

Section 7.3. Release and Indemnification Covenants. The City hereby indemnifies the Authority, the Assignee and their respective directors, officers, agents, employees, successors and assigns against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the Property by the City or the City's employees, agents, contractors, invitees or licensees, (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease Agreement, (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Property, (e) the acquisition, construction, improvement and equipping of the Property, (f) the clean-up of any Hazardous Substances or toxic wastes from the Property, or (g) any claim alleging violation of any Applicable Environmental Laws, or the authorization of payment of the costs thereof. No indemnification is made under this Section 7.3 or elsewhere in this Lease Agreement for willful misconduct or gross negligence under this Lease Agreement by the Authority, the Assignee, or their respective officers, agents, employees, successors or assigns. The City and the Authority

each agree to promptly give notice to each other and the Assignee of any claim or liability hereby indemnified against following learning thereof.

Section 7.4. Assignment by the Authority. The Authority's rights, title and interests under this Lease Agreement, including the right to receive and enforce payment of the Lease Payments to be made by the City hereunder, have been assigned to the Assignee; provided that the Authority's rights to indemnification and payment or reimbursement for any costs or expenses hereunder have been retained by the Authority to the extent such rights accrue to the Authority and shall have been assigned to the Assignee to the extent such rights accrue to the Assignee. The City hereby consents to such assignment. Whenever in this Lease Agreement any reference is made to the Authority, such reference shall be deemed to refer to the Assignee (including its assignees).

The Assignee may make additional assignments of its rights, title and interests herein, but no such assignment will be effective as against the City unless and until the Assignee has filed with the City at least five (5) Business Days' prior written notice thereof and an executed copy of a bank's letter addressed to the City and the Authority substantially in the form of the letter delivered by the Assignee on the Closing Date. The City shall pay all Lease Payments hereunder to the Assignee, as provided in Section 4.3(h) hereof, or under the written direction of the assignee named in the most recent assignment or notice of assignment filed with the City. During the Term of this Lease Agreement, the City will keep a complete and accurate record of all such notices of assignment.

Section 7.5. Assignment and Subleasing by the City. This Lease Agreement may not be assigned, mortgaged, pledged or transferred by the City. The City may sublease the Property, or any portion thereof, with the prior written consent of the Assignee, at the Assignee's sole discretion, subject to all of the following conditions:

(a) This Lease Agreement and the obligation of the City to make Lease Payments and Additional Payments hereunder shall remain obligations of the City, and any sublease shall be subject and subordinate to this Lease Agreement.

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

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

(d) The City shall furnish the Authority and the Assignee with a written opinion of Special Counsel stating that such sublease does not cause the interest components of the Lease Payments to become subject to personal income taxation by the State.

(e) Any such sublease shall be subject and subordinate in all respects to the Site and Facility Lease and this Lease Agreement.

Notwithstanding the foregoing, in connection with any sublease entered into for financing purposes, the principal component of the then remaining Lease Payments plus the principal component of the sublease payments shall not exceed the fair market value of the Property.

Section 7.6. Amendment of Lease Agreement.

(a) *Substitution of Site or Facility.* The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to substitute other

land (a "Substitute Site") and/or a substitute facility (a "Substitute Facility") for the Site (the "Former Site"), or a portion thereof, and/or the Facility (the "Former Facility"), or a portion thereof, with the prior written consent of the Assignee, at the Assignee's sole discretion, provided that the City shall satisfy all of the following requirements (to the extent applicable) which are hereby declared to be conditions precedent to such substitution:

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

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

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

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

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

(vi) The City delivers to the Assignee evidence (which may be insurance values or any other reasonable basis of valuation and need not require an appraisal) that the value of the Property following such substitution is equal to or greater than the unpaid principal amount of this Lease Agreement;

(vii) The Substitute Site and/or Substitute Facility shall not cause the City to violate any of its covenants, representations and warranties made herein and in the Supplemental Agreement;

(viii) The City shall obtain an amendment to the title insurance policy required pursuant to Section 5.7 hereof which adds thereto a description of the Substitute Site and deletes therefrom the description of the Former Site and that such title insurance is otherwise not affected by such substitution; and

(ix) The City shall furnish the Assignee with a written opinion of Special Counsel stating that such substitution does not cause the interest components of the Lease Payments to become subject to State personal income taxes.

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

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

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

(iii) The City delivers to the Assignee evidence (which may be insurance values or any other reasonable basis of valuation and need not require an appraisal) that the value of the Property, as revised by such release, is equal to or greater than the unpaid principal amount of this Lease Agreement;

(iv) Such release shall not cause the City to violate any of its covenants, representations and warranties made herein and in the Supplemental Agreement; and

(v) The City shall obtain an amendment to the title insurance policy required pursuant to Section 5.7 hereof which describes the Site, as revised by such release and that such title insurance is otherwise not affected by such release.

(d) *Generally.* The Authority and the City may at any time amend or modify any of the provisions of this Lease Agreement, but only with the prior written consent of the Assignee.

Section 7.7. Financial Statements; Budgets; Other Information. Within two hundred forty (240) days following the end of each Fiscal Year of the City during the Term of this Lease Agreement, the City will provide the Authority and the Assignee with a copy of its audited financial statements for such Fiscal Year. Such audited financial statements shall include the City's Comprehensive Annual Financial Report ("CAFR"), including such information as is required by applicable Government Accounting Standards Board pronouncements and applicable State law. Within sixty (60) days of the end of each fiscal year, the City will provide the Assignee with a copy of its annual budget. The City hereby agrees to provide the Assignee with such other information as may be reasonably requested by the Assignee.

Section 7.8. Records and Accounts. The City covenants and agrees that it shall keep proper books of record and accounts of its operations in accordance with GASB, in which complete and correct entries shall be made of all transactions relating to the City. Said books and records shall at all reasonable times be subject to the inspection of the Assignee upon 72 hours' prior notice.

Section 7.9. Observance of Laws and Regulations. The City will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations, regulations or Applicable Laws now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board, commission or Governmental Authority having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the City, including the City's right to exist and carry on business as a municipal corporation and general law city, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 7.10. Notices. During the Term of this Lease Agreement, the City shall provide to the Assignee

(a) immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes an Event of Default under this Lease Agreement, together with a detailed statement by a City Representative of the steps being taken by the City to cure the effect of such Event of Default.

(b) prompt written notice of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority.

(c) with reasonable promptness, such other information respecting the City, and the operations, affairs and financial condition of the City as the Assignee may from time to time reasonably request.

(d) Notices of filings with the Municipal Securities Regulatory Board's EMMA system, other than regular annual filings.

(e) Notice of an event that could cause a Material Adverse Effect.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

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

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

(b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Assignee. However, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, the Authority and the Assignee shall not unreasonably withhold their consent to an extension of such time (for a period not to exceed 60 days) if corrective action is instituted by the City within such 30-day period and diligently pursued until the default is corrected.

(c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar federal or State act now existing or which may hereafter be enacted.

(d) Any statement, representation or warranty made by the City in or pursuant to this Lease Agreement or its execution, delivery or performance shall have been false, incorrect, misleading or breached in any material respect on the date when made.

(e) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which the City is an obligor, if such default (i) arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by the Assignee or any affiliate of the Assignee, or (ii) arises under any obligation under which there is outstanding, owing or committed an aggregated amount in excess of \$500,000.

(f) Any default by the City to observe any covenant, condition or agreement on its part to be observed or performed under the Site and Facility Lease.

(g) Any court of competent jurisdiction shall find or rule that the Site and Facility Lease or this Lease Agreement is not valid or binding against the City.

(h) The City abandons any part of the Property.

(i) The occurrence of an Event of Default as defined in Section 6.01 of the Supplemental Agreement.

Section 8.2. Remedies on Default. Whenever any Event of Default has happened and is continuing, the Authority may exercise any and all remedies available under law or granted under this Lease Agreement; provided, however, that notwithstanding anything herein to the

contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted hereunder; provided, that no termination of this Lease Agreement shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise any one or more of the following remedies:

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

(b) *Termination of Lease.* If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease Agreement and re-lease all or any portion of the Property, subject to the Site and Facility Lease. If the Authority terminates this Lease Agreement at its option and in the manner hereinafter provided due to a default by the City (and notwithstanding any re-entry upon the Property by the Authority in any manner whatsoever or the re-leasing of the Property), the City nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments and Additional Payments. Any surplus received by the Authority from such re-leasing shall be applied by the Authority to Lease Payments and Additional Payments due under this Lease Agreement. Neither notice to pay rent or to deliver up possession of the premises given under

law nor any proceeding in unlawful detainer taken by the Authority shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the 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 or accepted by the Authority by such written notice.

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

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

Section 8.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VIII it shall not be necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

Section 8.4. No Additional Waiver Implied by One Waiver. If any agreement contained in this Lease Agreement is breached by either party and thereafter waived by the other party, such waiver is limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 8.5. Assignee to Exercise Rights. Such rights and remedies as are given to the Authority under this Article VIII have been assigned by the Authority to the Assignee, to which assignment the City hereby consents.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

Section 9.1. Security Deposit. Notwithstanding any other provision of this Lease Agreement, upon payment in full of any Additional Payments due and payable, the City may on any date secure the payment of the Lease Payments in whole or in part by depositing with the Assignee or a fiduciary reasonably satisfactory to the Assignee, in trust, an amount of cash, which shall be held in a segregated trust or escrow fund under a trust or escrow agreement that is in form and content acceptable to the Assignee, which cash so held is either (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Exhibit C, or (b) invested in whole in non-callable Federal Securities maturing not later than the dates such funds will be required to make Lease Payments or any prepayment in an amount which is sufficient, in the opinion of an independent certified public accountant (which opinion must be in form and substance, and with such an accountant, as shall be acceptable to the Assignee, and addressed and delivered to the Assignee), together with interest to accrue thereon and without reinvestment and together with any cash which is so deposited, to pay such Lease Payments when due under Section 4.3(a) or when due on any optional prepayment date under Section 9.2, as the City instructs at the time of said deposit. In the event of a security deposit under this Section with respect to all unpaid Lease Payments, (i) the Term of this Lease Agreement shall continue, (ii) all obligations of the City under this Lease Agreement, and all security provided by this Lease Agreement for said obligations, shall thereupon cease and terminate, excepting only (A) the obligation of the City to make, or cause to be made, all of the Lease Payments from such security deposit and, to the extent of any deficiency, as rent payable from other legally available funds of the City, and (B) the release and indemnification obligations of the City under subparagraphs (f) and (g) of Section 7.3, and (iii) under Section 4.5, the Authority's leasehold interest in the Property will vest in the City on the date of said deposit automatically and without further action by the City or the Authority. The City hereby grants a first priority security interest in and lien on said security deposit and all proceeds thereof in favor of the Assignee. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease Agreement and, notwithstanding anything to the contrary herein, Lease Payments therefrom shall not be subject to abatement under Section 6.3 hereof to the extent payable from the funds held by the Assignee or the fiduciary as described in the first sentence of this Section 9.1.

