

**REPORT TO MAYOR, COUNCIL/REDEVELOPMENT AGENCY
BOARD AND JOINT POWERS FINANCING AUTHORITY BOARD:****TO THE HONORABLE MAYOR/REDEVELOPMENT AGENCY CHAIR/JOINT POWERS
FINANCING AUTHORITY CHAIR AND CITY COUNCIL/AGENCY/AUTHORITY BOARD:**

DATE: June 22, 2010

**SUBJECT: APPROVING LEGAL DOCUMENTS RELATING TO A PRIVATE PLACEMENT
REFINANCING OF THE 1993 LEASE REVENUE BONDS (POLICE FACILITY)
AND THE 1999 JUDGMENT OBLIGATION BONDS, AND AUTHORIZING
OFFICIAL ACTIONS****Report in Brief**

The City has the opportunity to refinance a portion of the 1993 Lease Revenue Bonds (Police Station) and the 1999 Judgment Obligation Bonds (the "Refunded Bonds") with a private placement with Bank of America, N.A ("Bank") of a Lease agreement, between the City and the Financing Authority, using the City's Corporation Yard as the securitization of the lease. Savings of almost \$500,000 will be generated by a reduction in the interest rates on the outstanding Refunded Bonds, ranging from 4.9% to 5.3%, down to a fixed rate of 3.6%. \$520,000 of the debt reserve account for the 1993 Bonds will be used to pay down a portion of the debt. The remaining debt reserve balance of approximately \$180,000 for the 1993 Bonds which will remain outstanding (see discussion below) will become available in FY 2014-15.

Background

In 1993, the Joint Powers Financing Authority (JPFA) issued \$9.7 million in Lease Revenue Bonds to build the current Police Facility at 1350 Galindo St. This agreement with the Bank will refinance \$3.52 million of the \$5.33 million in 1993 Bonds outstanding. The remaining \$1.81 million in bonds is not callable and will be paid as scheduled at the stated interest rate of 5.25%, ending on August 1, 2013. The remaining \$3.52 million is callable, with a final payment on August 1, 2019, also at 5.25%. This bond issue required a debt reserve account of approximately \$700,000 which would be used toward the final payment in 2019. Under the proposed refunding Lease, the Bank does not require a debt reserve account. So a portion of these funds, \$520,000, will be released and used to pay off the 1993 Bonds. The remaining \$180,000 will be released at the new final maturity of the 1993 Bonds on August 1, 2013.

In 1999, the City issued Judgment Obligation Bonds totaling \$4.62 million at interest rates ranging from 4.25% to 5.3%. The remaining balance owed on these bonds is \$1.9 million. These bonds are callable and there was no debt reserve account requirement associated with their issuance.

The principal amount of the new refunding Lease, after use of the 1993 debt reserve and accounting for the costs of issuance, will total \$5,073,500. The final maturity date of the Lease will be September 1, 2019. The new Lease can be prepaid without an additional interest premium, on or after September 1, 2015.

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Discussion

The Bank has issued a commitment to provide the City with the funds to retire the outstanding debt at an interest rate of 3.6%. This is a private placement refinancing, i.e., not issued on the open bond market, which allows the transaction to occur without the need for auction or the use of other public offering venues. The Bank is not requiring a debt service reserve, or insurance in-lieu of the reserve.

The Police facility was the collateral for the original 1993 Lease Revenue Bonds (Police Facility), and because the project is located in the Redevelopment Area of the City, the RDA pays the debt service through the Financing Authority. It is necessary, however, to amend the Reimbursement Agreement between the City and the Agency, entered into in 1993, which memorialized the Agency's obligation to reimburse the City for the Lease Payments, as that agreement referred only to the 1993 Lease. The clarifying amendment will allow payments made by the City under obligations used to refund the 1993 Bonds, such as the proposed new refunding Lease.

The non-callable 1993 term bond payable on August 1, 2013, which is not a part of this transaction, uses the Police Facility as collateral. This relationship must remain in place until the 1993 Lease terminates, in 2013. The Bank is requiring that an unencumbered property be used as collateral for the new Lease. To meet this requirement, the City has proposed, and the Bank has accepted the Corporation Yard as collateral. The Corporation Yard is an unencumbered property which the City has owned since 1959 and its value more closely approximates the value of the new Lease being issued. Because of the inherent nature of the activities and materials present at the Corporation Yard, the Bank has required the option to replace this facility with another should the Corporation Yard become unusable because of a natural or environmental event. The City can also maintain insurance to meet the Bank's requirement. For example, if the corporation yard is destroyed by an earthquake, the City can either maintain insurance or use another facility as collateral. In actuality, the point is acceptable, because the City does carry earthquake insurance on the Corporation Yard.

The use of different collateral for the new Lease does not relieve the Redevelopment Agency of the debt service payments because the original project remains unchanged, and the use of the money for the police facility met the criteria necessary for RDA funding. The present transaction is merely a change in the form of collateral in order to lower the overall cost, not a change in the substance of the original transaction.

To authorize and accommodate the transaction, four additional documents are to be executed along with the City, RDA, and JPFA resolutions. The following draft documents are attached. Final documents will be available for signature as the transactions occur:

1. A Site Lease between the City and the JPFA leases the corporation yard by the City to the JPFA which in turn, under the Lease Agreement, leases back the property to the City;
2. The JPFA will assign its right to receive Lease Payments payable the City (RDA) to the Bank. The lease terminates when the final lease payment is made (in 2019);

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3. An Assignment Agreement between the JPFA and the Bank assigns the rights to the lease payments to the Bank in return for the proceeds received to retire the original debt. Again, the assignment terminates when the final lease payment is made; and
4. The First Amendment to Reimbursement Agreement, between the City and the Agency, which amends the 1993 Reimbursement Agreement to make clear that the Agency's obligation to reimburse the City extends to payments made by the City under obligations issued to refund the original 1993 Lease.

Once the documents have been approved by the Joint City Council/Agency/JFPA, the financing team will proceed with the refinancing plan. The transactions are scheduled to close the morning of June 24, 2010.

Fiscal Impact

The refinancing plan will save the City and the Redevelopment Agency approximately \$500,000 in reduced interest payments. In addition, a portion of the existing debt reserve account \$520,000, which would have been unavailable for use until the final payment in FY 2019-20, is made available to reduce the refunded debt at this time, with the remainder of \$180,000 to be freed up in FY 2013-14.

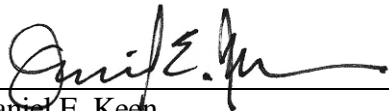
Public Contact

Posting of the Agenda.

Recommendation for Action

1. Adopt City Council Resolution No. 10-53 Authorizing the Refinancing of a 1993 Lease Agreement and 1999 Judgment Obligation Bonds and Approving Related Documents and Actions.
2. Adopt Redevelopment Agency Resolution No. 10-748 Amending the Reimbursement Agreement by and between the Redevelopment Agency of the City of Concord and the City of Concord, Dated as of September 1, 1993.
3. Adopt City of Concord Joint Powers Financing Authority Resolution No. 10-2 Authorizing the Refinancing of 1993 Lease Revenue Bonds, and City of Concord 1999 Judgment Obligation Bonds and Approving Related Documents and Actions.

Prepared by: Margaret Lefebvre
Director of Finance
mlefebvre@ci.concord.ca.us



Daniel E. Keen
City Manager/Executive Director
Dan.Keen@ci.concord.ca.us

Reviewed by: Valerie Barone
Assistant City Manager
Valerie.Barone@ci.concord.ca.us

**APPROVING LEGAL DOCUMENTS RELATING TO A PRIVATE PLACEMENT
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Attachments: See attached page.

