

therewith. Notwithstanding anything to the contrary herein contained, this Sublease may not be amended in a manner such that the sum of Base Rental Payments, including Base Rental Payments payable pursuant to such amendment, and Additional Rental is in excess of the fair rental value of the Leased Property and other land and improvements leased to the City hereunder after completion of any buildings, structures or other improvements to be paid with the proceeds of any additional bonds issued in connection therewith.

(d) Payment; Credit. Each installment of Base Rental Payments payable hereunder shall be paid in lawful money of the United States of America to or upon the order of the Authority at the Principal Corporate Trust Office of the Trustee, or such other place as the Authority shall designate. Any such installment of rental accruing hereunder which shall not be paid when due shall remain due and payable until received by the Trustee, except as provided in Section 5.04 hereof, and, unless otherwise expressly provided herein, with respect to any component of such Base Rental Payment, shall bear interest at the rate of ten percent (10%) per annum from the date when the same is due hereunder until the same shall be paid. Notwithstanding any dispute between the City and the Authority, the City shall make all Rental Payments when due, without deduction or offset of any kind, and shall not withhold any Rental Payments pending the final resolution of any such dispute. In the event of a determination that the City was not liable for said Rental Payments or any portion thereof, said payments or excess of payments, as the case may be, shall, at the option of the City, be credited against subsequent Rental Payments due hereunder. Amounts required to be deposited by the City with the Trustee pursuant to this Section 5.01(d) on any date shall be reduced to the extent of amounts on deposit on such date in the Interest Fund, the Principal Fund or the Redemption Fund.

All payments to the Credit Provider by the City hereunder shall be made in immediately available funds in lawful currency of the United States of America, as directed in the Reimbursement Agreement.

(e) No Reduction in Payments. All payments made by or on behalf of the City to the Credit Provider hereunder shall be made free and clear of, and without reduction for or on account of, any present or future stamp or other taxes, levies, imposts, duties, charges, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected, withheld or assessed by any governmental or taxing authority of the United States, the State or any political subdivision of the State, excluding income taxes now or hereafter imposed on the Credit Provider (such nonexcluded taxes being called "Taxes"). If any Taxes are required to be withheld from any amounts payable to the Credit Provider hereunder, the amounts so payable to the Credit Provider shall be increased to the extent necessary to yield to the Credit Provider (after payment of all Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Sublease. Upon request by the City, the Credit Provider will provide the City with any documents required to be delivered by the Credit Provider to enable the City to obtain a reduction of, or exemption from withholding of, any Tax. Whenever any Tax is payable by the City, as promptly as possible thereafter, the City shall send the Credit Provider an original official receipt showing payment thereof.

**Section 5.02 Annual Budgets; Reporting Requirements.** The City covenants to take such actions as may be necessary to include all Base Rental Payments and Additional Rental payments due under this Sublease in its operating budget for each fiscal year commencing after

the date hereof (an "Operating Budget"). Within thirty (30) days after the beginning of each fiscal year of the City, the City shall deliver to the Credit Provider a certificate of the Director of Finance stating that the Operating Budget submitted to the City Council for adoption includes an appropriation to cover (a) the Base Rental Payments (assuming an interest rate on the Bonds equal to 125% of the greater of (i) the average interest rate on any Variable Rate Bonds during the twelve months ended in April of the preceding fiscal year or (ii) the interest rate on such Variable Rate Bonds during the last week of April of the preceding fiscal year) for the fiscal year to which such budget relates and (b) the amount by which the Base Rental Payments in the preceding fiscal year exceeded the amount appropriated therefor. Within 90 days after the beginning of each fiscal year, the City shall deliver to the Credit Provider, a copy of the resolution adopting the Operating Budget and within 120 days after the beginning of each fiscal year, the City shall deliver to the Credit Provider a copy of the final Operating Budget for such fiscal year prepared in accordance with the provisions of, and in the manner contemplated by, this Sublease. In addition, to the extent permitted by law, the City covenants to take such action as may be necessary to amend or supplement the Operating Budget appropriations for payments under this Sublease at any time and from time to time during any fiscal year in the event that the actual Base Rental Payments and Additional Rental Payments paid in any fiscal year exceeds the pro rata portion of the appropriations then contained in the City's Operating Budget.