Section 9.2. Optional Prepayment. The City may exercise its option to prepay the principal components of the Lease Payments in whole or in part on any Lease Payment Date, upon 30 days' notice to the Assignee, by paying a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payment required to be paid on or accrued to such date together with the premium set forth in the following table:

<u>Prepayment Period</u>	<u>Prepayment Premium</u>
Closing Date through February 28, 2027	1
March 1, 2027 and thereafter	0

Section 9.3. Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain. The City shall be obligated to prepay the unpaid principal components of the Lease Payments in whole or in part in such order of prepayment as shall be selected by the City on any date, together with any accrued and unpaid interest, and any other costs related to such prepayment, from and to the extent of any proceeds of insurance award or condemnation award with respect to the Property to be used for such purpose under Section 6.2. The City and

the Authority hereby agree that such proceeds, to the extent remaining after payment of any delinquent Lease Payments, shall be credited towards the City's obligations under this Section 9.3.

ARTICLE X

MISCELLANEOUS

Section 10.1. Notices. Any notice, request, complaint, demand or other communication under this Lease Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City and the Assignee 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 Authority: Brisbane/Guadalupe Valley Municipal
Improvement District Financing Authority
c/o City of Brisbane
50 Park Place
Brisbane, CA 94005
Attention: Assistant City Manager
Phone: (415) 508-2151

If to the City: City of Brisbane
50 Park Place
Brisbane, CA 94005
Attention: Assistant City Manager
Phone: (415) 508-2151

If to the Assignee: Bank of the West
180 Montgomery Street, 9th Floor
San Francisco, CA 94104
Attention: _____
Phone: (415) ____-____

Section 10.2. Binding Effect. This Lease Agreement inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns. The Assignee is a third party beneficiary of this Lease Agreement.

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

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

Section 10.5. Supplemental Agreement to Control. To the extent any provision of this Lease Agreement conflicts with a similar provision in the Supplemental Agreement, the Supplemental Agreement shall control. The Authority hereby agrees to the provisions of Section 8.04 of the Supplemental Agreement as if such provisions were set forth herein.

Section 10.6. Further Assurances and Corrective Instruments. The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the

Property hereby leased or intended to be so or for carrying out the expressed intention of this Lease Agreement.

Section 10.7. Execution in Counterparts. This Lease Agreement may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

Section 10.8. Applicable Law. This Lease Agreement is governed by and construed in accordance with the laws of the State.

Section 10.9. Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or section of this Lease Agreement.

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

BRISBANE/GUADALUPE VALLEY
MUNICIPAL IMPROVEMENT DISTRICT
FINANCING AUTHORITY

By _____
Clayton L. Holstine
Executive Director

CITY OF BRISBANE

By _____
Clayton L. Holstine
City Manager

EXHIBIT A

DESCRIPTION OF THE SITE

The land referred to herein is situated in the State of California, County of San Mateo, City of Brisbane, and described as follows:

PARCEL ONE:

LOTS 8, 9 AND 10, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAP OF SUBDIVISION NOS. 1, 2 AND 3 OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON OCTOBER 14, 1908 IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NOS. 007-281-070 and 007-281-080

JOINT PLANT NOS. 007-028-281-07A and 007-028-281-08A

PARCEL TWO:

LOTS 13 AND 14, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAPS OF SUBDIVISION NOS. 1, 2 AND 3, OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA ON OCTOBER 14, 1908, IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NO. 007-281-100

JOINT PLANT NO. 007-028-281-10A

royalties from leases as reserved in Deed recorded in Book 1331 Page 360 of Official Records.

EXHIBIT B

DESCRIPTION OF THE FACILITY

The Facility consists of the new 7,670-square-foot Brisbane Public Library located at 163 Visitacion Avenue in the City constructed in 2021. The library includes a Children's Area, Teen Space, History Room, Community Room and Makerspace, complete with 3D printer, GoPro camera kits and more.

EXHIBIT C

SCHEDULE OF THE PRINCIPAL COMPONENTS OF LEASE PAYMENTS

Lease Payment Date	Principal Component	Interest Component	Total Lease Payment
9/1/22	—	\$ 61,726.08	\$ 61,726.08
3/1/23	—	70,768.75	70,768.75
9/1/23	\$ 35,000	70,768.75	105,768.75
3/1/24	35,000	70,200.00	105,200.00
9/1/24	38,000	69,631.25	107,631.25
3/1/25	38,000	69,013.75	107,013.75
9/1/25	38,000	68,396.25	106,396.25
3/1/26	38,000	67,778.75	105,778.75
9/1/26	38,000	67,161.25	105,161.25
3/1/27	40,000	66,543.75	106,543.75
9/1/27	43,000	65,893.75	108,893.75
3/1/28	43,000	65,195.00	108,195.00
9/1/28	44,000	64,496.25	108,496.25
3/1/29	44,000	63,781.25	107,781.25
9/1/29	122,000	63,066.25	185,066.25
3/1/30	122,000	61,083.75	183,083.75
9/1/30	126,000	59,101.25	185,101.25
3/1/31	126,000	57,053.75	183,053.75
9/1/31	131,000	55,006.25	186,006.25
3/1/32	130,000	52,877.50	182,877.50
9/1/32	134,000	50,765.00	184,765.00
3/1/33	135,000	48,587.50	183,587.50
9/1/33	139,000	46,393.75	185,393.75
3/1/34	139,000	44,135.00	183,135.00
9/1/34	143,000	41,876.25	184,876.25
3/1/35	144,000	39,552.50	183,552.50
9/1/35	148,000	37,212.50	185,212.50
3/1/36	148,000	34,807.50	182,807.50
9/1/36	153,000	32,402.50	185,402.50
3/1/37	153,000	29,916.25	182,916.25
9/1/37	158,000	27,430.00	185,430.00
3/1/38	158,000	24,862.50	182,862.50
9/1/38	164,000	22,295.00	186,295.00
3/1/39	163,000	19,630.00	182,630.00
9/1/39	168,000	16,981.25	184,981.25
3/1/40	169,000	14,251.25	183,251.25
9/1/40	174,000	11,505.00	185,505.00
3/1/41	174,000	8,677.50	182,677.50
9/1/41	180,000	5,850.00	185,850.00
3/1/42	180,000	2,925.00	182,925.00
Total	<u>\$4,355,000</u>	<u>\$1,849,599.83</u>	<u>\$6,204,599.83</u>

AFTER RECORDATION RETURN TO:

Quint & Thimmig LLP
900 Larkspur Landing Circle, Suite 270
Larkspur, CA 94939-1726
Attention: Brian D. Quint, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

ASSIGNMENT AGREEMENT

For Value Received, the BRISBANE/GUADALUPE VALLEY MUNICIPAL IMPROVEMENT DISTRICT FINANCING AUTHORITY (the "Authority") without recourse does hereby sell, assign and transfer to BANK OF THE WEST and its successors and assigns (the "Assignee"), (i) all rights, title and interest in and to the Lease Agreement, dated as of March 1, 2022, in the amounts shown on Exhibit C attached thereto, a memorandum of which has been recorded concurrently herewith, by and between the Authority, as sublessor, and the City of Brisbane (the "City"), as sublessee (said Lease Agreement and any supplements, amendments, annexations, extensions or renewals thereof are referred to hereinafter as the "Lease Agreement"), as well as its rights to enforce payment of Lease Payments (as defined in the Lease Agreement) when due or otherwise to protect its interests and exercise all remedies in the event of a default or termination by the City under the Lease Agreement; provided that the Authority's rights to indemnification and payment or reimbursement for any costs or expenses thereunder have been retained by the Authority to the extent such rights accrue to the Authority and shall have been assigned to the Assignee to the extent such rights accrue to the Assignee, (ii) all of its rights, title and interest in and to the Site and Facility Lease, dated as of March 1, 2022, which has been recorded concurrently herewith, by and between the City, as lessor, and the Authority, as lessee (the "Site and Facility Lease"), and (iii) all moneys, sums and amounts now due or hereinafter to become due under the Lease Agreement. The Site and Facility Lease and the Lease Agreement delivered to the Assignee are duly executed duplicate originals that comprise the entire writing, obligation and agreement between the Authority and the City respecting the leases made thereunder and the lease payments made therefor.

The Assignee, hereby accepts the foregoing assignment. The above assignment is intended to be an absolute and unconditional assignment to the Assignee and is not intended as a loan by the Assignee to the Authority. Accordingly, in the event of bankruptcy of the Authority, the assigned property shall not be part of the Authority's estate. However, if the above assignment is deemed to be a loan by the Assignee to the Authority, then the Authority shall be deemed to have granted to the Assignee, and hereby grants to the Assignee, a continuing first priority security interest in the assigned property and all proceeds thereof as collateral security for all obligations of the Authority hereunder and all obligations of the City

under the Lease Agreement and this Assignment Agreement shall be deemed a security agreement with respect to such loan.

The Authority represents and warrants as follows:

(1) it has made no prior sale or assignment of any interest in the Site and Facility Lease and the Lease Agreement;

(2) that the Lease Agreement and the Site and Facility Lease are genuine and in all respects are what they purport to be;

(3) that the Assignee is not liable for and does not assume responsibility for the performance of any of the covenants, agreements, duties or obligations specified in the Lease Agreement to be kept, paid or performed by the Authority, with exception of such covenants, agreements, duties and obligations (if any) which are expressly made the responsibility of the Assignee under the Lease Agreement;

(4) that the Authority has the power, authority, and legal right to execute, deliver and perform this Assignment Agreement and this Assignment Agreement is a valid, binding, and enforceable obligation of the Authority, except as such enforceability may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally and by the application of equitable principles;

(5) that good and marketable title to the assigned property has been duly vested in the Assignee free and clear of any liens, security interests, encumbrances or other claims other than the rights of the City under the Lease Agreement, and the Authority has not assigned or transferred any of the assigned property or any interest in the assigned property to any party other than the Assignee;

(6) that this Assignment Agreement has been duly authorized by all necessary action on the part of the Authority; and

(7) that the Authority agrees that it (a) shall not have any right to amend, modify, compromise, release, terminate or of the Lease Agreement, and (b) shall not take any action that may impair the payment of Lease Payments or the validity or enforceability of the Lease Agreement.

The Authority further represents and warrants that as of the date of this Assignment Agreement, the Lease Agreement and the Site and Facility Lease are in full force and effect and the City is not in default of any of the terms set forth therein.

By its acceptance of this Assignment Agreement, the Assignee, represents and warrants (i) the amount funded to the Authority for payment by the Authority to the City as an advance rental payment pursuant to the Site and Facility Lease in consideration for assignment of the Site and Facility Lease and the Lease Agreement is \$4,355,000; (ii) that the Assignee reasonably expects to hold its interest in the Lease Agreement for its own account and does not presently expect to sell, assign, or otherwise transfer its interest in the Lease Agreement, subject to the Assignee's right to dispose of or otherwise deal with its property (including its interest in the Lease Agreement) as it determines to be in its best interests from time to time; and (iii) that it will treat its interests in the Lease Agreement as a loan for federal income tax purposes.

This Assignment Agreement shall be construed and governed in accordance with the laws of the State of California applicable to contracts made and performed in the State of

California. Any provision of this Assignment Agreement found to be prohibited by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Assignment Agreement.

This Assignment Agreement binds and inures to the benefit of the parties and their respective successors and assigns.

The descriptions of the Site and the Facility which are the subject of the Site and Facility Lease and the Lease Agreement are set forth in Exhibits A and B attached hereto and by this reference incorporated herein.