- Attachment No. 1. City Council Resolution No. 10-53
- Attachment No. 2. Redevelopment Agency Resolution No. 10-748
- Attachment No. 3. City of Concord Joint Powers Financing Authority Resolution No. 10-2
- Attachment No. 4. Site Lease Dated as of June 1, 2010 between City of Concord and City of Concord Joint Powers Financing Authority
- Attachment No. 5. Lease Agreement Dated as of June 1, 2010 by and between City of Concord Joint Powers Financing Authority, as Sublessor and City of Concord, as Sublessee
- Attachment No. 6. Assignment of Lease
- Attachment No. 7. First Amendment to Reimbursement Agreement by and between the Redevelopment Agency of the City of Concord and the City of Concord, dated as of June 1, 2010

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Of The City Council Of The City Of
Concord Authorizing The Refinancing Of A 1993
Lease Agreement And 1999 Judgment Obligation
Bonds, And Approving Related Documents And
Actions**

Resolution No. 10-53

WHEREAS, on September 21, 1993 the City of Concord (the “City”) entered into a Facilities Lease, dated as of September 1, 1993 (the “1993 Lease”) with the City of Concord Joint Powers Financing Authority (the “Authority”) in the original principal amount of \$9,700,000, in order to finance the cost of constructing and equipping certain police facilities (the “1993 Project”); and

WHEREAS, the Redevelopment Agency of the City of Concord (the “Agency”) determined that the 1993 Project benefited the Central Concord Redevelopment Project, and entered into a Reimbursement Agreement with the City, dated as of September 1, 1993, (the “Reimbursement Agreement”) under which the Agency agreed to reimburse the City for lease payments payable under the 1993 Lease (the “1993 Lease Payments”) from Tax Increments (as defined in the Reimbursement Agreement); and

WHEREAS, the City and the Agency have determined that it is necessary to amend the Reimbursement Agreement to clarify that the Agency’s obligation to reimburse the City for the 1993 Lease Payments also includes payments made by the City under obligations issued to refund the 1993 Lease; and

WHEREAS, on September 16, 1999 the City issued its Judgment Obligation Bonds, Series 1999, in the principal amount of \$4,620,000 (the “1999 Bonds”); and

WHEREAS, the City will realize savings if the refundable portion of the 1993 Lease and the 1999 Bonds (together, the “Prior Obligations”) are refinanced; and

WHEREAS, in order to provide the funds needed to refinance the Prior Obligations, the City proposes to lease the City’s corporation yard, located at 1455 Gasoline Alley in the City (the “Leased Property”) to the Authority pursuant to the Site Lease, dated as of June 1, 2010, between the Authority

1 and the City (the "Site Lease") in order to allow the Authority to lease the Leased Property back to the
2 City pursuant to a Lease Agreement, dated as of June 1, 2010, between the Authority and the City (the
3 "Lease Agreement") in consideration of the payment by the City of semiannual lease payments under
4 the Lease Agreement as the rental for the Leased Property (the "Lease Payments"), which the
5 Authority will assign to Bank of America, N.A. (the "Bank") under an Assignment of Lease
6 Agreement, dated as of June 1, 2010, between the Authority and the Bank; and

7 **WHEREAS**, the City Council approves all of said transactions in furtherance of the public
8 purposes of the City, and wishes at this time to authorize all proceedings relating to the refinancing of
9 the Prior Obligations.

10 //

11 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
12 **RESOLVE AS FOLLOWS:**

13 **Section 1. Approval of Site Lease and Lease Agreement.** The City Council hereby
14 approves the refinancing plan outlined above. To that end, the City Council hereby approves the Site
15 Lease and Lease Agreement, both of which are between the City and the Authority, in substantially
16 the form on file with the City Clerk, together with any changes therein or additions thereto deemed
17 advisable by the City Manager. The City Manager is hereby authorized and directed for and in the
18 name and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to
19 attest and affix the seal of the City to, the final form of the Site Lease and the Lease Agreement.

20 **Section 2. Material Terms of Lease Agreement.** The Lease Agreement shall be for a term
21 that does not extend beyond September 1, 2019 (unless extended in the event of default), and the
22 average annual Lease Payment payable by the City under the Lease Agreement shall not exceed
23 \$675,000. The savings realized by the refinancing of the Prior Obligations shall at least equal 5% of
24 the principal amount of the Prior Obligations being refunded.

25 **Section 3. Approval of First Amendment to Reimbursement Agreement.** The City
26 council hereby approves the First Amendment to Reimbursement Agreement, between the City and
27 the Agency, in substantially the form on file with the City Clerk, together with any changes therein or
28 additions thereto deemed advisable by the City Manager. The City Manager is hereby authorized and

1 directed for and in the name and on behalf of the City to execute, and the City Clerk is hereby
2 authorized and directed to attest and affix the seal of the City to, the final form of the First
3 Amendment to Reimbursement Agreement.

4 **Section 4. Official Actions.** The Mayor, the City Manager, the Finance Director, the City
5 Clerk and all other officers of the City are each authorized and directed in the name and on behalf of
6 the City to make any and all assignments, certificates, requisitions, agreements, notices, consents,
7 instruments of conveyance, warrants and other documents, which they or any of them might deem
8 necessary or appropriate in order to consummate any of the transactions contemplated by the
9 agreements and documents approved pursuant to this Resolution, including specifically an escrow and
10 investment instructions to The Bank of New York Mellon Trust Company, N.A., the trustee for the
11 Prior Obligations, (the “Trustee”) whether in letter form or by contract, if needed, and a Costs of
12 Issuance Custodian Agreement, between the Trustee, as Custodian, and the City. Whenever in this
13 resolution any officer of the City is authorized to execute or countersign any document or take any
14 action, such execution, countersigning or action may be taken on behalf of such officer by any person
15 designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

16 **Section 5. Effective Date.** This Resolution shall take effect from and after the date of its
17 passage and adoption.

18 **PASSED AND ADOPTED** by the City Council of the City of Concord on June 22, 2010 by
19 the following called vote:

20 **AYES:** Councilmembers -

21 **NOES:** Councilmembers -

22 **ABSTAIN:** Councilmembers -

23 **ABSENT:** Councilmembers -

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I HEREBY CERTIFY that the foregoing Resolution No. 10-53 was duly and regularly adopted at a regular joint meeting of the City Council, the Redevelopment Agency, and the Joint Powers Financing Authority of the City of Concord on June 22, 2010

Mary Rae Lehman, cmc
City Clerk

APPROVED AS TO FORM:

Craig Labadie
City Attorney

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**REDEVELOPMENT AGENCY OF THE CITY OF CONCORD
RESOLUTION NO. 10-748**

**A RESOLUTION OF THE REDEVELOPMENT AGENCY
OF THE CITY OF CONCORD APPROVING FIRST
AMENDMENT TO REIMBURSEMENT AGREEMENT
BY AND BETWEEN THE REDEVELOPMENT AGENCY
OF THE CITY OF CONCORD AND THE CITY OF
CONCORD, DATED AS OF SEPTEMBER 1, 1993**

WHEREAS, the Redevelopment Agency of the City of Concord (the “Agency”) has adopted the redevelopment plan (the “Redevelopment Plan”) for the Central Concord Redevelopment Project (the “Redevelopment Project”) under Part 1 of Division 24 of the Health and Safety Code of the State of California (the “Redevelopment Law”); and

WHEREAS, on September 21, 1993 the City of Concord (the “City”) entered into a Facilities Lease, dated as of September 1, 1993 (the “1993 Lease”) with the City of Concord Joint Powers Financing Authority (the “Authority”) in the original principal amount of \$9,700,000, in order to finance the cost of constructing and equipping certain police facilities (the “1993 Project”); and

WHEREAS, the Agency determined that the 1993 Project benefited the Redevelopment Project, and entered into a Reimbursement Agreement with the City, dated as of September 1, 1993 (the “Reimbursement Agreement”) under which the Agency agreed to reimburse the City for lease payments payable under the 1993 Lease (the “1993 Lease Payments”) from Tax Increments (as defined in the Reimbursement Agreement); and

WHEREAS, the City and the Agency have determined that it is necessary to amend the Reimbursement Agreement to clarify that the Agency’s obligation to reimburse the City for the 1993 Lease Payments also includes payments made by the City under obligations issued to refund the 1993 Lease .

**NOW, THEREFORE, THE REDEVELOPMENT AGENCY OF THE CITY OF
CONCORD DOES RESOLVE AS FOLLOWS:**

Section 1. Recitals True and Correct. The Agency hereby finds and declares that the above recitals are true and correct.