**Section 5.03 Application of Rental Payments.** All Base Rental Payments received shall be applied first to the interest components of the Base Rental Payments currently due hereunder, then to the principal components (including any redemption premium components) of the Base Rental Payments due hereunder and thereafter to all Additional Rental due hereunder, but no such application of any payments which are less than the total rental due and owing shall be deemed a waiver of any default hereunder.

**Section 5.04 Rental Abatement.** Except to the extent of (a) amounts received in respect use and occupancy insurance, and (b) amounts, if any, otherwise legally available to the Trustee for payments in respect of any Bonds, during any period in which, by reason of material damage, destruction, title defect or condemnation there is substantial interference with the use and possession by the City of any portion of the Leased Property, Rental Payments due hereunder with respect to the Leased Property shall be abated to the extent that the annual fair rental value of the portion of the Leased Property in respect of which there is no substantial interference is less than the annual Rental Payments. The City shall notify the Trustee in writing of the amount of any such abatement. The City shall calculate the remaining fair rental value and the Credit Provider shall accept or reject such calculation within 45 days after receipt thereof; in the event the Credit Provider rejects the calculation, the City and the Credit Provider will endeavor in good faith to reach agreement as to fair rental value. In the event the City shall assign, transfer or sublease any or all of the Leased Property or other rights hereunder, as permitted by Section 2.04 hereof, for purposes of determining the fair rental value available to pay Rental Payments, fair rental value of the Leased Property shall first be allocated as provided in Section 5.03 hereof. Any abatement of Rental Payments pursuant to this Section shall not be considered an event of default as defined in Article X hereof. The City waives the benefits of Sections 1932(2) and 1933(4) of the California Civil Code and any and all other rights to terminate this Sublease by virtue of any such interference, and this Sublease shall continue in full force and effect. Such abatement shall continue for the period commencing with the date of such damage, destruction, title defect or condemnation and ending with the substantial completion of

the work of repair or replacement of the portions of the Leased Property so damaged, destroyed, defective or condemned.

In the event that rental is abated, in whole or in part, pursuant to this Section due to damage, destruction, title defect or condemnation of any part of the Leased Property and the City is unable to repair, replace or rebuild the Leased Property from the proceeds of insurance, if any, the City agrees to apply for and to use its best efforts to obtain any appropriate state and/or federal disaster relief in order to obtain funds to repair, replace or rebuild the Leased Property.

**Section 5.05 Prepayment of Rental Payments.** (a) The City may prepay all or a portion of the Base Rental Payments, from any source of available moneys, by paying (i) all or a portion, as elected by the City, of the principal components of the Base Rental Payments and (ii) the accrued but unpaid interest component of such Base Rental Payments to be prepaid to the date of such prepayment.

(b) The City may prepay, from eminent domain proceeds or net insurance proceeds received by it pursuant to Section 7.01 hereof, (i) all or any portion of the principal components of Base Rental Payments then unpaid, in whole on any date, or in part on any Interest Payment Date and (ii) the accrued but unpaid interest component of such Base Rental Payments to be prepaid to the date of such prepayment.

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

**Section 5.06 Obligation to Make Rental Payments.** The agreements and covenants on the part of the City contained herein shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the agreements and covenants contained herein agreed to be carried out and performed by the City.

THE OBLIGATION OF THE CITY TO MAKE RENTAL PAYMENTS DOES NOT CONSTITUTE AN OBLIGATION OF THE CITY FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION. THE OBLIGATION TO MAKE SUCH RENTAL PAYMENTS DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. THE OBLIGATION TO MAKE SUCH RENTAL PAYMENTS IS NOT A DEBT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, EXCEPT OF THE CITY, TO THE EXTENT SET FORTH IN THIS SUBLEASE.