This Assignment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Dated as of March 1, 2022

BRISBANE/GUADALUPE VALLEY
MUNICIPAL IMPROVEMENT DISTRICT
FINANCING AUTHORITY

By _____
Clayton L. Holstine
Executive Director

ACCEPTANCE OF ASSIGNMENT:

BANK OF THE WEST, as Assignee

By _____
Name _____
Title _____

EXHIBIT A

DESCRIPTION OF THE SITE

The land referred to herein is situated in the State of California, County of San Mateo, City of Brisbane, and described as follows:

PARCEL ONE:

LOTS 8, 9 AND 10, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAP OF SUBDIVISION NOS. 1, 2 AND 3 OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON OCTOBER 14, 1908 IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NOS. 007-281-070 and 007-281-080

JOINT PLANT NOS. 007-028-281-07A and 007-028-281-08A

PARCEL TWO:

LOTS 13 AND 14, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAPS OF SUBDIVISION NOS. 1, 2 AND 3, OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA ON OCTOBER 14, 1908, IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NO. 007-281-100

JOINT PLANT NO. 007-028-281-10A

EXHIBIT B

DESCRIPTION OF THE FACILITY

The Facility consists of the new 7,670-square-foot Brisbane Public Library located at 163 Visitation Avenue in the City constructed in 2021. The library includes a Children's Area, Teen Space, History Room, Community Room and Makerspace, complete with 3D printer, GoPro camera kits and more

SUPPLEMENTAL AGREEMENT

dated as of March 1, 2022,

between the

CITY OF BRISBANE

and

BANK OF THE WEST

TABLE OF CONTENTS

Page

**ARTICLE I
DEFINITIONS**

Section 1.01. Certain Defined Terms.....2
Section 1.02. Construction.....5
Section 1.03. Incorporation of Certain Definitions by Reference5
Section 1.04. Accounting Terms and Determinations5

**ARTICLE II
THE FUNDING**

Section 2.01. Funding5
Section 2.02. Amounts Evidenced by unpaid Lease Payments; Calculation of Interest;
Other Payments6

**ARTICLE III
CONDITIONS PRECEDENT**

Section 3.01. Closing Conditions6

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES**

Section 4.01. Existence and Power10
Section 4.02. Due Authorization.....10
Section 4.03. Valid and Binding Obligations10
Section 4.04. Noncontravention; Compliance with Law11
Section 4.05. Pending Litigation and Other Proceedings11
Section 4.06. Financial Statements11
Section 4.07. Defaults11
Section 4.08. Insurance11
Section 4.09. Accuracy of Information.....12
Section 4.10. Environmental Matters.....12
Section 4.11. Essentiality13
Section 4.12. [Reserved]13
Section 4.13. Sovereign Immunity.....13
Section 4.14. Usury13
Section 4.15. Fair Rental Value; Use and Occupancy13
Section 4.16. Title to Property14

**ARTICLE V
COVENANTS OF THE CITY**

Section 5.01. Reporting Requirements14

Section 5.02.	Notices	15
Section 5.03.	Access to Property and Books, Records and Accounts; Communication with Accountant	15
Section 5.04.	Further Assurances.....	15
Section 5.05.	Environmental Compliance	15
Section 5.06.	No Condemnation	17
Section 5.07.	Maintenance of Existence	17
Section 5.08.	Substitute Property	17
Section 5.09.	Disposition of the Property; Uses	17
Section 5.10.	Increase of Lease Payments	18
Section 5.11.	Liens.....	18

ARTICLE VI
EVENTS OF DEFAULT

Section 6.01.	Events of Default	19
Section 6.02.	Consequences of an Event of Default.....	20
Section 6.03.	Remedies Cumulative; Solely for the Benefit of Bank.....	20
Section 6.04.	Waivers or Omissions	21
Section 6.05.	Discontinuance of Proceedings.....	21
Section 6.06.	Injunctive Relief.....	21

ARTICLE VII
INDEMNIFICATION; COSTS, EXPENSES AND TAXES; INCREASED PAYMENTS

Section 7.01.	Indemnification	21
Section 7.02.	Costs, Expenses and Taxes	22
Section 7.03.	Increased Payments.....	22
Section 7.04.	Late Payment	24
Section 7.05.	Survival	24

ARTICLE VIII
MISCELLANEOUS

Section 8.01.	Payment Account	24
Section 8.02.	Amendments	24
Section 8.03.	Severability	24
Section 8.04.	Governing Law; Consent to Jurisdiction; Waiver Of Jury Trial.....	25
Section 8.05.	No Advisory or Fiduciary Responsibility	25
Section 8.06.	Counterparts	26
Section 8.07.	Successors and Assigns.....	26
Section 8.08.	Tax Identification Number.....	26

Exhibit A	Lease Agreement and Assignment Agreement Terms.....	A-1
Exhibit B	City Long-Term Borrowing General Fund Obligations	B-1

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, dated as of March 1, 2022 (as the same may be amended, restated, supplemented or otherwise modified from time to time, this “Supplemental Agreement”), between the **CITY OF BRISBANE**, a municipal corporation and general law city duly organized and existing under the Constitution and the laws of the State of California (the “City”) and **BANK OF THE WEST** (the “Bank”).

RECITALS

WHEREAS, the City desires to finance the costs associated with the acquisition of the building and land of the former Bank of America branch located at 70 Old County Road in Brisbane for future City use (as more particularly defined in the hereinafter defined Lease Agreement, the “Project”);

WHEREAS, in order to provide funds to finance the Project, the City will lease certain real property and the improvements thereto comprising the Brisbane Public Library, a [____]-story building containing approximately 7,670 square feet located at 163 Visitacion Avenue, Brisbane, California (collectively, as more particularly defined in the Lease Agreement, the “Property”) to the Brisbane/Guadalupe Valley Municipal Improvement District Financing Authority (as more particularly defined in the Lease Agreement, the “Authority”) pursuant to a Site and Facility Lease, dated as of the date hereof (as more particularly defined in the Lease Agreement, the “Site Lease”), and the City will sublease the Property back from the Authority pursuant to a Lease Agreement, dated as of the date hereof (as more particularly defined herein, the “Lease Agreement”);

WHEREAS, the City and the Authority have determined that it would be in the best interests of the City and the Authority to cause the Bank to provide the funds to finance the Project in consideration of the assignment of the right to receive Lease Payments and Additional Payments under the Lease Agreement pursuant to an Assignment Agreement, dated as of the date hereof (as more particularly defined in the Lease Agreement, the “Assignment Agreement”); and

WHEREAS, in consideration of such assignment, the Bank has agreed to provide the funds to finance the Project, and as a condition to such funding, the Bank has required the City to enter into this Supplemental Agreement.

NOW, THEREFORE, to induce the Bank to provide the funds to finance the Project, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the City and the Bank hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Certain Defined Terms. Capitalized terms used herein but not otherwise defined shall have the meanings ascribed thereto in the Lease Agreement. In addition to the terms defined in the recitals and elsewhere in this Supplemental Agreement and the Lease Agreement, the following terms shall have the following meanings:

“Asbestos Containing Materials” means material in friable form containing more than 1% of the asbestiform varieties of (a) chrysotile (serpentine), (b) crocidolite (riebeckite), (c) amosite (cummington-itegrinerite), (d) anthophyllite, (e) tremolite, and (f) actinolite.

“Bank” means Bank of the West, and its successors and assigns.

“Change in Law” has the meaning set forth in Section 7.03 hereof.

“City Long-Term Borrowing General Fund Obligation” means any long-term obligations to third parties in respect of borrowed moneys payable from the general fund of the City, including without limitation lease payments in connection with certificates of participation and lease revenue bonds, but excluding equipment leases. The City Long-Term Borrowing General Fund Obligations outstanding as of the Funding Date are listed on Exhibit B hereto.

“City Long-Term Borrowing General Fund Obligation Issuing Document” means any Contract or resolution authorizing or evidencing the issuance or incurrence of any City Long-Term Borrowing General Fund Obligation.

“City Long-Term Borrowing General Fund Obligation Ratings” means the long-term unenhanced ratings assigned by one or more Rating Agencies to any City Long-Term Borrowing General Fund Obligation.

“Contract” means any indenture, contract, agreement (other than this Supplemental Agreement), other contractual restriction, lease, mortgage, instrument, guaranty, certificate of incorporation, charter or by-law.

“Default” means any event or condition that, with notice, the passage of time or both, would constitute an Event of Default.

“Default Rate” means [Interest Rate + 1]% per annum, calculated on the basis of a 360-day year and twelve 30-day months.

“Dodd-Frank Act” means the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as enacted by the United States Congress, and signed into law on July 21, 2010, and all statutes, rules, guidelines or directives promulgated thereunder.

“Environmental Regulations” means all Laws and Regulations, now or hereafter in effect, with respect to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601,

et seq.) (together with the regulations promulgated thereunder, “CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.) (together with the regulations promulgated thereunder, “RCRA”), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, et seq.) (together with the regulations promulgated thereunder, “Title III”), the Clean Water Act, as amended (33 U.S.C. Section 1321, et seq.) (together with the regulations promulgated thereunder, “CWA”), the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.) (together with the regulations promulgated thereunder, “CAA”) and the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601 et seq.) (together with the regulations promulgated thereunder, “TSCA”), and any similar state or local Laws and Regulations and any so-called local, state or federal “superfund” or “superlien” law.

“Event of Default” with respect to this Supplemental Agreement, has the meaning assigned to that term in Section 6.01 of this Supplemental Agreement and, with respect to any other Lease Document, has the meaning assigned therein.

“Event of Insolvency” means, with respect to any Person, the occurrence of one or more of the following events:

(a) the issuance, under the laws of any state or under the laws of the United States of America, of an order of rehabilitation, liquidation or dissolution of such Person;

(b) the commencement by or against such Person of a case or other proceeding seeking liquidation, reorganization or other relief with respect to such Person or its debts under any bankruptcy, insolvency or other similar state or federal law now or hereafter in effect, including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for such Person or any substantial part of its property or there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;

(c) the making of an assignment for the benefit of creditors by such Person;

(d) the failure of such Person to generally pay its debts as they become due;

(e) a debt moratorium, debt adjustment, debt restructuring or comparable restriction with respect to the payment of any indebtedness of such Person is declared or imposed by such Person or by any governmental authority having jurisdiction over such Person;

(f) such Person shall admit in writing its inability to pay its debts when due; or

(g) the initiation of any actions to authorize any of the foregoing by or on behalf of such Person.

“Funding Date” means March 24, 2022.

“Generally Accepted Accounting Principles” means generally accepted accounting principles in effect from time to time in the United States and applicable to entities such as the City.

“Hazardous Materials” has the meaning set forth in Section 4.10 hereof.

“Laws and Regulations” has the meaning set forth in Section 4.10 hereof.

“Lease Agreement” means the Lease Agreement, dated as of March 1, 2022, 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.

“Lease Documents” means the Site Lease, the Lease Agreement, the Assignment Agreement and this Supplemental Agreement.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business or operations of the City, (b) the ability of the City to carry out its business as of the Funding Date or as proposed in this Supplemental Agreement, the Lease Agreement or any other Lease Document to be conducted or to meet or perform its obligations under this Supplemental Agreement, the Lease Agreement or any of the other Lease Documents on a timely basis, (c) the validity or enforceability of this Supplemental Agreement, the Lease Agreement or any other Lease Document, (d) the rights or remedies of the Bank under this Supplemental Agreement, the Lease Agreement or any other Lease Document, or (e) the exemption of interest components of Lease Payments from State personal income taxes.