**BEFORE THE CITY OF CONCORD JOINT POWERS FINANCING AUTHORITY
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Of The Board Of Directors Of The City
Of Concord Joint Powers Financing Authority
Authorizing The Refinancing Of 1993 Lease Revenue
Bonds And City Of Concord 1999 Judgment Obligation
Bonds, And Approving Related Documents And
Actions**

Resolution No. 10-2

WHEREAS, on September 21, 1993 the City of Concord Joint Powers Financing Authority (the “Authority”) issued Lease Revenue Bonds in the amount of \$9,700,000 (the “1993 Bonds”) and entered into a Facilities Lease, dated as of September 1, 1993 (the “1993 Lease”) with the City of Concord (the “City”) in order to finance the cost of constructing and equipping certain police facilities for the City; and

WHEREAS, on September 16, 1999 the City issued its Judgment Obligation Bonds, Series 1999, in the principal amount of \$4,620,000 (the “1999 Bonds”); and

WHEREAS, the City will realize savings if the refundable portion of the 1993 Bonds and the 1999 Bonds (together, the “Prior Obligations”) are refinanced; and

WHEREAS, in order to provide the funds needed to refinance the Prior Obligations, the City proposes to lease the City’s corporation yard, located at 1455 Gasoline Alley in the City (the “Leased Property”) to the Authority pursuant to the Site Lease, dated as of June 1, 2010, between the Authority and the City (the “Site Lease”) in order to allow the Authority to lease the Leased Property back to the City pursuant to a Lease Agreement, dated as of June 1, 2010, between the Authority and the City (the “Lease Agreement”) in consideration of the payment by the City of semiannual lease payments under the Lease Agreement as the rental for the Leased Property (the “Lease Payments”), which the Authority will assign to Bank of America, N.A. (the “Bank”) under an Assignment of Lease Agreement, dated as of June 1, 2010, between the Authority and the Bank (the “Assignment Agreement”); and

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1 **WHEREAS**, the Board of Directors approves all of said transactions in furtherance of the
2 public purposes of the City, and wishes at this time to authorize all proceedings relating to the
3 refinancing of the Prior Obligations.

4 **NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Board of Directors of the City
5 of Concord Joint Powers Financing Authority as follows:

6 **Section 1. Approval of Site Lease and Lease Agreement.** The Board of Directors hereby
7 approves the refinancing plan outlined above. To that end, the Board of Directors hereby approves the
8 Site Lease and Lease Agreement, both of which are between the City and the Authority, in
9 substantially the form on file with the Secretary, together with any changes therein or additions thereto
10 deemed advisable by the Executive Director. The Executive Director is hereby authorized and
11 directed for and in the name and on behalf of the City to execute, and the Secretary is hereby
12 authorized and directed to attest and affix the seal of the City to, the final form of the Site Lease and
13 the Lease Agreement.

14 **Section 2. Material Terms of Lease Agreement.** The Lease Agreement shall be for a term
15 that does not extend beyond September 1, 2019 (unless extended in the event of default), and the
16 average annual Lease Payment payable by the City under the Lease Agreement shall not exceed
17 \$675,000. The savings realized by the refinancing of the Prior Obligations shall at least equal 5% of
18 the principal amount of the Prior Obligations being refunded.

19 **Section 3. Approval of Assignment Agreement.** The Board of Directors hereby approves
20 the Assignment Agreement, between the Authority and the Bank, in substantially the form on file with
21 the Secretary, together with any changes therein or additions thereto deemed advisable by the
22 Executive Director. The Executive Director is hereby authorized and directed for and in the name and
23 on behalf of the City to execute, and the Secretary is hereby authorized and directed to attest and affix
24 the seal of the City to, the final form of the Assignment Agreement

25 **Section 4. Official Actions.** The Chair, the Executive Director, the Finance Director, the
26 Secretary and all other officers of the City are each authorized and directed in the name and on behalf
27 of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents,
28 instruments of conveyance, warrants and other documents, which they or any of them might deem

1 necessary or appropriate in order to consummate any of the transactions contemplated by the
2 agreements and documents approved pursuant to this Resolution, including specifically an escrow and
3 investment instructions to The Bank of New York Mellon Trust Company, N.A., the trustee for the
4 Prior Obligations, whether in letter form or by contract, if needed. Whenever in this resolution any
5 officer of the City is authorized to execute or countersign any document or take any action, such
6 execution, countersigning or action may be taken on behalf of such officer by any person designated
7 by such officer to act on his or her behalf in the case such officer is absent or unavailable.

8 **Section 5. Effective Date.** This Resolution shall take effect from and after the date of its
9 passage and adoption.

10 **PASSED AND ADOPTED** by the City Council of the City of Concord on June 22, 2010 by
11 the following vote:

12 **AYES:** Councilmembers -

13 **NOES:** Councilmembers -

14 **ABSTAIN:** Councilmembers -

15 **ABSENT:** Councilmembers -

16 **I HEREBY CERTIFY** that the foregoing Resolution No. 10-2 was duly and regularly
17 adopted at a regular joint meeting of the City Council, the Redevelopment Agency of the City of
18 Concord, and the Joint Powers Financing Authority on June 22, 2010.

21 _____
Mary Rae Lehman, CMC
City Clerk

22 **APPROVED AS TO FORM:**

24 _____
25 Craig Labadie
City Attorney

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall, A Professional Law Authority
650 California Street, 18th Floor
San Francisco, California 94108
Attention: William H. Madison, Esq.

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

SITE LEASE

Dated as of June 1, 2010

Between

CITY OF CONCORD

and

CITY OF CONCORD JOINT POWERS FINANCING AUTHORITY

SITE LEASE

This SITE LEASE is dated as of June 1, 2010, and is by and between the CITY OF CONCORD, a municipal corporation duly organized and existing under the laws of the State of California, also known as City of Concord, a general law city, Contra Costa County, State of California (the "City") as lessor and CITY OF CONCORD JOINT POWERS FINANCING AUTHORITY, a joint exercise of powers agency organized and operating under the laws of the State of California (the "Authority") as lessee.

RECITALS:

WHEREAS, on September 21, 1993 the City of Concord (the "City") entered into a Facilities Lease, dated as of September 1, 1993 (the "1993 Lease") with the City of Concord Joint Powers Financing Authority (the "Authority") in the original principal amount of \$9,700,000, in order to finance the cost of constructing and equipping certain police facilities (the "1993 Project").

WHEREAS, on September 16, 1999 the City issued its Judgment Obligation Bonds, Series 1999, in the principal amount of \$4,620,000 (the "1999 Bonds").

WHEREAS, the City will realize savings if the refundable portion of the 1993 Lease and the 1999 Bonds (together, the "Prior Obligations") are refinanced.

WHEREAS, in order to provide the funds needed to refinance the Prior Obligations, the City proposes to lease the City's corporation yard, located at 1455 Gasoline Alley in the City (the "Leased Property") to the Authority pursuant to this Site Lease, in order to allow the Authority to lease the Leased Property back to the City pursuant to a Lease Agreement, dated as of June 1, 2010, between the Authority and the City, which has been recorded concurrently herewith in the Office of the Contra Costa County Recorder (the "Lease Agreement") in consideration of the payment by the City of semiannual lease payments under the Lease Agreement as the rental for the Leased Property (the "Lease Payments"), which the Authority will assign to Bank of America, N.A. (the "Bank") under an Assignment of Lease Agreement, dated as of June 1, 2010, between the Authority and the Bank, which has been recorded concurrently herewith in the Office of the Contra Costa County Recorder.

WITNESSETH:

NOW THEREFORE, for and in consideration of the premises and covenants and conditions hereinafter contained, the parties agree as follows:

SECTION 1. Lease. The City leases to the Authority, and the Authority leases from the City, on the terms and conditions set forth herein, the Leased Property situated in the City of Concord, State of California, more specifically described in Exhibit A attached hereto, including any real property improvements now or hereafter affixed thereto. Hereinafter, reference to the Authority means the Authority and the Authority's assigns for those rights, interests and obligations that may be assigned by the Authority.

SECTION 2. Term. The term of this Site Lease shall commence on the date of recordation in the public records, or as of the Closing Date (as defined in the Lease) and shall remain in full force and effect from such date to and including the expiration date of the term of the Lease on September 1, 2019, unless such term is extended or earlier terminated as hereinafter provided:

(a) If the City exercises its prepayment option, pursuant to Section 9.2 of the Lease, by depositing with Authority on the date of exercise the sum of all of the unpaid principal component of the Lease Payments and other amounts then due or past due, plus accrued interest to the date of prepayment, then the term of this Site Lease shall end on the date of exercise of the option; or

(b) If prior to the expiration date of the term of the Lease, all Lease Payments under the Lease have been fully paid and retired or provision made for such payment and retirement, the term of this Site Lease shall end ten (10) days thereafter or ten (10) days after written notice to the Authority, whichever is earlier; provided, however, if the Authority exercises its option to re-enter and re-let the Leased Property under Section 8.2 of the Lease, then this Site Lease shall continue in full force and effect to and including September 1, 2029.