**Section 5.07 Additional Bonds.** In addition to the Bonds, the Authority may, from time to time, issue additional bonds on a parity with the Bonds, the proceeds of which may be used for any lawful purpose by the City; provided that prior to or concurrently with the issuance of the additional bonds, the City and the Authority shall have entered into an amendment to this Sublease providing for an increase in the Base Rental Payments to be made hereunder subject to the limitations set forth in Section 5.01(c)(ii) hereof.

## ARTICLE VI

### MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES

**Section 6.01 Maintenance of the Leased Property by the City.** The City agrees that, at all times during the term hereof, it will, at its own cost and expense, maintain, preserve and keep the Leased Property and every portion thereof in good repair, working order and condition and that it will from time to time make or cause to be made all necessary and proper repairs, replacements and renewals. The Authority shall have no responsibility in any of these matters or for the making of additions or improvements to the Leased Property.

**Section 6.02 Taxes, Other Governmental Charges and Utility Charges.** The parties hereto contemplate that the Leased Property will be used for public purposes by the City and, therefore, that the Leased Property will be exempt from all taxes presently assessed and levied with respect to real and personal property, respectively. In the event that the use, possession or acquisition by the City or the Authority of the Leased Property is found to be subject to taxation in any form, the City will pay during the term hereof, as the same respectively become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Leased Property and any other property acquired by the City in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Leased Property, as well as all gas, water, steam, electricity, heat, power, air conditioning, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Leased Property; provided, that with respect to any governmental charges or taxes that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are accrued during such time as this Sublease is in effect.

**Section 6.03 Insurance.** (a) The City shall procure or cause to be procured and maintain or cause to be maintained throughout the term hereof for the Leased Property insurance against the following risks in the following respective amounts:

(i) insurance against loss or damage to the Leased Property caused by fire or lightning, with an extended coverage endorsement and vandalism and malicious mischief insurance and sprinkler system leakage insurance and boiler insurance, which such extended coverage insurance shall cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. The insurance required by this paragraph shall be in an amount equal to the lesser of (A) the replacement cost (without deduction for depreciation) of improvements located on the Leased Property or (B) the principal amount of all

Outstanding Bonds plus the amount of use and occupancy coverage required by paragraph (ii) below (except that such insurance may be subject to deductible clauses of not to exceed the first \$25,000 of the amount of any one loss or such greater amount as may be covered by any self insurance method or plan permitted by this Section); insurance contemplated by this paragraph (i) and by paragraph (ii) below may be in the form of a policy which covers the Leased Property and one or more additional parcels of real property insured by the City, provided that the amount of coverage available thereunder shall be at least equal to the lesser of (A) the cumulative replacement values of the Leased Property and any other such property which is the subject of a lease, installment purchase or other financing arrangement ("Financed Property") for which bonds, certificates of participation or other obligations shall have been issued ("Obligations") or (B) the unpaid principal or face amounts due on all Obligations and the Bonds which are Outstanding plus the amount of use and occupancy coverage required by paragraph (ii) below; in the event the City elects to obtain insurance for the Leased Property and one or more additional parcels of real property and the amount of the insurance proceeds available to pay all claims thereunder is not sufficient to cover the replacement values of all such properties, then any such proceeds shall be used first to rebuild or repair the Leased Property and all Financed Properties or to repay all Obligations and the Bonds;

(ii) use and occupancy insurance against loss, total or partial, of the use and occupancy of the Leased Property as a result of any of the hazards covered by the insurance required by paragraph (i) hereof, in an amount sufficient to pay the maximum Base Rental Payments attributable to the Leased Property for a 24-month period (measured by the Base Rental Payments for the 24 months following the month in which the insurance commences and assuming a maximum interest rate of 12% with respect to Variable Rate Bonds); provided, that the amount of such insurance need not exceed the total remaining Base Rental Payments; provided further, that such insurance may be part of a policy permitted under paragraph (i) above; the City may obtain use and occupancy insurance covering the Leased Property as well as other parcels of property owned by the City, provided that the cumulative amount thereof is at least equal to the cumulative amount of use and occupancy insurance required by this paragraph (ii) and any agreements relating to Financed Property in respect of which Obligations are outstanding;