“Material Litigation” has the meaning assigned to such term in Section 4.05 hereof.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, except that if such entity shall no longer perform the functions of a securities rating agency for any reason, the term “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City and approved by the Bank.

“Person” means an individual, corporation, firm, association, partnership, limited liability company, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“Rating Agencies” or “Rating Agency” means one or all of Moody’s or S&P or, in the event that Moody’s or S&P no longer maintains a City Long-Term Borrowing General Fund Obligation Rating, any other nationally recognized bond rating agency acceptable to the Bank, but, in each instance, only so long as Moody’s, S&P or such other nationally recognized rating agency then maintains a City Long-Term Borrowing General Fund Obligation Rating.

“Release” has the meaning set forth in Section 4.10 hereof.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York,

its successors and assigns, except that if such entity shall no longer perform the functions of a securities rating agency for any reason, the term “S&P” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City and approved by the Bank.

“State” means the State of California.

“Transactions” means the execution and delivery of the Lease Documents, the providing of funds by the Bank to finance the Project, the lease of the Property and the performance by the City of its obligations (including payment obligations) under the Lease Documents (including any amounts to reimburse the Bank for any advances or expenditures by it under any of the Lease Documents).

Section 1.02. Construction. Unless the context of this Supplemental Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Supplemental Agreement refer to this Supplemental Agreement as a whole and not to any particular provision of this Supplemental Agreement. The Section headings contained in this Supplemental Agreement and the table of contents preceding this Supplemental Agreement are for reference purposes only and shall not control or affect the construction of this Supplemental Agreement or the interpretation thereof in any respect. Section, subsection and exhibit references are to this Supplemental Agreement unless otherwise specified. Each exhibit, schedule and annex attached hereto is incorporated by reference herein and is a constituent part of this Supplemental Agreement.

Section 1.03. Incorporation of Certain Definitions by Reference. Any capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Lease Agreement.

Section 1.04. Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with Generally Accepted Accounting Principles consistently applied. In the event of changes to Generally Accepted Accounting Principles which become effective after the Funding Date, the City and the Bank agree to negotiate in good faith appropriate revisions of this Supplemental Agreement so as to perpetuate the meaning and effect of such provisions as originally negotiated and agreed upon.

ARTICLE II THE FUNDING

Section 2.01. Funding. Upon the terms and conditions set forth herein, subject to fulfillment of each of the conditions precedent set forth in Article III hereof, and upon the basis of the representations set forth herein, the Bank hereby agrees to provide funds to the Authority in an aggregate principal amount equal to \$[4,355,000], which amount will be paid by the Authority to the City as an advance rental payment pursuant to the Site Lease in consideration of the assignment by the Authority to the Bank of the right to receive Lease Payments and Additional Payments

under the Lease Agreement pursuant to the Assignment Agreement. The Bank shall transfer all of such funds (\$[4,355,000]) to the City on or before the Funding Date, and shall authorize release of such funds upon the terms and conditions set forth herein, subject to fulfillment of each of the conditions precedent set forth in Article III hereof, and upon the basis of the representations set forth herein.

Section 2.02. Amounts Evidenced by unpaid Lease Payments; Calculation of Interest; Other Payments. The funding provided by the Bank hereunder shall be evidenced by the unpaid Lease Payments under the Lease Agreement. The principal component of the Lease Payments shall be equal to the \$[4,355,000] aggregate principal amount funded by the Bank hereunder. Computations of any interest rates payable hereunder or under the Lease Documents and the interest component of the Lease Payments shall be made by the Bank on the basis of a 360-day year and twelve 30-day months. Each determination by the Bank of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01. Closing Conditions. The Bank has agreed to provide funds to finance the Project in reliance upon the representations, warranties and agreements of the City contained herein, and in reliance upon the representations, warranties and agreements of the City and the Authority to be contained in the documents and instruments to be delivered on the Funding Date and upon the performance by the City of its obligations hereunder as of the Funding Date. Accordingly, the Bank's obligations under this Supplemental Agreement to provide funds to finance the Project shall be conditioned upon the performance by the City of its obligations to be performed hereunder and under such documents and instruments on or prior to the Funding Date, and shall also be subject to the following additional conditions, including the delivery by the City of such documents as are enumerated herein, in form and substance reasonably satisfactory to the Bank and its counsel; *provided that*, unless set forth in a separate section of this Supplemental Agreement or in a Lease Document other than this Supplemental Agreement, the City's obligation to satisfy any condition under this Section 3.01 shall exist only until the Funding Date and shall cease thereafter:

(a) The following Authority documents:

(i) A copy of the resolution of the Authority approving the execution and delivery of the Lease Documents to which the Authority is a party and the other matters contemplated hereby and thereby, certified by the Secretary of the Authority as being true and complete and in full force and effect on the Funding Date.

(ii) Certified copies of the Authority's joint exercise of powers agreement, notice of a joint powers agreement filed with the Secretary of State and roster of public agencies filing and acknowledgment from the Secretary of State.

(iii) A certificate by the Secretary of the Authority certifying the names and signatures of the persons authorized to sign, on behalf of the Authority, the Lease Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(b) The following City documents:

(i) A copy of the resolution of City Council of the City approving the execution and delivery of the Lease Documents to which the City is a party and the other matters contemplated hereby and thereby, certified by the City Clerk of the City as being true and complete and in full force and effect on the Funding Date.

(ii) A certificate by the City Clerk of the City certifying the names and signatures of the persons authorized to sign, on behalf of the City, the Lease Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(c) The following financing documents:

(i) An executed original of each of the Lease Documents (including without limitation a Lease Agreement and an Assignment Agreement that include the terms set forth on Exhibit A hereto).

(ii) Recording instructions for the recordation of such of the Lease Documents as may be required by the Bank.

(iii) Certificates signed by an authorized representative of the City and an authorized representative of the Authority, respectively, stating that on and as of the Funding Date, copies of each of the Lease Documents to which it is a party furnished to the Bank are true, correct and complete copies of such documents, such documents were duly issued, adopted or executed and delivered, have not been modified, amended or rescinded and are in full force and effect on and as of the Funding Date, and such other customary matters as the Bank may reasonably request.

(iv) A certificate signed by an authorized representative of the City, stating that on and as of the Funding Date (i) all requirements and preconditions to the execution and delivery of the Lease Documents shall have been satisfied; (ii) the City has complied with all agreements and covenants and satisfied all conditions stated in this Supplemental Agreement on its part to be performed or satisfied at or prior to the Funding Date; (iii) each representation and warranty on the part of the City contained in this Supplemental Agreement and the other Lease Documents is true and correct as though made on and as of such date, (iv) no Default or Event of Default has occurred and is continuing or would result from the execution or performance of this Supplemental Agreement or the other Lease Documents to which the City is a party; and (v) and such other customary matters as the Bank may reasonably request.

(v) A certificate of the Authority, signed by an authorized representative of the Authority, stating that on and as of the Funding Date (i) the representations and warranties of the Authority contained in the Lease Documents to which the Authority is a party are true and correct on and as of the Funding Date as though made on and as of such date; (ii) no default or event of default under the Lease Documents to which the Authority is a party has occurred and is continuing, or would result from the Authority's execution and performance of any of the Lease Documents to which the Authority is a party; (iii) all conditions precedent to the execution and delivery of the Lease Documents to which the Authority is a party have been satisfied; and (iv) and such other customary matters as the Bank may reasonably request.

(vi) Confirmation that no CUSIP number has been assigned to this financing and that this financing is not rated and that the Bank's right, title and interest in and to the Assignment Agreement shall be in a single denomination and shall not be divisible or transferable except to a bank, financial institution or a qualified investor that executes a bank's letter addressed to the City and the Authority substantially in the form of the letter delivered by the Bank on the Funding Date.

(vii) Confirmation that the Property shall consist of real property and/or improvements comprising Brisbane Public Library, a [____]-story building containing approximately 7,670 square feet located at 163 Visitacion Avenue, Brisbane, California, satisfactory to the Bank on the basis of essentiality, fair rental value and insurance coverage and the existence of any mortgage, pledge, lien, charge, encumbrance or claim thereon or with respect thereto.

(viii) Evidence that the fair rental value as of the Funding Date is sufficient to fully amortize Lease Payments in an aggregate principal component of \$[4,355,000] by March 1, 2042.

(ix) Certificates of insurance evidencing the satisfaction of the insurance requirements as set forth in Article V of the Lease Agreement in form and substance satisfactory to the Bank; each policy (other than for worker's compensation) shall name the Bank as additional insured and loss payee.

(x) A commitment from a title insurance company acceptable to the Bank in respect of the Property to issue CLTA owner's and leasehold title insurance policies (the "Title Policy"), together with evidence satisfactory to the Bank that all premiums in respect of the Title Policy have been paid or provided for. The Title Policy shall (i) be in an aggregate amount at least equal to Lease Payments in an aggregate principal component of \$[4,355,000], (ii) shall insure the Bank's interests in the leasehold estate established under the Lease Agreement, (iii) be subject only to such liens and other exceptions as shall be approved by the Bank; (iv) name the Bank as an insured party thereunder; and (v) contain such endorsements and affirmative insurance as the Bank may request. The effectiveness of such commitment shall not be subject to confirmation of recording.

(xi) The most recent adopted budget of the City and the audited financial statements of the City for the fiscal years ended June 30, 2021, 2020 and 2019.

(xii) True and correct copies of any and all governmental approvals necessary for the City and the Authority to enter into this Supplemental Agreement and the City and the Authority to enter into the other Lease Documents to which it is a party and the transactions contemplated thereby and hereby and not otherwise covered by Section 3.01(a)(i) or Section 3.01(b)(i) hereof.

(xiii) Written confirmation from the City that the only outstanding City Long-Term Borrowing General Fund Obligations as of the Funding Date, other than the Lease Agreement, are listed on Exhibit B hereto.

(xiv) Such other certifications as to matters of fact, due authorization, execution and delivery by the parties thereto of the Lease Documents, evidence of corporate authority, copies of governmental consents, permits, licenses and approvals, and other documents as shall be reasonably requested by the Bank, and the form and substance of any order or other official action granting any consent, permit, license or approval shall be satisfactory to the Bank.

(d) The following opinions, addressed to the Bank or on which the Bank is otherwise expressly authorized to rely:

(i) From counsel to the Authority, as to the due authorization, execution and delivery of each of the Lease Documents to which it is a party, their validity, binding effect and enforceability, and such other customary matters as the Bank may reasonably request.

(ii) From counsel to the City, as to the due authorization, execution and delivery of each of the Lease Documents to which it is a party, their validity, binding effect and enforceability, and such other customary matters as the Bank may reasonably request.

(iii) From Special Counsel, in customary form, an approving opinion to the effect that the Lease Documents have been duly authorized and validly executed and delivered, that the interest components of Lease Payments are exempt from State personal income taxes, and as to such other customary matters as the Bank may reasonably request.

(e) Other conditions:

(i) Each representation and warranty contained in this Supplemental Agreement and the other Lease Documents is true and correct.

(ii) No Default or Event of Default has occurred and is continuing or would result from the execution or performance of this Supplemental Agreement or the other Lease Documents.