SECTION 3. Representations, Covenants, and Warranties of the City. The City represents, covenants and warrants to the Authority that:

(a) The City has good and merchantable fee title to the Leased Property and has authority to enter into and perform its obligations under this Site Lease;

(b) There are no liens or encumbrances on the Leased Property other than encumbrances set forth in the preliminary title report prepared by Stewart Title Insurance Company, dated May 13, 2010;

(c) All taxes, assessments or impositions of any kind with respect to the Leased Property, except current taxes, have been paid in full;

(d) The Leased Property is properly zoned for the intended purpose and utilization of the Leased Property;

(e) The City is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to the Leased Property;

(f) There is no litigation of any kind currently pending or threatened regarding the Leased Property or the City's use of the Leased Property for the purposes contemplated by this Site Lease and the Lease;

SECTION 4. Environmental Covenants.

(a) Definitions. For purposes of this section 4, the following capitalized terms shall have the following meaning:

“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 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:

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

“Hazardous Substance” 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 facilities, 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.).

(b) Compliance with Laws; No Hazardous Substances. The City will comply with all Applicable Environmental Laws with respect to the Leased 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 Leased Property.

(c) Notification of Bank. 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 Leased Property and any operations conducted thereon or any conditions existing thereon to the Bank, and the City will notify the Bank in writing immediately of any release, discharge, spill, or deposit of any Hazardous Substances that has occurred or is occurring that in any way affects or threatens to affect the Leased Property, or the people, structures, or other property thereon, provided that no such notifications shall create any liability or obligation on the part of the Bank.

(d) Access for Inspection. The City shall permit the Bank, its agents, or any experts designated by the Bank to have full access to the Leased Property during reasonable business hours for purposes of such independent investigation of compliance with all Applicable

Environmental Laws, provided that the Bank has no obligation to do so, or any liability for any failure to do so, or any liability should it do so.

SECTION 5. Release and Indemnification Covenants. The City shall and hereby agrees to indemnify and save the Authority and the Bank, and their respective officers, agents, successors and assigns, harmless from and 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 Leased Property by the City, (b) any breach or default on the part of the City in the performance of any of its obligations under this Site Lease, (c) any act or negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property, (d) the use, presence, storage, disposal of any Hazardous Substances on or about the Leased Property, (e) the failure to comply with any applicable Environmental Laws, or (f) any act or negligence of any sublessee of the City with respect to the Leased Property. No indemnification is made under this Section ___ or elsewhere in this Site Lease for misconduct or negligence under this Site Lease by the Authority or the Bank or any of their respective officers, agents, employees, successors or assigns.

SECTION 6. Representations and Warranties of the Authority. The Authority represents and warrants to the City that:

(a) The Authority is duly organized, validly existing and in good standing under the laws of the State of California, with full power and authority to lease and own real and personal property.

(b) The Authority has full power, authority and legal right to enter into and perform its obligations under this Site Lease, and the execution, delivery and performance of this Site Lease have been duly authorized by all necessary corporate actions on the part of the Authority and do not require any further approvals or consents.

(c) Execution, delivery and performance of this Site Lease do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Authority is a party or by which it or its property is bound.

(d) There is no pending or, to the best knowledge of the Authority, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of the Authority to perform its obligations under this Site Lease.

SECTION 7. Rental. The Authority shall pay to the City as rental hereunder the sum of one dollar (\$1.00), on or before the date of commencement of the term of this Site Lease.

SECTION 8. Purpose. The Authority shall use the Leased Property solely for the purpose of subleasing the Leased Property to the City; provided, that in the Event of Default by the City under the Lease, the Authority may exercise the remedies provided for in the Lease.

SECTION 9. Termination. The Authority agrees, upon termination of this Site Lease, (i) to quit and surrender the Leased Property in the same good order and condition as it was in at the time of commencement of the term hereunder, reasonable wear and tear excepted, (ii) to

release and reconvey to the City any liens and encumbrances created or caused by the Authority and (iii) agrees that any permanent improvements and structures existing upon the Leased Property at the time of the termination of this Site Lease shall remain thereon and title thereto shall vest in the City.

SECTION 10. Quiet Enjoyment. The City covenants and agrees that it will not take any action to prevent the Authority's quiet enjoyment of the Leased Property during the term hereof; and, that in the event City's fee title to the Leased Property is ever challenged so as to interfere with the Authority's right to occupy, use and enjoy the Leased Property, the City will use all governmental powers at its disposal, including the power of eminent domain, to obtain unencumbered fee title to the Leased Property and to defend the Authority's right to occupy, use, and enjoy the Leased Property.

SECTION 11. No Liens. The City shall not mortgage, sell, assign transfer or convey the Leased Property or any part thereof to any person during the term of this Site Lease, without the written consent of the Authority. Nothing herein shall preclude the City from granting utility easements across the Leased Property to facilitate the use and operation of the Leased Property for which it is intended.

SECTION 12. Right of Entry. The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 13. Assignment and Subleasing. The Authority will not assign or otherwise dispose of or encumber the Leased Property or this Site Lease without the written consent of the City, unless an Event of Default has occurred, in which event the Authority may use and/or sublease or sell its interest in the Leased Property without consent of the City.

SECTION 14. No Waste. The Authority agrees that at all times that it is in possession of the Leased Property it will not commit, suffer or permit any waste on the Leased Property, and it will not willfully or knowingly use or permit the use of the Leased Property for any illegal act or purpose.

SECTION 15. 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 Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Authority, the City may not terminate this Site Lease or Authority's right to possession of the Leased Property, but may exercise any and all other remedies granted by law or in equity.

SECTION 16. Eminent Domain. In the event the whole or any part of the Leased Property or the improvements thereon is taken by eminent domain, the financial interest of the Authority shall be recognized and is hereby determined to be the amount of all Lease Payments then due or past due, the next succeeding Lease Payment and the unpaid principal amount of the Lease Payments, less any unearned interest as of the date the Authority receives payment in full. The balance of the award, if any, shall be paid to the City.

SECTION 17. Taxes. The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property or the improvements thereon.

SECTION 18. Waiver of Personal Liability. All liabilities under this Site Lease on the part of the Authority are solely liabilities of the Authority, and the City hereby releases each and every incorporator, member, director and officer of the Authority of and from any personal or individual liability under this Site Lease. No incorporator, member, director or officer of the Authority shall at any time or under any circumstances be individually or personally liable for anything done or omitted to be done by the Authority under this Site Lease.

SECTION 19. Partial Invalidity. If any one or more of the terms, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 20. Notices. Any notices or filings required to be given or made under this Site Lease shall be served, given or made in writing upon the City or the Authority, as the case may be, by personal delivery or registered mail to the respective addresses given below.

SECTION 21. Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the City, the Authority and their respective successors and assigns.

SECTION 22. Amendments, Changes and Modifications. This Site Lease shall not be effectively amended, changed, modified, altered or terminated without the written agreement of the City and the Authority.

SECTION 23. Execution in Counterparts. This Site Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 24. Applicable Law. This Site Lease shall be governed by and construed in accordance with the laws of the State of California.

SECTION 25. Headings. The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Site Lease.

SECTION 26. Notices Any notice, request, complaint, demand or other communication under this Lease 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 Bank 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 City: City of Concord
 1950 Parkside Drive
 Concord, California 94519
 Attention: Director of Finance
 Fax: (925) 671-3353

If to the Authority: City of Concord Joint Powers Financing Authority
 1950 Parkside Drive
 Concord, California 94519
 Attention: Treasurer
 Fax: (925) 671-3353

If to the Bank: Bank of America, N.A.
 14468 N. Scottsdale Road
 Scottsdale, AZ 85254
 Fax: (480) 796-1301

IN WITNESS WHEREOF, the parties hereto have executed this Site Lease by their authorized officers as of the dates so indicated under their respective signatures.

CITY OF CONCORD, as Lessor

By _____
City Manager

Attest:

City Clerk

**CITY OF CONCORD JOINT POWERS
FINANCING AUTHORITY,
as Lessee**

By _____
Executive Director

SITE LEASE DATED: June 1, 2010

Exhibit "A"

LEGAL DESCRIPTION OF SITE

Those certain parcels of land situated in the County of Concord, State of California and legally described as follows:

APN: _____

***TO BE RECORDED AND WHEN RECORDED
RETURN TO:***

Jones Hall, A Professional Law Corporation
650 California Street, 18th Floor
San Francisco, California 94108
Attention: William H. Madison, Esq.