(iii) workers' compensation insurance covering all employees working in or on the Leased Property, in the same amount and type as other workers' compensation insurance maintained by the City for similar employees doing similar work; and the City shall also require any other person or entity working in or on or otherwise occupying any portion of the Leased Property to carry the foregoing amount of workers' compensation insurance; any such policy maintained by the City may provide for a deductible so long as the deductible is covered by a self-insurance method or plan permitted by this Section; and

(iv) a standard comprehensive public entity liability insurance policy or policies in protection of the City, the Authority and their respective directors, officers and employees, the Credit Provider and the Trustee, indemnifying and defending such parties against all direct or contingent loss or liability for damages for personal injury, death or

property damage occasioned by reason of the possession, operation or use of the Leased Property, with minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$200,000 (subject to a deductible clause of not to exceed \$100,000 or such greater amount as may be covered by any self-insurance method or plan permitted by this Section) for damage to property resulting from each accident or event; provided, that such public liability damage insurance may be in the form of a single limit policy in the amount of \$3,000,000 covering all such risks and may be maintained as part of or in conjunction with any other liability insurance carried by the City.

The Trustee shall collect and receive all moneys which may become due and payable under any policies contemplated by paragraphs (i) and (ii) above, may compromise, with the consent of the Credit Provider, any and all claims thereunder and shall apply the proceeds of such insurance as provided herein or in the Indenture. All policies of insurance required by this Sublease shall be in form satisfactory to the Credit Provider. The Trustee shall not be responsible for the sufficiency of any insurance herein required. The Trustee shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the City; provided that the City shall not adjust, compromise or settle any loss without the prior consent of the Credit Provider, which consent shall not be withheld so long as a contract or contracts for the repair, reconstruction or replacement of the Leased Property in an aggregate amount not in excess of the proceeds of such insurance, plus any other moneys made available for that purpose by the City, have been executed and contain liquidated damages clauses which provide for payment to the Trustee of liquidated damages for each day that such repair, reconstruction or replacement is delayed beyond the date upon which rental interruption insurance terminates in an amount at least equal to the maximum daily Base Rental Payments payable under this Sublease.

(b) Notwithstanding the above provisions, as an alternative to providing the insurance required by paragraphs (i), (iii) and (iv) above, the City may provide a self insurance method or plan of protection for any part or all of the requirements for such insurance and, through such a plan or method, provide for deductible or retention amounts greater than those contemplated by paragraphs (i), (iii) or (iv) above. Any such self insurance maintained by the City pursuant to the foregoing Sections, shall comply with the following terms:

(i) the self insurance program shall be approved by an Insurance Consultant and the Credit Provider;

(ii) the self insurance or self-funding program shall include an actuarially sound claims reserve fund out of which each self insured claim and any deductible amount authorized by paragraphs (i), (iii) and (iv) above shall be paid; prior to the end of the first Lease Year, the adequacy of each such fund shall be evaluated by an Insurance Consultant who shall also evaluate the appropriateness of the reserving methods and practices employed in establishing and maintaining such fund; any deficiencies in any claims reserve fund shall be remedied in accordance with the recommendation of the Insurance Consultant and any recommended changes in the reserving methods or practices shall be adopted in accordance with the recommendation

of the Insurance Consultant; after the first Lease Year, at least annually and not later than November 30 of each year that is a Lease Year, the City shall provide to the Trustee and the Credit Provider a report by either the independent accountants which provide the audit report on the City's annual audited financial statements or by an Insurance Consultant, as selected by the City, as to the appropriateness of the reserving methods and practices employed by the City in funding the claims reserve fund, and any changes recommended by the report shall promptly be implemented by the City.