(iii) Since the most current date of the information, financial or otherwise, supplied by the City to the Bank, there has been no change in the assets, liabilities, financial position or results of operations of the City which might reasonably be anticipated to cause a Material Adverse Effect and the City has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(iv) The Bank shall be reasonably satisfied that the fee of the California Debt and Investment Advisory Commission shall have been paid and that payment will be made promptly after demand therefor after the Funding Date of the Bank's upfront fees and expenses (consisting solely of the Bank's outside counsel legal fees and expenses) incurred in connection with the execution and delivery of this Supplemental Agreement, the Lease Agreement and the other Lease Documents.

(v) All other legal matters pertaining to the execution and delivery of each of the Lease Documents shall be reasonably satisfactory to the Bank and its counsel.

(vi) The Bank shall have completed all due diligence with respect to the City, the Property, the Authority and the Lease Documents (including any earthquake and flood zone determinations) in scope and determination satisfactory to the Bank.

(f) Such other instruments, documents and opinions as the Bank shall reasonably require to evidence and secure the obligations of the City under this Supplemental Agreement, the Lease Agreement and the other Lease Documents and to comply with the provisions of this Supplemental Agreement, the Lease Agreement and the other Lease Documents and the requirements of any governmental authority to which the Bank, the City or the Authority are subject.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

All representations and warranties made herein to the Bank or incorporated herein for the benefit of the Bank are made with the understanding that the Bank is relying upon the accuracy of such representations and warranties. Notwithstanding that the Bank may conduct its own investigation as to some or all of the matters covered by the representations and warranties in this Supplemental Agreement, the Lease Agreement and the other Lease Documents, and any certificates, information, opinions or documents delivered in connection herewith and therewith, the Bank is entitled to rely on all representations and warranties as a material inducement to the Bank's extension of the credit evidenced by this Supplemental Agreement, the Lease Agreement and the other Lease Documents. All representations and warranties made herein to the Bank or incorporated herein for the benefit of the Bank shall survive the making of and shall not be waived by the execution and delivery of this Supplemental Agreement, the Lease Agreement and the other Lease Documents.

Section 4.01. Existence and Power. The City is a municipal corporation and general law city duly organized, validly existing and in good standing under the Constitution and the laws of the State and has the corporate power and authority to own its properties and to carry on its businesses as now being conducted and as currently contemplated to be conducted hereafter and is duly qualified to do business in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of any material portion of its business (as now conducted and as currently contemplated to be conducted) makes such qualification necessary.

Section 4.02. Due Authorization.

(a) The City has the corporate power, and has taken all necessary corporate action to authorize this Supplemental Agreement, the Lease Agreement and the other Lease Documents, to execute, deliver and perform its obligations under this Supplemental Agreement, the Lease Agreement and each of the other Lease Documents to which it is a party in accordance with their respective terms. The City has approved the form of the Lease Documents to which it is not a party.

(b) The City is duly authorized and licensed to own the Property under the laws of all governmental authorities having the jurisdiction to license or regulate the Property, and the City has obtained all requisite approvals of all such governmental authorities required to be obtained for such purposes. All authorizations and approvals necessary for the City to enter into this Supplemental Agreement, the Lease Agreement and the other Lease Documents and to perform the transactions contemplated hereby and thereby and to conduct its business activities and own the Property have been obtained and remain in full force and effect and are subject to no further administrative or judicial review. No other authorization or approval or other action by, and no notice to or filing with, any governmental authority is required for the due execution, delivery and performance by the City of this Supplemental Agreement, the Lease Agreement and the other Lease Documents.

Section 4.03. Valid and Binding Obligations. This Supplemental Agreement, the Lease Agreement and each of the other Lease Documents to which the City is a party has been duly

executed and delivered by one or more duly authorized officers of the City and are legal, valid and binding obligations of the City enforceable in accordance with their respective terms, except as such enforceability may be limited by (a) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally, (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), (c) the exercise of judicial discretion in appropriate cases, or (d) the limitations on legal remedies against general law cities in the State.

Section 4.04. Noncontravention; Compliance with Law.

(a) The execution, delivery and performance of this Supplemental Agreement, the Lease Agreement and each of the other Lease Documents in accordance with their respective terms do not and will not (i) require any consent or approval of any creditor of the City, (ii) violate any applicable law, (iii) conflict in any material respect with, result in a material breach of or constitute a material default under any Contract to which the City is a party or by which it or any of its property may be bound or (iv) result in or require the creation or imposition of any lien upon or with respect to any property now owned or hereafter acquired by the City except such liens, if any, expressly created by any Lease Document.

(b) The City is in compliance with all applicable laws, except for noncompliance that, singly or in the aggregate, has not caused and could not reasonably be expected to cause a Material Adverse Effect or an adverse effect on the City's ability to perform its obligations hereunder and under the other Lease Documents.

Section 4.05. Pending Litigation and Other Proceedings. There are no actions, suits or proceedings pending, nor are there any actions, suits or proceedings threatened, against the City or any property of the City in any court or before any arbitrator of any kind or before or by any governmental or nongovernmental body, which, in any case, (i) directly or indirectly relates to the Property or the enforceability of this Supplemental Agreement, the Lease Agreement or any of the other Lease Documents; or (ii) may have a Material Adverse Effect (any of the foregoing being herein referred to as "Material Litigation").

Section 4.06. Financial Statements. The balance sheet of the City as of June 30, 2021 and the related statement of revenues and expenses and changes in financial position for such Fiscal Year and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Bank pursuant to this Supplemental Agreement, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the City at such date and for such Fiscal Year, and were prepared in accordance with Generally Accepted Accounting Principles consistently applied. Since the period of such statements, there has been no change which would have a Material Adverse Effect.

Section 4.07. Defaults. No Event of Default and no Default has occurred and is continuing or exists.

Section 4.08. Insurance. The City currently maintains insurance as required by Article V of the Lease Agreement and as are customarily carried by, and insures against such risks as are customarily insured against by, public agencies with similar activities.

Section 4.09. Accuracy of Information. All information, reports and other papers and data furnished by the City to the Bank were, at the time the same were so furnished, complete and correct in all material respects and insofar as necessary to give the Bank a true and accurate knowledge of the subject matter and were provided in expectation of the Bank's reliance thereon in providing funds to finance the Project. No fact is known to the City which has had or, so far as the City can now reasonably foresee, may in the future have a Material Adverse Effect, which has not been set forth in the budget and financial statements previously furnished to the Bank or in other such information, reports, papers and data or otherwise disclosed in writing to the Bank prior to the Funding Date. Any financial, budget and other projections furnished to the Bank by the City or its agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the Funding Date, represent the City's best estimate of its future financial performance. No document furnished by the City or its agents nor any representation, warranty or other written statement made by the City or its agents to the Bank in connection with the negotiation, preparation or execution of this Supplemental Agreement, the Lease Agreement or any of the other Lease Documents contains or will contain any untrue statement of a material fact or omits or will omit to state (as of the date made or furnished) any material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were or will be made, not misleading.

Section 4.10. Environmental Matters.

(a) The City has, after due inquiry, no knowledge and has not given or received any written notice indicating that the Property or the past or present use thereof or any practice, procedure or policy employed by it in the conduct of its business materially violates any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Property (collectively, "Laws and Regulations"). Without limiting the generality of the foregoing, neither the City nor to the best of its knowledge, after due inquiry, any prior or present owner, tenant or subtenant of the Property has, other than as set forth in paragraphs (a) and (b) of this Section or as may have been remediated in accordance with Laws and Regulations, (A) used, treated, stored, transported or disposed of any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any Asbestos Containing Materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and in all other Environmental Regulations applicable to the Authority or the City, the Property or the business operations conducted by the Authority or the City thereon (collectively, "Hazardous Materials") on, from or beneath the Property, (B) pumped, spilled, leaked, disposed of, emptied, discharged or released (collectively "Release") any material amount of Hazardous Materials on, from or beneath the Property, or (C) stored any material amount of petroleum products at the Property in underground storage tanks.

(b) Excluded from the representations and warranties in paragraph (a) of this subsection with respect to Hazardous Materials are those Hazardous Materials in those amounts ordinarily found in the inventory of, or used in the maintenance of public libraries, the use, treatment, storage, transportation and disposal of which has been and shall be in compliance with all Laws and Regulations.

(c) No portion of the Property located in an area of high potential incidence of radon has an unventilated basement or subsurface portion which is occupied or used for any purpose other than the foundation or support of the improvements to the Property, respectively.

(d) The City has not received any notice from any insurance company which has issued a policy with respect to the Property or from the applicable state or local government agency responsible for insurance standards (or any other body exercising similar functions) requiring the performance of any repairs, alterations or other work, which repairs, alterations or other work have not been completed at the Property, respectively. The City has not received any notice of default or breach which has not been cured under any covenant, condition, restriction, right-of-way, reciprocal easement, agreement or other easement affecting the Property which is to be performed or complied with by it.

Section 4.11. Essentiality. The Property is an essential asset of the City necessary to serve the needs of the residents of the City. The City believes that at all times while any Lease Payments or Additional Payments or any obligation of the City hereunder remains unpaid, the Property will remain an essential asset of the City.

Section 4.12. [Reserved]

Section 4.13. Sovereign Immunity. The City does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations under the Lease Documents. To the extent the City has or hereafter may acquire under any applicable law any right to immunity from set-off or legal proceedings on the grounds of sovereignty, the City hereby waives, to the extent permitted by law, such rights to immunity for itself in respect of its obligations under the Lease Documents.

Section 4.14. Usury. The terms of this Supplemental Agreement, the Lease Agreement and the other Lease Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

Section 4.15. Fair Rental Value; Use and Occupancy. Lease Payments and Additional Payments payable under the Lease Agreement do not exceed the fair rental value of the Property for each period for which said rental is to be paid. In making such determination of fair rental value, consideration has been given to the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and the general public. The City currently has the use and occupancy of the Property and the City has the legal authority to pay Lease Payments and Additional Payments pursuant to the Lease Agreement for the use and occupancy of the Property.

Section 4.16. Title to Property. The City has a valid and enforceable subleasehold interest in the Property, subject only to Permitted Encumbrances. The City is not in violation of any rights, reservations, covenants, conditions or restrictions on the Property contained in the documents or instruments listed as title exceptions on Schedule B of the Title Policy.