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

LEASE AGREEMENT

Dated as of June 1, 2010

by and between

**CITY OF CONCORD JOINT POWERS FINANCING AUTHORITY,
as Sublessor**

and

**CITY OF CONCORD,
as Sublessee**



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Appendix A Description of the Leased Property

Appendix B Schedule of Lease Payments

LEASE AGREEMENT

This LEASE AGREEMENT (this "Lease"), dated as of June 1, 2010, is between the CITY OF CONCORD JOINT POWERS FINANCING AUTHORITY, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the "Authority"), and the CITY OF CONCORD, a general law city duly organized and existing under the Constitution and laws of the State of California (the "City").

B A C K G R O U N D :

WHEREAS, on September 21, 1993 the City entered into a Facilities Lease, dated as of September 1, 1993 (the "1993 Lease") with the Authority in the original principal amount of \$9,700,000, in order to finance the cost of constructing and equipping certain police facilities (the "1993 Project").

WHEREAS, on September 16, 1999 the City issued its Judgment Obligation Bonds, Series 1999, in the principal amount of \$4,620,000 (the "1999 Bonds").

WHEREAS, the City will realize savings if the refundable portion of the 1993 Lease and the 1999 Bonds (together, the "Prior Obligations") are refinanced.

WHEREAS, in order to provide the funds needed to refinance the Prior Obligations, the City proposes to lease the City's corporation yard, located at 1455 Gasoline Alley in the City (the "Leased Property") to the Authority pursuant to a Site Lease, dated as of June 1, 2010, between the Authority and the City, which has been recorded concurrently herewith in the Office of the Contra Costa County Recorder (the "Site Lease") in order to allow the Authority to lease the Leased Property back to the City pursuant to this Lease Agreement, in consideration of the payment by the City of semiannual lease payments hereunder as the rental for the Leased Property (the "Lease Payments"), which the Authority will assign to Bank of America, N.A. (the "Bank" or "Assignee") under an Assignment of Lease Agreement, dated as of June 1, 2010, between the Authority and the Bank, which has been recorded concurrently herewith in the Office of the Contra Costa County Recorder.

WHEREAS, the City is authorized to enter into this Lease for the purpose of refinancing the Prior Obligations under the laws of the State of California.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Authority 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.

“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 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:

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

“Assignee” means (a) initially, Bank of America, N.A., as assignee of certain rights of the Authority hereunder, and (b) any other entity to whom the rights of the Authority are assigned hereunder.

“Assignment of Lease” means the Assignment of Lease, dated as of June 1, 2010, between the Authority as assignor and the Assignee as assignee, as originally executed or as thereafter amended under any duly authorized and executed amendments thereto.

“Authority” means City of Concord Joint Powers Financing Authority, a joint exercise of powers agency duly organized and existing under the laws of the State of California.

“Bond Counsel” means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income under Section 103 of the Tax Code.

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

“City” means the City of Concord, a general law city formed under the Constitution and laws of the State of California.

“Closing Date” means the date of execution and delivery of this Lease by the parties hereto, being June 24, 2010.

“Event of Default” means any of the events of default as defined in Section 6.1.

“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 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.

“Hazardous Substance” 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 facilities, 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.).

“Lease” means this Lease Agreement, dated as of June 1, 2010, between the Authority and the City.

“Lease Payment Date” means September 1 and March 1 in each year, commencing September 1, 2010, and continuing to and including the date on which the Lease Payments are paid in full.

“Lease Payment” means all payments required to be paid by the City under Section 4.5, including any prepayment thereof under Sections 9.2 or 9.3.

“Leased Property” means the land more particularly described in Appendix A, together with all improvements located thereon.

“Net Proceeds” means any insurance proceeds 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 Leased 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; (b) this Lease and the Assignment of Lease; (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 with respect to the Leased Property issued as of the Closing Date by Stewart Title Insurance Co.; and (e) 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 Leased Property for its intended purposes.

“Rental Period” means each period during the Term of the Lease commencing on and including September 2 in each year and extending to and including the next succeeding September 1, except that the first Rental Period begins on the Closing Date and ends on September 1, 2010, and the last rental period begins on September 2, 2018, and ends on September 1, 2019.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

“Term of this Lease” or “Term” means the time during which this Lease is in effect, as provided in Section 4.3.

SECTION 1.2. *Interpretation.*

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

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

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

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

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

- (a) Due Organization and Existence. The City is a general law city duly organized and validly existing under the Constitution and laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into this Lease and to carry out and consummate all transactions contemplated hereby, and by proper action the City has duly authorized the execution and delivery of this Lease.
- (b) Due Execution. The representatives of the City executing this Lease have been fully authorized to execute the same under a resolution duly adopted by the City Council of the City.
- (c) Valid, Binding and Enforceable Obligations. This Lease has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding agreements of the City enforceable against the City in accordance with its terms.
- (d) No Conflicts. The execution and delivery of this Lease, the consummation of the transactions herein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease or the financial condition, assets, properties or operations of the City.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease, or the consummation of any transaction 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 or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease or the financial conditions, assets, properties or operations of the City.

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:

- (a) Due Organization and Existence. The Authority is a joint exercise of powers agency duly organized and existing under the laws of the State of California, has full legal right, power and authority to enter into this Lease and the Assignment of Lease and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the Authority has duly authorized the execution and delivery of this Lease and the Assignment of Lease.
- (b) Due Execution. The representatives of the Authority executing this Lease and the Assignment of Lease are fully authorized to execute the same under official action taken by the governing board of the Authority.
- (c) Valid, Binding and Enforceable Obligations. This Lease and the Assignment of Lease 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 this Lease and the Assignment of Lease, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to

which the 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 this Lease and the Assignment of Lease 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 this Lease or the Assignment of Lease, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the 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 this Lease or the Assignment of Lease, 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 this Lease or the Assignment of Lease or the financial conditions, assets, properties or operations of the Authority.

ARTICLE III
DEPOSIT AND APPLICATION OF FUNDS

SECTION 3.1. *Deposit of Moneys.* As provided in the Assignment of Lease, the proceeds therefrom shall be deposited on the Closing Date with The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), as:

(i) assignee of the 1993 Lease and trustee for the holders of lease revenue bonds issued by the Authority (the "1993 Bonds"), the amount of \$3,073,406.67, which amount, when combined with the amount of \$520,000 released from the Reserve Fund created for the 1993 Bonds, will result in a total of \$3,593,406.67 to be applied on the Closing Date to the prepayment of the principal amount of the 1993 Lease Payments that may be prepaid under the 1993 Lease, plus accrued interest to such date, and redemption of a corresponding amount of 1993 Bonds;

(ii) trustee for the 1999 Bonds, the amount of \$1,930,535.90, to be applied on the closing date to the redemption of the outstanding 1999 Bonds; and

(iii) disbursing agent under a costs of issuance agreement, between the City and the Trustee, dated the Closing Date, in the amount of \$69,557.43.

ARTICLE IV

LEASE OF LEASED PROPERTY; LEASE PAYMENTS

SECTION 4.1. Lease of Leased Property by City to Authority. For and in consideration of the deposit by the Assignee of \$ _____ with the Trustee in accordance with Section 3.1, the City has agreed to lease the Leased Property to the Authority under the Site Lease for a term which is coterminous with the Term of this Lease. The Authority shall use the Leased Property as so leased solely for the purpose of subleasing the Leased Property back to the City under the provisions of this Lease Agreement. No merger of the Site Lease and this Lease shall be effected by the City's lease of the Leased Property to the Authority under this Section 4.1, and the Authority's sublease of the Leased Property back to the City under Section 4.2.

SECTION 4.2. Sublease of Leased Property by Authority Back to City. The Authority hereby subleases the Leased Property to the City, and the City hereby subleases the Leased Property from the Authority. The Leased Property shall be subleased to the City under this Lease upon the terms and provisions hereof.

SECTION 4.3. Term. The Term of this Lease commences on the Closing Date and ends on the date on which all of the Lease Payments have been paid in full, but in no event beyond September 1, 2029. The provisions of this Section 4.3 are subject to the provisions of Section 6.2 relating to the taking in eminent domain of the Leased Property or any portion thereof.

SECTION 4.4. Lease Payments.