(iii) the claims reserve fund shall be held in a separate fund by the City;

(iv) in the event the self insurance program shall be discontinued, then the City may not maintain deductibles in excess of the amounts specified in Section 6.03 hereof; and

(v) the self insurance program will not result in loss of the use and occupancy insurance described in paragraph (ii) above.

(c) Any insurance policy issued pursuant to paragraph (i) above shall be so written or endorsed as to make losses, if any, payable to the City, the Authority, the Trustee and the Credit Provider as their respective interests may appear and the net proceeds of the insurance required by paragraph (i) above shall be applied as provided in Section 7.01 hereof. The net proceeds, if any, of the insurance policy described in paragraph (i) above shall be payable to the Trustee and deposited in the Redemption Fund, in accordance with the Indenture. The net proceeds, if any, of the insurance policy described in paragraph (ii) above shall be payable to the Trustee and deposited in the Redemption Fund. Each insurance policy provided for in this Section shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interests of the Authority, the Trustee or the Credit Provider without first giving written notice thereof to the Authority, the Trustee and the Credit Provider at least thirty (30) days in advance of such intended cancellation or modification.

The City shall file a certificate with the Trustee and the Credit Provider not later than December 31 of each year certifying that the insurance required by this Section is in full force and effect and that the Trustee and the Credit Provider are each named as a loss payee on each insurance policy which this Sublease requires to be so endorsed.

**Section 6.04 Advances.** In the event the City shall fail to maintain the full insurance coverage required hereby or shall fail to keep the Leased Property in good repair and operating condition, the Authority may (but shall be under no obligation to) purchase the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by the Authority shall become Additional Rental, which amounts the City agrees to pay within thirty (30) days of a written request therefor, together with interest thereon at the maximum rate allowed by law.

**Section 6.05 Title Insurance.** The City covenants and agrees to deliver or cause to be delivered to the Trustee on the Closing Date a CLTA leasehold owner's policy or policies with respect to the Leased Property with liability in the aggregate amount equal to the principal

amount of the Bonds. In the event of a Substitution or Addition pursuant to Section 2.06, a policy or policies must be provided only if the outstanding principal amount of the Bonds is greater than the insured amount under the existing policy or policies. Such policy or policies, when issued, shall name the Trustee and the Credit Provider as the insured and shall insure the leasehold estate of the City in the Leased Property subject only to Permitted Encumbrances and such exceptions as do not materially affect the City's right to the use and possession of the Leased Property.

## ARTICLE VII

### DAMAGE, DESTRUCTION, TITLE DEFECT AND CONDEMNATION

**Section 7.01 Damage, Destruction, Title Defect and Condemnation; Use of Net Proceeds.** If prior to the termination of the term hereof (a) the Leased Property or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty; or (b) title to, or the temporary use of, the Leased Property or any portion thereof or the estate of the City or the Authority in the Leased Property or any portion thereof is defective or shall be taken under the exercise of the power of eminent domain by any governmental body or by any person or firm or Authority acting under governmental authority, then the City and the Authority will cause the net proceeds of any insurance claim or condemnation award to be applied first to the prompt repair, restoration, modification, improvement or replacement of the damaged, destroyed, defective or condemned portion of the Leased Property; second to the extent necessary so that the amount on deposit in the Bond Reserve Fund is equal to the Bond Reserve Fund Requirement, to the Bond Reserve Fund; and third any balance of the net proceeds remaining shall be paid to the City; provided, that the City, at its option and provided the proceeds of such insurance or condemnation award together with any other moneys then available for the purpose are at least sufficient to prepay the aggregate annual amounts of principal and interest on any Outstanding Bonds attributable to the Base Rental Payments with respect to that portion of the Leased Property so destroyed, damaged, defective or condemned (determined by reference to the proportion which the fair rental value of the destroyed, damaged, defective or condemned portion thereof bears to the fair rental value of the entire Leased Property), may elect not to repair, reconstruct or replace the damaged, destroyed, defective or condemned portion of the Leased Property and thereupon shall cause said proceeds to be used for the redemption of Outstanding Bonds pursuant to the provisions of Section 4.01(f) of the Indenture.