ARTICLE V

COVENANTS OF THE CITY

So long as any Lease Payments or Additional Payments or other amounts required to be paid under the Lease Agreement or any obligation of the City hereunder or under the Lease Documents remains unpaid or unperformed, the City shall comply with the following covenants hereunder and as additional covenants under the Lease Agreement, unless waived in writing by the Bank:

Section 5.01. Reporting Requirements. The City shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of the City in accordance with Generally Accepted Accounting Principles consistently applied, and will furnish to the Bank each of the following:

(a) As soon as available, and in any event within 240 days after the close of each Fiscal Year of the City, the financial statements of the City which shall be audited and reported on without qualification by independent certified public accountants reasonably acceptable to the Bank and shall be certified to the City by such accountants as (i) having been prepared in accordance with Generally Accepted Accounting Principles consistently applied, (ii) fairly presenting the financial condition of the City as at the end of such Fiscal Year and reflecting its operations during such Fiscal Year, and (iii) showing all material liabilities, direct or contingent, and disclosing the existence of any off-balance sheet transactions, and shall include, without limitation, balance sheets, profit and loss statements and statements of cash flows, together with notes and supporting schedules, all on a consolidated and consolidating basis and in reasonable detail and including a copy of any management letter or audit report provided to the City by such auditors;

(b) Simultaneously with the delivery of each set of financial statements referred to in subparagraph (a) above, a certificate signed by an authorized representative of the City stating that (i) under his/her supervision the City has made a review of its activities during the preceding annual period for the purpose of determining whether or not the City has complied with all of the terms, provisions and conditions of this Supplemental Agreement, the Lease Agreement and the other Lease Documents (including without limitation Section 4.3(f) (Budget and Appropriation), Article V (Maintenance; Taxes; Insurance; and Other Matters) and Section 7.5 (Assignment and Subleasing by the City) of the Lease Agreement and Section 5.07 (Maintenance of Existence), Section 5.09 (Disposition of the Property; Uses), Section 5.10 (Increase of Lease Payments) and Section 5.11 (Liens) of this Supplemental Agreement) and (ii) to the best of his/her knowledge the City is not in Default in the performance or observance of any of the terms, covenants, provisions or conditions of this Supplemental Agreement, the Lease Agreement or any of the Lease Documents, or if the City shall be in Default, such certificate shall specify each such Default, the nature and status thereof and any remedial steps taken or proposed to correct each such Default;

(c) As soon as available and in any event within 60 days after adoption, the annual operating budget of the City for such Fiscal Year; and

(d) Such other information respecting the business, properties or the condition or operations, financial or otherwise, of the City or the Property as the Bank may from time to time reasonably request.

Section 5.02. Notices. The City shall provide to the Bank:

(a) immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes a Default or an Event of Default;

(b) prompt written notice of any Material Litigation; and

(c) prompt written notice of any event which has or is reasonably anticipated to have a Material Adverse Effect.

Section 5.03. Access to Property and Books, Records and Accounts; Communication with Accountant. The City shall permit the duly authorized representatives of the Bank, during the City's normal administrative business hours, to enter the Property or any parts thereof at reasonable hours and under reasonable conditions, to examine and copy the City's books, records and accounts and to discuss the affairs, finances, business and accounts of the City with the members of the City Council and the City's officers and employees. The City authorizes the Bank to communicate directly with the City's accountants, and authorizes and shall instruct such accountants to communicate with, disclose and make available to the Bank, any and all financial statements and other supporting financial documents, schedules and information relating to the City with respect to the business, results of operations and financial condition and other affairs of the City.

Section 5.04. Further Assurances. The City shall, and shall cause the Authority to, upon the request of the Bank, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Supplemental Agreement, the Lease Agreement and the other Lease Documents. Except to the extent it is exempt therefrom, the City will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Supplemental Agreement, the Lease Agreement, the other Lease Documents and such instruments of further assurance.

Section 5.05. Environmental Compliance.

(a) Neither the City nor the Authority shall use or permit the Property or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, in compliance with all Environmental Regulations, nor shall it permit, as a result of any intentional or unintentional act

or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee or agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Property or onto any other property other than in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials, the Authority or the City shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to the Bank, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so released on, from or beneath the Property or other property, in compliance with all Environmental Regulations. Notwithstanding anything to the contrary contained herein, underground storage tanks shall only be permitted subject to compliance with subsection (d) of this Section and only to the extent necessary to maintain the improvements on the Property.

(b) The City and the Authority shall comply with, and shall cause all tenants, subtenants, licensees, guests, invitees, contractors, employees and agents on the Property to comply with, all Environmental Regulations, and shall keep the Property free and clear of any liens imposed pursuant thereto (provided, however, that any such liens, if not discharged, may be bonded). The City and the Authority shall cause each tenant under any lease, and use their best efforts to cause all of such tenant's subtenants, agents, licensees, employees, contractors, guests and invitees and the guests and invitees of all of the foregoing to comply with all Environmental Regulations with respect to the Property; provided, however, that notwithstanding that a portion of this covenant is limited to the City's and Authority's use of its best efforts, the Authority and the City shall remain solely responsible for ensuring such compliance and such limitation shall not diminish or affect in any way the Authority's or the City's obligations contained in subsection (c) of this Section. Upon receipt of any notice from any person with regard to the Release of Hazardous Materials on, from or beneath the Property, the City or the Authority, as appropriate, shall give prompt written notice thereof to the City or the Authority, as appropriate, the Bank prior to the expiration of any period in which to respond to such notice under any Environmental Regulation.

(c) Irrespective of whether any representation or warranty contained in Section 4.10 hereof is not true or correct, the Authority and the City shall, to the extent permitted by law, defend, indemnify and hold harmless the Bank and each of its employees, agents, officers, directors, trustees, successors and assigns, from and against any claims, demands, penalties, fines, attorneys' fees (including, without limitation, attorneys' fees incurred to enforce the indemnification contained in this Section), consultants' fees, investigation and laboratory fees, liabilities, settlements (five Business Days' prior notice of which the Authority or the Bank shall have delivered to the City), court costs, damages, losses, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, occurring in whole or in part, arising out of, or in any way related to, (i) the presence, disposal, Release, threat of Release, removal, discharge, storage or transportation of any Hazardous Materials on, from or beneath the Property, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached (five Business Days' prior notice of which the Authority or the Bank shall have delivered to the City), or governmental order relating to Hazardous Materials on, from or beneath the Property, (iv) any violation of Environmental Regulations or subsection (a) or (b) of this Section by either of them or any of their agents, tenants, employees, contractors, licensees, guests, subtenants or invitees, and (v) the imposition of any governmental lien for the recovery of environmental cleanup or

removal costs. To the extent that either the Authority or the City is strictly liable under any Environmental Regulation, its obligation to the Bank and the other indemnitees under the foregoing indemnification shall likewise be without regard to fault on its part with respect to the violation of any Environmental Regulation which results in liability to any indemnitee. The obligations and liabilities under this subsection shall survive the payment in full of all Lease Payments and Additional Payments and the termination of the Lease Documents.

(d) The City shall conform to and carry out a reasonable program of maintenance and inspection of all underground storage tanks, and shall maintain, repair and replace such tanks only in accordance with all Laws and Regulations, including but not limited to Environmental Regulations.

Section 5.06. No Condemnation. The City shall not condemn, nor consent to the condemnation of, the Property or any interest of the City, the Authority or the Bank therein.

Section 5.07. Maintenance of Existence. The City shall preserve and maintain its existence as a municipal corporation and general law city duly organized and validly existing under the Constitution and the laws of the State, and its rights, franchises and privileges material to the conduct of its business and shall not, without the prior written consent of the Bank, initiate proceedings to reorganize, merge or consolidate with or into any Person, wind up, liquidate or dissolve its affairs (or suffer any liquidation or dissolution) or convert, sell, assign, transfer, lease or otherwise dispose of (or agree to do any of the foregoing at any future time), whether in one transaction or a series of transactions, all or substantially all of its property or assets.

Section 5.08. Substitute Property. If, as a result of material damage to, or destruction of condemnation of, the Property, or any defect in title to the Property, there is substantial interference with the City's right to use or occupy any portion of the Property and Lease Payments shall be abated pursuant to Section 6.3 of the Lease Agreement, the City shall use its best efforts to substitute alternate real property and improvements for the Property from among the City's properties, if available, subject to this Lease Agreement and the Assignment Agreement and the Site Lease satisfactory to the Bank on the basis of essentiality, fair rental value and insurance coverage and the existence of any mortgage, pledge, lien, charge, encumbrance or claim thereon or with respect thereto.

Section 5.09. Disposition of the Property; Uses.

(a) The City shall not sell, lease or otherwise dispose of any portion of the Property, other than as permitted under Section 7.5 of the Lease Agreement.

(b) The City shall not abandon, vacate or close the Property, other than as permitted under Section 6.3 of the Lease Agreement.

(c) Without the prior written consent of the Bank, the City shall not (i) seek, make or consent to any change in the zoning, any entitlements or conditions of use of the Property, (ii) grant any easement, license or other right in the Property or any portion thereof that may in any way impair the value of the Property or the validity, priority or security of this Lease Agreement or the coverage of any title insurance policy insuring the City's leasehold interest under the Lease

Agreement or that could cause a material adverse effect on the permissible uses of the Property, (iii) make any application for or record any tract map, parcel map, condominium plan, condominium declaration, or plat of subdivision with respect to the Property, or (iv) otherwise record or execute any documents or instruments affecting the Property that may in any material way impair the value of the Property or the validity, priority or security of the Lease Agreement or the coverage of any title insurance policy insuring the Bank's interests in the leasehold estate established under the Lease Agreement or that could cause a material adverse effect on the permissible uses of the Property.

(d) The City shall not use the Property or any portion thereof in violation of (i) any rights, reservations, covenants, conditions or restrictions on the Property contained in the documents or instruments listed as title exceptions [] on Schedule B of the Title Policy, or (ii) any other rights, reservations, covenants, conditions or restrictions on the Property contained in the documents or instruments listed as title exceptions [] on Schedule B of the Title Policy which use could in any way result in the loss of its fee simple interest in any portion of the Property. If the City receives notice that it is in violation of any of such rights, reservations, covenants, conditions or restrictions on the Property contained in the documents or instruments listed as title exceptions on Schedule B of the Title Policy, the City shall, prior to the loss of its fee simple interest in such portion of the Property, substitute alternate real property and improvements for such portion of the Property from among the City's properties, if available, subject to this Lease Agreement and the Assignment Agreement and the Site Lease satisfactory to the Bank on the basis of essentiality, fair rental value and insurance coverage and the existence of any mortgage, pledge, lien, charge, encumbrance or claim thereon or with respect thereto.

Section 5.10. Increase of Lease Payments. Upon receipt of notice from the Bank pursuant to Section 6.02(b) hereof, as required by Section 6.02(b) hereof, the City shall amend the Lease Agreement to increase the Lease Payments payable by the City thereunder to an amount equal to the fair rental value of the Property for each period for which said rental is to be paid to the extent such fair rental value is greater than the Lease Payments which would otherwise be due under the Lease Agreement and amend Exhibit C to the Lease Agreement to increase the principal component of the Lease Payments in corresponding amounts, so as to cause the principal component of the Lease Payments remaining unpaid to be amortized over the shortest possible term supported by such fair rental value, such amendment of the Lease Agreement to be in form and substance satisfactory to the Bank.

Section 5.11. Liens. Without the prior written consent of the Bank, the City shall not directly or indirectly, create, incur, assume or suffer to exist any lien (including without limitation any mortgage, pledge, lien, charge, encumbrance or claim) on or with respect to any portion of the Property or otherwise record or execute any documents or instruments affecting the Property that may in any material way impair the coverage of any title insurance policy insuring the Bank's interests in the leasehold estate established under the Lease Agreement. The City shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. If the City is unable to promptly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim in a manner satisfactory to the Bank, the City shall substitute alternate real property and improvements for such portion of the Property from among the City's properties, if available, subject to this Lease Agreement and the Assignment Agreement and the Site Lease

satisfactory to the Bank on the basis of essentiality, fair rental value and insurance coverage and the existence of any mortgage, pledge, lien, charge, encumbrance or claim thereon or with respect thereto.