- (a) Obligation to Pay. Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in Appendix B attached hereto (including any supplements thereto) and by this reference incorporated herein, to be due and payable in immediately available funds on each of the respective Lease Payment Dates specified in Appendix B. The Lease Payments payable in any Rental Period with respect to the Leased Property shall be for the use of the Leased Property during such Rental Period.
- (b) Effect of Prepayment. If the City prepays all Lease Payments in full under Sections 9.2 or 9.3, the City's obligations under this Section will thereupon cease and terminate. If the City prepays the Lease Payments in part but not in whole under 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.
- (c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section 4.4, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and

the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the rate of 8% per annum.

- (d) Fair Rental Value. The Lease Payments coming due and payable during each Rental Period constitute the total rental for the Leased 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 Leased Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making this determination, consideration has been given to the estimated fair market value of the Leased Property, the costs of financing the deposits required to be made under Section 3.1, other obligations of the City and the Authority under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

- (e) Source of Payments; Budget and Appropriation. The Lease Payments are payable from any source of available funds of the City, subject to the provisions of Sections 6.2, 6.3 and 9.1. The City covenants to take such action as may be necessary to include all Lease Payments in each of its annual budgets during the Term of this Lease and to make the necessary annual appropriations for all such Lease 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 agreed to be carried out and performed by the City.

- (f) Assignment. The City understands and agrees that all Lease Payments have been assigned by the Authority to the Assignee under the Assignment of Lease, and the City hereby assents 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 4.4 and all amounts payable by the City under Article IX.

SECTION 4.5. Quiet Enjoyment. Throughout the Term of this Lease, the Authority will provide the City with quiet use and enjoyment of the Leased Property and the City will peaceably and quietly have and hold and enjoy the Leased Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease. 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 has the right to inspect the Leased Property as provided in Section 7.2.

SECTION 4.6. Title. At all times during the Term of this Lease, the City shall hold title to the Leased 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 (other than under Section 8.2(b) hereof), all right, title and interest of the Authority in and to the Leased Property shall be transferred to and vested in the City. Upon the payment in full of all Lease Payments, 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 Leased 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 of title.

SECTION 4.7. Release of Excess Property. The City may any time and from time to time, release any portion the Leased Property (the "Released Property") from the Lease, with the prior written consent of the Assignee (which may not unreasonably be withheld) and upon satisfaction of all of the following requirements which are conditions precedent to such release:

- (a) The City must certify to the Authority and the Assignee that no Event of Default has occurred and is continuing;
- (b) The City must file with the Authority and the Assignee, and cause to be recorded in the office of the Contra Costa County Recorder an amendment to this Lease which deletes the Released Property from the description of the Leased Property; and
- (c) The City must file with the Authority and the Assignee a written certificate of the City stating the City's determination that the estimated annual fair rental value of the real property which will remain leased under this Lease following such release is at least equal to \$the maximum amount of Lease Payment becoming due in any remaining year.

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

SECTION 4.8. Substitution of Property.

(i) The City and the Authority may, and upon the occurrence of any of the conditions described in paragraph (ii) below shall, substitute real property and the improvements, buildings, fixtures and equipment thereon for all or a part of the Leased Property for purposes of the Site Lease and this Lease, but only with the prior written consent of the Assignee and after the City shall have filed with the Authority and the Assignee, all of the following:

- (a) Executed copies of the Site Lease and this Lease or amendments thereto containing the amended description of the Leased Property, including the legal description of the Leased Property as modified if necessary.

(b) A Certification of the City that the annual fair rental value of the Leased Property which will constitute the Leased Property after such substitution (which may be based on the construction or acquisition cost or replacement cost of such facility to the City) or will be at least equal to 100% of the maximum amount of Lease Payments becoming due in the then current year or in any subsequent year.

(c) A leasehold owner's policy or policies or a commitment for such policy or policies or an amendment or endorsement to an existing policy or policies resulting in title insurance with respect to the Leased Property after such substitution in an amount at least equal to the outstanding principal portion of the remaining Lease Payments; each such insurance instrument, when issued, shall name the Assignee as the insured, and shall insure the leasehold estate of the Authority in such substituted property subject only to such exceptions as do not substantially interfere with the City's right to use and occupy such substituted property and as will not result in an abatement of Lease Payments payable by the City under this Lease.

(d) An opinion of Bond Counsel stating that such amendment or modification (i) will, upon the execution and delivery thereof, be valid and binding upon the City; and (ii) will not, in and of itself, cause the interest component of the Lease Payments to be included in gross income for federal income tax purposes.

(ii) If at any time the Leased Property is damaged or destroyed by earthquake or other uninsured casualty for which rental interruption insurance is not available, or if the use by the City of the Leased Property is unavailable due to Applicable Environmental Laws or the presence of a Hazardous Substance, and rental interruption insurance is not available, the City shall substitute property for the Leased Property pursuant to this Section 4.8; provided, however, that nothing in this paragraph shall supersede the provisions of Section 6.3 hereof.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

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

The City will 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 Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City is obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority shall notify the City that, in its reasonable opinion, by nonpayment of any such items the interest of the Authority in the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the City 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.

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

SECTION 5.3. Public Liability and Property Damage Insurance. The City shall maintain or cause to be maintained throughout the Term of this Lease a standard comprehensive general insurance policy or policies in protection of the Authority, 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 Leased Property. Such policy or policies must provide coverage in such liability limits and be subject to such deductibles as the City shall deem adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of 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. Property Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, property insurance against loss or damage to all buildings situated on the Leased Property, in an amount at least equal to the replacement value of the insured buildings. 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 \$750,000. 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. The City will apply the Net Proceeds of such insurance as provided in Section 6.1.

SECTION 5.5. Rental Interruption Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Leased 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. 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. 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 Leased Property and, upon request, shall furnish to the Authority certificates evidencing such coverage throughout the Term of this Lease.

SECTION 5.7. Recordation Hereof; Title Insurance. On or before the Closing Date, the City shall, at its expense, (a) cause this Lease, or a memorandum hereof or thereof in form and substance approved by Bond Counsel, to be recorded in the office of the Contra Costa County Recorder with respect to the Leased Property, and (b) obtain a CLTA title insurance policy insuring the City's leasehold estate hereunder in the Leased Property, subject only to Permitted Encumbrances, in the amount equal to the aggregate amount of the principal component of the

Lease Payments due hereunder. The City will apply the Net Proceeds received under such title insurance policy to prepay the remaining Lease Payments under Section 9.3.

SECTION 5.8. Insurance Net Proceeds; Form of Policies. All insurance policies (or riders) required by this Article V 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 of California, 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 10 days before the cancellation or revision becomes effective. Each insurance policy or rider required by this Article V must name the City and the Assignee as insured parties and the Assignee as loss payee and shall include a lender's loss payable endorsement for the benefit of the Assignee. 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 Leased 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 Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest may attach to any part of the Leased 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 Leased Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Authority do not materially and adversely affect the leasehold estate in the Leased Property hereunder and for which the Assignee approves in writing, which approval may not be unreasonably withheld. 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 Authority 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 4.4(c).

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

SECTION 6.1. *Application of Net Proceeds.* The Net Proceeds of any insurance award resulting from any damage to or destruction of the Leased Property by fire or other casualty, and the Net Proceeds of any taking of the Leased Property or any portion thereof in eminent domain proceedings, shall be paid to the Authority to be applied as hereinafter set forth in this Section 6.1.

If the Leased Property is destroyed or damaged beyond repair at any time during the Term of this Lease, or if the Leased Property or any portion thereof is taken in eminent domain proceedings at any time during the Term of this Lease, the City shall as soon as practicable after such event, with the prior written consent of the Authority, apply the Net Proceeds resulting therefrom either to: (a) repair the Leased Property to full use; (b) replace the Leased Property, at the City's sole cost and expense, with property of equal or greater value to the Leased Property immediately prior to the time of the such destruction or damage, such replacement Leased Property to be subject to the Authority's reasonable approval, whereupon such replacement shall be substituted in this Lease by appropriate endorsement; or (c) prepay the Lease Payments in accordance with Section 9.3. The City will notify the Authority of which course of action it desires to take within 15 days after the occurrence of such destruction or damage. The Authority may (but is not required to) in its own name or in the City's name execute and deliver proofs of claim, receive all such moneys, endorse checks and other instruments representing payment of such moneys, and adjust, litigate, compromise or release any claim against the issuer of any such policy, and the City hereby grants to the Authority a power of attorney coupled with an interest to accomplish all or any of the foregoing. The Net Proceeds of all insurance payable with respect to the Leased Property shall be available to the City and shall be used to discharge the City's obligations under this Section.