In the event that the proceeds, if any, of said insurance or condemnation award are insufficient either to (i) repair, rebuild or replace the Leased Property so that the fair rental value of the Leased Property would be at least equal to the maximum annual Base Rental Payments remaining to be paid or (ii) to redeem Outstanding Bonds, both as provided in the preceding paragraph, then the City may, in its sole discretion, budget and appropriate an amount necessary to effect such repair, rebuilding or replacement or prepayment; provided that the failure of the City to so budget and/or appropriate shall not be a breach of or default under this Sublease.



## ARTICLE VIII

### DISCLAIMER OF WARRANTIES; VENDOR'S WARRANTIES; USE OF THE LEASED PROPERTY

**Section 8.01 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 PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY, OR WARRANTY WITH RESPECT THERETO. THE CITY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, THAT THE CITY LEASES THE LEASED PROPERTY AS IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event shall the Authority or its assigns be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Sublease or the existence, furnishing, functioning or the City's use of the Leased Property as provided hereby.

### **Section 8.02 Use of the Leased Property; Improvements.**

(a) The City will not use, operate or maintain the Leased Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated hereby. The City shall provide all permits and licenses, if any, necessary for the use of the Leased Property. In addition, the City agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each portion of the Leased Property) with all laws of the jurisdictions in which its operations involving any portion of the Leased Property may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Leased Property; provided, that the City may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the City, adversely affect the estate of the Authority in and to the Leased Property or its interest or rights hereunder.

(b) Pursuant to Section 3 of the Lease, the City agrees that it will promptly commence and complete the construction and installation of the Project, and will use the sums on deposit therefor in the Project Fund established pursuant to Section 3.04 of the Indenture. The Authority hereby grants and assigns to the City rights of access to all amounts in the Project Fund established pursuant to Section 3.04 of the Indenture and to use and withdraw such amounts for the Project in accordance with Section 3.04 of the Indenture.

## ARTICLE IX

### ASSIGNMENT AND INDEMNIFICATION

**Section 9.01 Assignment by Authority.** The parties understand that certain of the rights of the Authority hereunder and under the Lease will be assigned to the Trustee pursuant to the Indenture, and accordingly the City agrees to make all Base Rental Payments due hereunder to the Trustee under the Indenture, except as otherwise provided with respect to Rental Payments

due to the Credit Provider, and all other payments due hereunder to the appropriate parties, notwithstanding any claim, defense, setoff or counterclaim whatsoever (whether arising from a breach hereof or otherwise) that the City may from time to time have against the Authority. The City agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements which may be reasonably requested by the Authority, the Credit Provider or the Trustee to protect their interests in the Leased Property during the term hereof.

**Section 9.02 Assignment by Lessee.** This Sublease and the interest of the City in the Leased Property may not be assigned or encumbered by the City except as permitted by Section 2.04 hereof.

**Section 9.03 Indemnification.** The City shall, to the full extent then permitted by law, indemnify, protect, hold harmless, save and keep harmless the Authority, the Credit Provider, the Trustee and the Tender Agent and their respective directors, officers and employees from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest arising out of or as the result of the entering into of this Sublease, the acquisition, construction, installation and use of the Project or the Leased Property and each portion thereof or any accident in connection with the operation, use, condition or possession of the Project or the Leased Property or any portion thereof resulting in damage to property or injury to or death to any person including, without limitation, any claim alleging latent and other defects, whether or not discoverable by the City, the Authority, the Credit Provider, the Trustee or the Tender Agent; any claim for patent, trademark or copyright infringement; and any claim arising out of strict liability in tort. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations hereunder or the termination of this Sublease for any reason or the resignation or removal of the Trustee. The City and the Authority mutually agree to promptly give notice to each other of any claim or liability hereby indemnified against following either's learning thereof.