ARTICLE VI

EVENTS OF DEFAULT

Section 6.01. Events of Default. The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of law) shall be an “Event of Default” hereunder and an additional Event of Default under the Lease Agreement entitling the Bank to the rights and remedies available under the Lease Agreement, unless waived in writing by the Bank:

(a) (i) the City shall fail to observe or perform any of the covenants, agreements or conditions on the part of the City set forth in Section 5.07, 5.09, 5.10 or 5.11 hereof or Section 4.3(f) (Budget and Appropriation), Article V (Maintenance; Taxes; Insurance; and Other Matters) or Section 7.5 (Assignment and Subleasing by the City) of the Lease Agreement, or (ii) the City fails to observe or perform any other of the covenants, agreements or conditions on the part the City in the Lease Agreement or in this Supplemental Agreement not otherwise described in Section 8.1 of the Lease Agreement or clause (i) of this Section 6.01(a), and, solely in the case of clause (ii) of this Section 6.01(a), the City fails to remedy the same within 30 days after the Bank has provided the City with written notice thereof;

(b) the City shall default in the payment of any amount when due in respect of any City Long-Term Borrowing General Fund Obligation, or default by the City under any City Long-Term Borrowing General Fund Obligation Issuing Document, and continuance of such default beyond the period of grace, if any, allowed with respect thereto; or the occurrence of any act or omission by the City under any such City Long-Term Borrowing General Fund Obligation Issuing Document which results in such City Long-Term Borrowing General Fund Obligation becoming, or being capable of becoming, immediately due and payable or being terminated early or being subject to early termination;

(c) this Supplemental Agreement, the Lease Agreement or any of the other Lease Documents or any material provision of this Supplemental Agreement, the Lease Agreement or any of the other Lease Documents shall at any time, for any reason, cease to be the legal, valid and binding obligation of the City or the Authority or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the City or the Authority, or the City or the Authority shall renounce the same or deny that it has any further liability hereunder or thereunder, or any court of competent jurisdiction or other governmental authority with jurisdiction to rule on the validity of any provision of this Supplemental Agreement, the Lease Agreement or any of the other Lease Documents shall find or rule that this Supplemental Agreement, the Lease Agreement or any of the other Lease Documents are not valid or not binding on the City or the Authority;

(d) the City or the Authority is dissolved or its existence is terminated;

(e) any representation or warranty made by the City herein or by the Authority or the City in any Lease Document or in any certificate, financial or other statement furnished by it pursuant to this Supplemental Agreement, the Lease Agreement or any of the Lease Documents shall prove to have been untrue or incomplete in any material respect when made or deemed made;

(f) the long-term unenhanced ratings assigned to any City Long-Term Borrowing General Fund Obligation shall be withdrawn or suspended or otherwise unavailable for credit-related reasons or reduced below Baa3 by Moody's Investors Service, Inc., BBB- by Standard & Poor's Rating Service or BBB- by Fitch, Inc.;

(g) an Event of Insolvency shall occur with respect to the City or the Authority; or

(h) any funds or investments on deposit in, or otherwise to the credit of, any of the funds or accounts established under the Lease Documents shall become subject to any writ, judgment, warrant or attachment, execution or similar process.

Section 6.02. Consequences of an Event of Default. In the case of any Event of Default, including any Event of Default specified in Section 6.01(h), that has occurred and is continuing, the Bank may, in its sole discretion, but shall not be obligated to, exercise all, or any of, the following rights and remedies in addition to any other rights or remedies available to the Bank under any other Lease Documents or under applicable law:

(a) deliver a notice to the City that an Event of Default has occurred and is continuing and that, upon the occurrence of such Event of Default, the interest components of the Lease Payments began to accrue at the Default Rate; and/or

(b) by notice to the City, require the City to amend the Lease Agreement to increase the Lease Payments payable by the City thereunder to an amount equal to the fair rental value of the Property for each period for which said rental is to be paid to the extent such fair rental value is greater than the Lease Payments which would otherwise be due under the Lease Agreement and amend Exhibit C to the Lease Agreement to increase the principal component of the Lease Payments in corresponding amounts, so as to cause the principal component of the Lease Payments remaining unpaid to be amortized over the shortest possible term supported by such fair rental value, such amendment of the Lease Agreement to be in form and substance satisfactory to the Bank; and/or

(c) cure any Default, Event of Default or event of nonperformance hereunder or under any other Lease Document; provided, however, that the Bank shall have no obligation to effect such a cure; and/or

(d) exercise, or cause to be exercised, any and all remedies as it may have under the other Lease Documents and as otherwise available at law and at equity.

Except as expressly provided in this Section 6.02, procurement, demand, protest and all other notices of every kind are hereby expressly waived.

Section 6.03. Remedies Cumulative; Solely for the Benefit of Bank. To the extent permitted by, and subject to the mandatory requirements of, applicable law, each and every right, power and remedy herein specifically given to the Bank in the Lease Documents shall be cumulative,

concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Bank, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

The rights and remedies of the Bank specified herein are for the sole and exclusive benefit, use and protection of the Bank, and the Bank is entitled, but shall have no duty or obligation to the City or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Bank hereunder or under any of the other Lease Documents.

Section 6.04. Waivers or Omissions. No delay or omission by the Bank in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right remedy or power or be construed to be a waiver of any default on the part of the Bank or to be acquiescence therein. No express or implied waiver by the Bank of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default. No delay or omission on the part of the Bank in exercising any right to acceleration of the maturity of any of the Obligations, following any Event of Default as aforesaid, or any other option granted to the Bank hereunder in any one or more instances, or the acceptance by the Bank of any partial payment on account of the Obligations shall constitute a waiver of any such Event of Default and each such option shall remain continuously in full force and effect.

Section 6.05. Discontinuance of Proceedings. In case the Bank shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Lease Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Bank shall have the unqualified right so to do and, in such event, the City and the Bank shall be restored to their former positions with respect to the Obligations, the Lease Documents and otherwise, and the rights, remedies, recourse and powers of the Bank hereunder shall continue as if the same had never been invoked.

Section 6.06. Injunctive Relief. The City recognizes that in the event an Event of Default occurs, any remedy of law may prove to be inadequate relief to the Bank; therefore, the City agrees that the Bank, if the Bank so requests, shall be entitled to temporary and permanent relief in any such case.

ARTICLE VII

INDEMNIFICATION; COSTS, EXPENSES AND TAXES; INCREASED PAYMENTS

Section 7.01. Indemnification. In addition to any and all other rights of reimbursement, indemnification, subrogation and other similar rights pursuant to the Lease Agreement, the other Lease Documents or under law or equity, the City hereby covenants and agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Bank and its affiliates, officers, directors, employees, representatives and agents (each, an “Indemnitee”) from and against any and all claims, causes of action, judgments, fines, penalties, damages, losses, liabilities, and expenses whatsoever (including reasonable attorneys’ fees) which may be incurred by an Indemnitee or

which may be claimed against an Indemnitee by any Person whatsoever by reason of or directly or indirectly in connection with any of the Transactions; provided that the City shall not be required to indemnify an Indemnitee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of such Indemnitee as determined in a final, non-appealable judgment. Nothing under this Section 7.01 is intended to limit the City's payment of its obligations under this Supplemental Agreement, the Lease Agreement or other Lease Documents.

Section 7.02. Costs, Expenses and Taxes. The City shall pay, as Additional Payments under the Lease Agreement, within 30 days after demand: (a) if an Event of Default shall have occurred, all costs and expenses of the Bank in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Supplemental Agreement, the Lease Agreement, the other Lease Documents and such other documents which may be delivered in connection therewith; and (b) the reasonable fees and out of pocket expenses for counsel to the Bank in connection with the execution and delivery of this Supplemental Agreement, the Lease Agreement and the other Lease Documents; (c) the reasonable fees and out of pocket expenses for counsel or other reasonably required consultants to the Bank in connection with advising the Bank as to its rights and responsibilities under this Supplemental Agreement, the Lease Agreement and the other Lease Documents or in connection with responding to requests from the City for approvals, consents, amendments and waivers; and (d) any Excess Interest Fee payable pursuant to Section 4.3(a) of the Lease Agreement, any amounts payable pursuant to Section 4.3(b)(v) of the Lease Agreement and any fee set forth in the definition of "Default Rate" herein. In addition, if at any time any governmental authority shall require revenue or other documentary stamps or any other tax in connection with the execution or delivery of this Supplemental Agreement, the Lease Agreement or the other Lease Documents, then, if the City lawfully may pay for such stamps, taxes or fees, the City shall pay, when due and payable, for all such stamps, taxes and fees, including interest and penalties thereon, and the City agrees to save the Bank harmless from and against any and all liabilities with respect to or resulting from any delay or omission of the City in paying, such stamps, taxes and fees hereunder.

Section 7.03. Increased Payments. If, after the Funding Date, any change in applicable law, treaty, regulation, guideline or directive or the adoption of any law, treaty, regulation, guideline or directive, or any interpretation of any of the foregoing by any authority charged with the administration or interpretation thereof or any central bank or other fiscal, monetary or other authority having jurisdiction over the Bank or the transactions contemplated by this Supplemental Agreement, the Lease Agreement and the other Lease Documents (whether or not having the force of law) (each, a "Change in Law"), or compliance by the Bank therewith, shall: (i) subject the Bank to any tax, charge, fee, deduction or withholding of any kind with respect to this Supplemental Agreement, the Lease Agreement, the other Lease Documents or the payment by the City of Lease Payments, Additional Payments or other amounts under the Lease Documents, or any amount paid or to be paid by the Bank with respect to this Supplemental Agreement, the Lease Agreement, the other Lease Documents or the payment by the City of Lease Payments, Additional Payments or other amounts under the Lease Documents (other than any tax measured by or based upon the overall net income of the Bank); (ii) impose, modify or deem applicable any reserve, liquidity ratio, premium, special deposit or similar requirements against any assets held by, deposits with or for the account of, or loans, lines of credit or commitments by, an office of the Bank; (iii) change the basis of taxation of payments due the Bank in respect of this

Supplemental Agreement, the Lease Agreement, the other Lease Documents or the payment by the City of Lease Payments, Additional Payments or other amounts under the Lease Documents (other than a change in taxation of the overall net income of the Bank); or (iv) impose upon the Bank any other condition with respect to such amount paid or payable to or by the Bank or with respect to this Supplemental Agreement, the Lease Agreement, the other Lease Documents or the payment by the City of Lease Payments, Additional Payments or other amounts under the Lease Documents, and the result of any of the foregoing is to increase the cost to the Bank of receiving payments by the City of Lease Payments, Additional Payments or other amounts under the Lease Documents, or to reduce the amount of any payment (whether of principal, interest or otherwise) receivable by the Bank or to require the Bank to make any payment on or calculated by reference to the gross amount of any sum received by it, in each case by an amount which the Bank in its reasonable judgment deems material, then: (x) the Bank shall, after making a determination to impose increased costs as a result of the occurrence of any of the foregoing, notify the City of such determination in writing; (y) after giving notice of such determination, the Bank shall also deliver to the City a certificate stating the change which has occurred or the reserve requirements or other costs or conditions which have been imposed on the Bank or the request, direction or requirement with which they have complied together with the date thereof, the amount of such increased cost, reduction or payment and the way in which such amount has been calculated, including a reasonably detailed calculation and the Bank's determination of such amounts, absent fraud or manifest error, shall be conclusive; and (z) the City shall pay to the account of the Bank, from time to time as specified by the Bank but not later than 30 days after notice and demand to the City, such an amount or amounts as will compensate the Bank for such additional cost, reduction or payment, together with interest on such amount from, but including, the day specified by the Bank for payment at the Default Rate.