SECTION 6.2. *Termination or Abatement Due to Eminent Domain.* If the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease shall cease with respect thereto as of the day possession shall be so taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain, (a) this Lease will continue in full force and effect with respect thereto and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (b) there will be a partial abatement of Lease Payments allocated thereto, in an amount to be determined by the City with the prior written consent of the Authority, such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

SECTION 6.3. *Abatement Due to Damage or Destruction.* The Lease Payments are subject to abatement during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof. The amount of such abatement shall be determined by the City, with the prior written consent of the Authority,

such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Leased Property not damaged or destroyed. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease will continue in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage and destruction. Notwithstanding the foregoing, the Lease Payments are not subject to abatement under this Section 6.3 to the extent that the proceeds of hazard insurance or rental interruption insurance are available to pay Lease Payments which would otherwise be abated under this Section 6.3, it being hereby declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS 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 LEASED PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CORPORATION IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, THAT THE CITY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event is the Authority liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease for the existence, furnishing, functioning or City's use of the Leased Property.

SECTION 7.2. Access to the Leased Property. The City agrees that the Authority, and the Authority's successors or assigns, has the right at all reasonable times to enter upon and to examine and inspect the Leased 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 Leased Property or any component thereof as may be reasonably necessary to cause the proper maintenance of the Leased 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.

SECTION 7.3. Release and Indemnification Covenants. The City shall and hereby agrees to indemnify and save the Authority and the Assignee, and their respective officers, agents, successors and assigns, harmless from and 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 Leased Property by the City, (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease, (c) any act or negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property, (d) the use, presence, storage, disposal of any Hazardous Substances on or about the Leased Property, (e) the failure to comply with any applicable Environmental Laws, or (f) any act or negligence of any sublessee of the City with respect to the Leased Property. No indemnification is made under this Section 7.3 or elsewhere in this Lease for misconduct or negligence under this Lease by the Authority or the Bank or any of their respective officers, agents, employees, successors or assigns.

SECTION 7.4. Assignment by the Authority. The Authority's rights under this Lease, 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. The City hereby consents to such assignment. Whenever in this Lease any reference is made to the Authority and such reference concerns rights which the Authority has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

The Authority and the Assignee may make additional assignments of their interests herein, but no such assignment will be effective as against the City unless and until the Authority or the Assignee has filed with the City written notice thereof. The City shall pay all Lease Payments hereunder under the written direction of the Authority or the assignee named in the most recent assignment or notice of assignment filed with the City. During the Term of this Lease, 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 may not be assigned by the City. The City may sublease the Leased Property, or any portion thereof, subject to all of the following conditions:

- (a) This Lease and the obligation of the City to make Lease Payments hereunder shall remain obligations of the City.
- (b) The City shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority a true and complete copy of such sublease.
- (c) No such sublease by the City may cause the Leased Property to be used for a purpose other than as may be authorized under the provisions of the laws of the State of California.
- (d) The City shall furnish the Assignee with a written opinion of Bond Counsel stating that such sublease does not cause the interest components of the Lease Payments to become includable in gross income for purposes of federal income taxation or to become subject to personal income taxation by the State of California.

SECTION 7.6. Amendment of Lease Agreement. This Lease may be amended by the City and the Authority; provided, however, the prior written consent of the Assignee shall be obtained for any amendment which would adversely affect Lease Payments due hereunder. Prior to the effective date of any such amendment, and as a condition precedent to the effectiveness thereof, the City at its expense shall obtain an opinion of Bond Counsel stating that such amendment will not adversely affect the exclusion from gross income of the interest component of the Lease Payments.

It is expressly understood that the City may amend this Lease, with the consent of the Assignee, to obligate the City to pay additional amounts of rental hereunder for the use and occupancy of the Leased Property, provided that (A) such additional lease obligations do not cause the principal amount of the total outstanding lease obligations secured by the Leased Property to exceed the market value of the Leased Property, as set forth in a certificate of a City representative filed with the Authority and the Assignee.

SECTION 7.7. Tax Covenants.

- (a) Generally. The City will not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest components of the Lease

Payments to become includable in gross income for federal income tax purposes.

- (b) Private Activity Bond Limitation. The City will ensure that the proceeds of the Lease Payments are not so used as to cause the City's obligations hereunder to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.
- (c) Federal Guarantee Prohibition. The City will not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Lease Payments to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.
- (d) No Arbitrage. The City will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Lease Payments which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Lease Payments to be "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.
- (e) Small Issuer Exemption from Bank Nondeductibility Restriction. The City hereby designates this Lease for purposes of paragraph (3) of Section 265(b) of the Tax Code and represents that not more than \$30,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Tax Code) from gross income for federal income tax purposes, including this Lease, has been or will be issued by the City during the calendar year 2010.
- (f) Arbitrage Rebate. The City will take any and all actions necessary to assure compliance with Section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Lease Payments.

SECTION 7.8. Environmental Covenants.

- (a) Compliance with Laws; No Hazardous Substances. The City will comply with all Applicable Environmental Laws with respect to the Leased 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 Leased Property.
- (b) Notification of Bank. 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 Leased Property and any operations conducted thereon or any conditions existing thereon to the Bank, and the City will notify the Bank in writing immediately of any release, discharge, spill, or deposit of any Hazardous

Substances that has occurred or is occurring that in any way affects or threatens to affect the Leased Property, or the people, structures, or other property thereon, provided that no such notifications shall create any liability or obligation on the part of the Bank.

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

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 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 Authority or the Assignee; *provided, 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 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 acts which may hereafter be enacted.

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; *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 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 in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain liable for the

payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Authority for any deficiency arising out of the re-leasing of the Leased Property, or, if the Authority is unable to re-lease the Leased Property, then for the full amount of all Lease Payments to the end of the Term of this Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the 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 Leased 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 Leased Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place such property in storage or other suitable place in the Contra Costa 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 Leased 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 constitute full and sufficient notice of the right of the Authority to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the 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 Leased Property upon demand of the Authority for the purpose of enabling the Leased Property to be re-let under this paragraph, and the City further waives the right to any rental obtained by the Authority in excess of the Lease Payments and hereby conveys and releases such excess to the Authority as compensation to the Authority for its services in re-leasing the Leased Property.

- (b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease and re-lease all or any portion of the Leased Property. If the Authority terminates this Lease at its option and in the manner hereinafter provided due to a default by the City (and notwithstanding any re-entry upon the Leased Property by the Authority in any manner whatsoever or the re-leasing of the Leased 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. Any surplus received by the Authority from

such re-leasing shall be applied by the Authority to Lease Payments due under this Lease. 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, and no termination of this Lease on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Authority shall have given written notice to the City of the election on the part of the Authority to terminate this Lease. The City covenants and agrees that no surrender of the Leased Property, or of the remainder of the Term hereof or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the 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.

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 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. Agreement to Pay Attorneys' Fees and Expenses. If either party to this Lease defaults under any of the provisions hereof and the nondefaulting party should employ attorneys (including in-house legal counsel) or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys (including allocable costs and expenses of in-house legal counsel, if any) and such other expenses so incurred by the nondefaulting party.

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

SECTION 8.6. 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. Such rights and remedies shall be exercised solely by the Assignee.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

SECTION 9.1. *Security Deposit.* Notwithstanding any other provision of this Lease, the City may on any date secure the payment of the Lease Payments in whole or in part by depositing with a fiduciary acceptable to the Authority and Assignee, in trust, an amount of cash which is either (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Appendix B, or (b) invested in whole in non-callable Federal Securities in an amount which is sufficient, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, to pay such Lease Payments when due under Section 4.4(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, (a) the Term of this Lease shall continue, (b) all obligations of the City under this Lease, and all security provided by this Lease for said obligations, shall thereupon cease and terminate, excepting only the obligation of the City to make, or cause to be made all of the Lease Payments from such security deposit, and (c) under Section 4.6, title to the Leased Property will vest in the City on the date of said deposit automatically and without further action by the City or the Authority. 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.

SECTION 9.2. *Optional Prepayment.* The City may prepay the unpaid principal components of the Lease Payments in whole or in part, on any date occurring on or after March 1, 2015, by paying the unpaid principal amount of the Lease Payments, plus accrued interest to the date of prepayment, without premium.