In addition to the foregoing, if after the Funding Date the Bank shall have determined that any Change in Law regarding capital adequacy or liquidity, or compliance by the Bank therewith, has or would have the effect of reducing the rate of return on the capital or liquidity of the Bank to a level below that which the Bank could have achieved but for such Change in Law (taking into consideration the policies of the Bank with respect to capital adequacy or liquidity) by an amount deemed by the Bank to be material, or affects or would affect the amount of capital or liquidity required or expected to be maintained by the Bank or any corporation controlling the Bank by an amount deemed by the Bank to be material, as a consequence of its obligations hereunder or with respect to the Lease Documents, then the City shall be obligated to pay or cause to be paid to the account of the Bank from time to time as specified by the Bank, but not later than 30 days after notice and demand to the City, such additional amount or amounts as will compensate the Bank for such reduction or capital or liquidity increase with respect to any period for which such reduction or capital or liquidity increase was incurred, together with interest on such amounts from, but including, the day specified by the Bank for such payment at the Default Rate. A certificate setting forth in reasonable detail such reduction in the rate of return on capital or liquidity, or such capital or liquidity increase, of the Bank as a result of any event mentioned in this paragraph shall be submitted by the Bank to the City and such certificate shall, in the absence of manifest error, be conclusive as to the amount thereof.

The protections of this Section shall be available to the Bank regardless of any possible contention of invalidity or inapplicability of the law, regulation or condition which has been imposed. Notwithstanding the foregoing (x) all requests, rules, guidelines or directives in

connection with the Dodd-Frank Act shall be deemed to be a Change in Law, regardless of the date enacted, adopted or issued and (y) all requests, rules, guidelines or directives promulgated by: (1) the Bank for International Settlements, (2) the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or (3) any governmental authority shall be deemed a Change in Law regardless of the date enacted, adopted or issued.

Notwithstanding anything in this Section to the contrary, if such costs are to be incurred on a continuing basis and the Bank shall so notify the City in writing as to the amount thereof, such costs shall be paid by the City semi-annually in arrears on each Lease Payment Date and on the date on which all Lease Payments and Additional Payments have been paid in full.

Section 7.04. Late Payment. Any Lease Payment or Additional Payment or any other amount required to be paid under the Lease Agreement or hereunder which shall not be paid by the City when due and payable under the Lease Agreement or hereunder shall accrue interest until the same shall be paid at a rate equal to the Default Rate, and the City hereby agrees to pay such amounts to the Bank upon demand.

Section 7.05. Survival. The obligations of the City under this Article VII shall survive the payment in full of the Lease Payments and the Additional Payments and the termination of the Lease Documents.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Payment Account. All amounts payable to the Bank under the Lease Agreement or hereunder shall be transferred to the following account of the Bank, or such other account as may be subsequently designated by the Bank in writing to the City:

Bank of the West
13300 Crossroads Pkwy North
City of Industry, CA 91746
ABA #: 121100782
Account Name: Commercial Loan Servicing
Account #: 239855-332
Ref: City of Brisbane – Obligor #[] (Closed on 3/24/22)
Attention: Rachel Perez

Section 8.02. Amendments. No amendment or waiver of any provision of this Supplemental Agreement nor consent to any departure by the parties hereto shall in any event be effective unless the same shall be in writing and signed by such parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 8.03. Severability. The provisions of this Supplemental Agreement are intended to be severable. If any provision of this Supplemental Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or

enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

Section 8.04. Governing Law; Consent to Jurisdiction; Waiver Of Jury Trial.

(a) This Supplemental Agreement shall be governed by, and construed and interpreted in accordance with the laws of the State.

(b) The City, the Authority (pursuant to the Lease Agreement) and the Bank each consents to and submits to in personam jurisdiction and venue in a court of record in the State of California located in the City and County of San Francisco or in the United States District Court for the Northern District of California located in the County of San Francisco. The City, the Authority (pursuant to the Lease Agreement) and the Bank each asserts that it has purposefully availed itself of the benefits of the laws of the State of California and waives any objection to in personam jurisdiction on the grounds of minimum contacts, waives any objection to venue, and waives any plea of forum non conveniens. This consent to and submission to jurisdiction is with regard to any action related to this Supplemental Agreement, the Lease Agreement and the other Lease Documents. Regardless of whether the party's actions took place in the State of California or elsewhere in the United States, this submission to jurisdiction is nonexclusive, and does not preclude either party from obtaining jurisdiction over the other in any court otherwise having jurisdiction.

(c) The City, the Authority (pursuant to the Lease Agreement) and the Bank each, to the fullest extent permitted by law, waives its respective right to a trial by jury in any legal proceeding arising out of or relating to this Supplemental Agreement or any other Lease Document or the transactions contemplated hereby or thereby. The City and the Authority (pursuant to the Lease Agreement) each warrants and represents that such waiver has been intentionally, knowingly and voluntarily made, following consultation with its legal counsel. If the waiver of jury trial as set forth in this Section shall be declared void or unenforceable, the City, the Authority (pursuant to the Lease Agreement) and the Bank each agrees to refer the dispute to a judicial referee in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure.

Section 8.05. No Advisory or Fiduciary Responsibility. In connection with all aspects of the transactions contemplated by this Supplemental Agreement, the Lease Agreement or the other Lease Documents (including in connection with any amendment, waiver or other modification hereof or of any other Lease Document), the City acknowledges and agrees that: (a) (i) the arranging, structuring and other services regarding this Supplemental Agreement, the Lease Agreement and the other Lease Documents provided by the Bank are arm's length commercial transactions between the City on the one hand, and the Bank on the other hand, (ii) the City has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the City is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Supplemental Agreement, the Lease Agreement and the other Lease Documents; (b)(i) the Bank is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for the City, or any other Person and (ii) the Bank does not have any obligation to the City with respect to the transactions contemplated by this Supplemental Agreement, the Lease Agreement and the other Lease Documents, except those obligations expressly set forth herein and therein; and (c) the

Bank may be engaged in a broad range of transactions that involve interests that differ from those of the City, and the Bank does not have any obligation to disclose any of such interests to the City. To the fullest extent permitted by applicable laws, the City hereby waives and releases any claims that it may have against the Bank with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated by this Supplemental Agreement, the Lease Agreement and the other Lease Documents.

Section 8.06. Counterparts. This Supplemental Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

Section 8.07. Successors and Assigns. This Supplemental Agreement is a continuing obligation and shall be binding upon the City, its permitted successors and assigns and shall inure to the benefit of the Bank and its permitted successors, transferees and assigns. The City may not assign or otherwise transfer or delegate any of its rights or obligations hereunder or under the other Lease Documents without the prior written consent of the Bank. The Bank may, in accordance with applicable law, from time to time and without the consent of the City or any other Person assign, sell or transfer in whole or in part, this Supplemental Agreement and any of its rights or interests hereunder and all or any part of its interest in the Lease Documents, subject to the limitations set forth in the Assignment Agreement. In addition, the Bank may at any time pledge or grant a security interest in all or any portion of its rights under the Lease Documents to secure obligations of the Bank, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release the Bank from any of its obligations hereunder or substitute any such pledgee or assignee for the Bank as a party hereto.

Section 8.08. Tax Identification Number. The City's tax identification number is []-[].

[Signatures begin on the following page.]

[Signature page of Supplemental Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be duly executed and delivered as of the date first above written.

CITY OF BRISBANE

By: _____
Name: Clayton L. Holstine
Title: City Manager

BANK OF THE WEST

By: _____
Name:
Title:

Exhibit A

Lease Agreement and Assignment Agreement Terms

1. (a) Funding Date: March 24, 2022
- (b) Funding Amount: \$[4,355,000]
- (c) Term: 20 years, with the final principal component of Lease Payments due on March 1, 2042
- (d) Principal Payment Dates and Interest Payment Dates: interest shall be payable semi-annually on each March 1 and September 1, commencing September 1, 2022, and principal shall be payable semi-annually on each March 1 and September 1, commencing September 1, 2023 as set forth below:

Lease Payment Date	Principal Component	Interest Component	Total Lease Payment
September 1, 2022	\$	\$	\$
March 1, 2023			
September 1, 2023			
March 1, 2024			
September 1, 2024			
March 1, 2025			
September 1, 2025			
March 1, 2026			
September 1, 2026			
March 1, 2027			
September 1, 2027			
March 1, 2028			
September 1, 2028			
March 1, 2029			
September 1, 2029			
March 1, 2030			
September 1, 2030			
March 1, 2031			
September 1, 2031			
March 1, 2032			
September 1, 2032			
March 1, 2033			
September 1, 2033			
March 1, 2034			
September 1, 2034			
March 1, 2035			
September 1, 2035			
March 1, 2036			

September 1, 2036			
March 1, 2037			
September 1, 2037			
March 1, 2038			
September 1, 2038			
March 1, 2039			
September 1, 2039			
March 1, 2040			
September 1, 2040			
March 1, 2041			
September 1, 2041			
March 1, 2042			

- (f) Interest Rate: [_____] % per annum, calculated on the basis of a 360-day year and twelve 30-day months, except upon the occurrence and during the continuance of an Event of Default under the Lease Agreement, in which case the Default Rate will apply, calculated on the basis of a 360-day year and twelve 30-day months.
- (g) Default Rate: [Interest Rate + 1] % per annum, calculated on the basis of a 360-day year and twelve 30-day months.
- (h) Prepayment: Only (i) mandatory prepayment, without prepayment premium, in accordance with Section 9.3 of the Lease Agreement from condemnation awards and insurance proceeds; (ii) optional prepayment on any Lease Payment Date, upon 30 days' notice to the Bank, by paying a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payments to be paid on or accrued to such date together with a prepayment premium equal to 1% for any prepayment from the Closing Date through February 28, 2027 and a prepayment premium equal to 0% for any prepayment on March 1, 2027 or thereafter.
- (h) Events of Default under the Lease Agreement: Includes Events of Default under this Supplemental Agreement.
- (i) Tax Exemption: An opinion from Special Counsel as to the exemption of interest evidenced by the interest components of Lease Payments from State personal income taxes.
- (j) Other Lease Terms: fair rental value sufficient to support payment of default interest; insurance requirements (including 24 months of rental interruption insurance) and repair and replacement of Property; payment of taxes and removal of liens; no amendment of Site Lease or Lease Agreement without Bank consent; no sale or other disposition of, or encumbrance of or lien on Property; covenant to budget and appropriate; environmental compliance; no abandonment of Property; Additional Payments includes all amounts (other than Lease Payments) due and payable under this Supplemental Agreement; payment of abated or excess Lease

Payments at the earliest opportunity; Authority agrees to jurisdiction and waiver of jury trial provisions set forth in this Supplemental Agreement; required title insurance shall be in form and substance satisfactory to the Bank; no CUSIP number and in a single denomination; not rated.

- (k) Assignability/Transferability: Not divisible or transferable except in whole to a bank, financial institution or a qualified investor that executes a bank's letter addressed to the City and the Authority substantially in the form of the letter delivered by the Bank on the Funding Date.

Exhibit B

City Long-Term Borrowing General Fund Obligations

Certificates of Participation

Lease Purchase Agreement

None

Capital Leases

Other