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 on any date, from and to the extent of any proceeds of insurance award or condemnation award with respect to the Leased Property to be used for such purpose under Section 6.1. 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.

SECTION 10.6. Execution in Counterparts. This Lease may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

SECTION 10.7. Applicable Law. This Lease is governed by and construed in accordance with the laws of the State of California.

SECTION 10.8. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease.

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

CITY OF CONCORD, as Sublessee

By _____
City Manager

Attest:

City Clerk

**CITY OF CONCORD JOINT POWERS
FINANCING AUTHORITY,
as Sublessor**

By _____
Executive Director

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain land located in the Contra Costa County, State of California, more fully described as follows, together with all buildings and facilities at any time situated thereon:

[to come]

APPENDIX B

SCHEDULE OF LEASE PAYMENTS

Payment #	Lease Payment Date	Lease Payment	Principal	Interest
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*TO BE RECORDED AND WHEN RECORDED
RETURN TO:*

Jones Hall,
A Professional Law Corporation
650 California Street, 18th Floor
San Francisco, California 94108
Attention: William H. Madison

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 OF LEASE

This Assignment of Lease (this "Assignment") is dated as of June 1, 2010, and is between CITY OF CONCORD JOINT POWERS FINANCING AUTHORITY, as assignor (the "Authority"), and BANK OF AMERICA, N.A., as assignee (the "Assignee").

BACKGROUND:

WHEREAS, on September 21, 1993 the City entered into a Facilities Lease, dated as of September 1, 1993 (the "1993 Lease") with the City of Concord Joint Powers Financing Authority (the "Authority") in the original principal amount of \$9,700,000, in order to finance the cost of constructing and equipping certain police facilities (the "1993 Project").

WHEREAS, on September 16, 1999 the City issued its Judgment Obligation Bonds, Series 1999, in the principal amount of \$4,620,000 (the "1999 Bonds").

WHEREAS, the City will realize savings if the refundable portion of the 1993 Lease and the 1999 Bonds (together, the "Prior Obligations") are refinanced.

WHEREAS, in order to provide the funds needed to refinance the Prior Obligations, the City proposes to lease the City's corporation yard, located at 1455 Gasoline Alley in the City (the "Leased Property") to the Authority pursuant to a Site Lease, dated as of June 1, 2010, between the Authority and the City, which has been recorded concurrently herewith in the Office of the Contra Costa County Recorder (the "Site Lease") in order to allow the Authority to lease the Leased Property back to the City pursuant to a Lease Agreement, dated as of June 1, 2010, between the Authority and the City, which has been recorded concurrently herewith in the Office of the Contra Costa County Recorder (the "Lease") in consideration of the payment by the City of semiannual lease payments under the Lease as the rental for the Leased Property (the "Lease Payments").

WHEREAS, funding for the refinancing of the Prior Obligations will be provided by the Assignee, and in order to secure such financing the Authority wishes to assign its rights under the Lease, including but not limited to the right of the Authority to receive the Lease Payments from the City, as provided in this Assignment.

A G R E E M E N T :

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

1. Assignment of Rights to Assignee. The Authority, without recourse, hereby sells, assigns and transfers to the Assignee all of its interests under the Lease, including its rights to receive the Lease Payments.

2. Consideration for Assignment. In consideration of the foregoing assignment, the Assignee shall pay to the Authority the amount of \$5,073,500, to be deposited on the date hereof with The Bank of New York Mellon Trust Company, N.A., as: (i) assignee of the 1993 Lease and trustee for the holders of lease revenue bonds issued by the Authority (the "1993 Bonds"), to be applied to the prepayment of the principal amount of the 1993 Lease Payments that may be prepaid under the 1993 Lease and redemption of a corresponding amount of 1993 Bonds; (ii) trustee for the 1999 Bonds, to be applied to the redemption of the outstanding 1999 Bonds; and (ii) disbursing agent, to be applied to pay costs of issuance incurred by the City in connection with the execution and delivery of the Lease.

3. Representations and Warranties of Authority. The Authority represents and warrants that it has made no prior sale or assignment of any interest which is the subject of this Assignment; that the Lease is genuine and in all respects is what it purports to be; that the Assignee shall not be liable for and does not assume responsibility for the performance of any of the covenants, agreements or obligations specified in the Lease Agreement to be kept, paid or performed by the Authority with exception of the Assignee's obligation to issue notices upon the City's default of the Lease. The Authority further represents and warrants that as of the date of this Assignment, the Lease is in full force and effect and the City is not in default of any of the terms set forth therein.

4. Governing Law; Severability. This Assignment shall be construed and governed in accordance with the laws of the State of California. Any provision of this Assignment 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.

5. Binding on Successors. This Assignment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, and is made in accordance with that certain Municipal Lease Placement Agreement dated as of January 1, 1999, as amended, between the Authority and the Assignee.

6. Payment of Litigation Costs. In the event of litigation between the Authority and the Assignee arising under this Assignment, the prevailing party shall be entitled to recover from the other party all costs and expenses, including attorneys' fees which may be the allocable

cost of in-house counsel, incurred by the prevailing party in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions or provisions of this Assignment.

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

**CITY OF CONCORD JOINT POWERS
FINANCING AUTHORITY, *as Assignor***

By _____
Executive Director

BANK OF AMERICA, N.A., *as Assignee*

By _____
Authorized Officer

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain land located in Contra Costa County, State of California, more fully described as follows, together with all buildings and facilities at any time situated thereon:

[to come]

**FIRST AMENDMENT TO
REIMBURSEMENT AGREEMENT**

By and between the

REDEVELOPMENT AGENCY OF THE CITY OF CONCORD

and the

CITY OF CONCORD

Dated as of June 1, 2010

**Amending that certain Reimbursement Agreement,
dated as of September 1, 1993**

**FIRST AMENDMENT TO
REIMBURSEMENT AGREEMENT**

THIS FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT, dated as of June 1, 2010, amends that certain Reimbursement Agreement, dated as of September 1, 1993, by and among the Redevelopment Agency of the City of Concord (the "Agency") and the City of Concord (the "City");

WITNESSETH:

WHEREAS, on September 21, 1993 the City entered into a Facilities Lease, dated as of September 1, 1993 (the "1993 Lease") with the City of Concord Joint Powers Financing Authority (the "Authority") in the original principal amount of \$9,700,000, in order to finance the cost of constructing and equipping certain police facilities (the "1993 Project"); and

WHEREAS, the Agency determined that the 1993 Project benefited the Central Concord Redevelopment Project, and entered into a Reimbursement Agreement with the City, dated as of September 1, 1993 (the "Reimbursement Agreement") under which the Agency agreed to reimburse the City for lease payments payable under the 1993 Lease (the "1993 Lease Payments") from Tax Increments (as defined in the Reimbursement Agreement); and

WHEREAS, the City and the Agency have determined that it is necessary to amend the Reimbursement Agreement to clarify that the Agency's obligation to reimburse the City for the 1993 Lease Payments also includes payments made by the City under obligations issued to refund the 1993 Lease.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

Section 1. Amendment. (a) the definition of "Lease" and " Lease Payments" in the Reimbursement Agreement shall be amended in their entirety to read as follows:

Lease

"Lease" means: (i) that certain Facilities Lease by and between the Authority as lessor and the City as lessee, dated as of September 1, 1993; (ii) the portion of the 2010 Refunding Lease, the proceeds of which were applied to refund the refundable portion of the Lease; and (iii) any other Refunding Obligations.

Lease Payments

"Lease Payments" means: (i) all amounts paid by the City as lease payments pursuant to Section 3 of the Lease; (ii) the portion of Lease Payments payable by the City under Section 4.4 of the 2010 Refunding Lease which are attributable to the portion of the 2010 Refunding Lease

applied to refund the Lease; and (iii) any payments made by the City under Refunding Obligations.

(b) the following defined terms shall be added to the Reimbursement Agreement:

“Refunding Obligations” means any obligations issued for the purpose of refunding the 2010 Refunding Lease.

“2010 Refunding Lease” means that certain Lease Agreement, dated as of June 1, 2010, between the Authority and the City, in the principal amount of \$5,073,500.

Section 2. Governing Law. This First Amendment to Reimbursement Agreement shall be governed by and construed under and in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Reimbursement Agreement as of the day and year first above written.

REDEVELOPMENT AGENCY OF THE
CITY OF CONCORD

By: _____
Chair

(S E A L)

CITY OF CONCORD

By: _____
Mayor

(S E A L)