## ARTICLE X

### DEFAULT AND REMEDIES

**Section 10.01 Default.** (a) The following events shall be "events of default" under this Sublease and the terms "event of default" and "default" shall mean, whenever they are used in this Sublease, any one or more of the following events:

(i) the City shall fail to deposit with the Trustee any Base Rental Payment required to be so deposited by the close of business on the day such deposit is required pursuant to Section 5.01(a) hereof, provided, that any Base Rental Payments abated pursuant to Section 5.04 hereof shall not constitute an event of default;

(ii) the City shall fail to pay any item of Additional Rental when the same shall become due and payable pursuant to Section 5.01(b) hereof, provided that any Additional Rental abated pursuant to Section 5.04 hereof shall not constitute an event of default;

(iii) the City shall breach any other terms, covenants or conditions contained herein or in the Indenture, and shall fail to remedy any such breach with all reasonable dispatch within a period of thirty (30) days after written notice thereof from the Authority to the City; provided, however, that if the failure stated in the notice cannot be corrected within such period, then the Authority shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such period and is diligently pursued until the default is corrected;

(iv) the City shall receive notice from the Credit Provider that an event of default has occurred under the Reimbursement Agreement; or

(v) if (A) the City's interest herein or any part thereof be assigned, sublet or transferred without the written consent of the Authority and the Credit Provider (except as otherwise permitted by Section 2.04 hereof), either voluntarily or by operation of law; or (B) the City or any assignee shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the City asks or seeks or prays to be adjudicated a bankrupt, or is to be discharged from any or all of its debts or obligations, or offers to its creditors to effect a composition or extension of time to pay its debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of its debts or for any other similar relief, or if the City shall make a general or any assignment for the benefit of its creditors; or (C) the City shall abandon or vacate the Leased Property or any portion thereof (except as permitted by Section 2.04 hereof); then in each and every such case the City shall be deemed to be in default hereunder.

(b) Upon the happening of any of the events specified in subsection (a) of this Section, then it shall be lawful for the Authority or its assignee, subject to the terms of the Lease, with the consent of the Credit Provider, to (i) exercise any and all remedies available or granted to it hereunder or pursuant to law, to the extent not inconsistent with the remedies granted hereunder or (ii) by mandamus or other suit, action or proceeding at law or in equity to enforce the Authority's or its assignee's rights against the City and to compel the City to perform and carry out its duties and obligations under the law and its covenants and agreements with the City as provided herein. Upon the breach of any agreement, condition, covenant or term contained herein required to be observed or performed by the City, the Authority or its assignee may not exercise any rights of entry upon or repossession of the Leased Property. In the event of such default, the Authority or its assignee must thereafter maintain this Sublease in full force and effect and may only recover rent and other monetary charges as they become due, all without terminating the City's right to possession of the Leased Property, regardless of whether or not the City has abandoned the Leased Property; THIS SHALL BE THE SOLE AND EXCLUSIVE REMEDY AVAILABLE AGAINST THE CITY UNDER THIS SUBLEASE OR OTHERWISE. THE AUTHORITY SHALL HAVE NO RIGHT UPON AN EVENT OF DEFAULT HEREUNDER BY THE CITY TO ACCELERATE THE RENTAL PAYMENTS, TERMINATE THIS SUBLEASE OR RE-ENTER THE LEASED PROPERTY.

The Authority expressly waives the right to receive any amount from the City pursuant to Section 1951.2(a)(3) of the California Civil Code.

(c) Neither the City nor the Authority shall be in default in the performance of any of its obligations hereunder (except for the obligation to make Base Rental Payments pursuant to Section 5.01 hereof) unless and until it shall have failed to perform such obligation within thirty (30) days after notice by the City or the Authority, as the case may be, to the other party properly specifying wherein it has failed to perform such obligation.

## ARTICLE XI

### MISCELLANEOUS

**Section 11.01 Notices.** All written notices to be given hereunder shall be given by Electronic Means (unless otherwise provided herein) and confirmed in writing as soon as practicable. Any notice required to be given to Owners shall also be given to the Credit Provider. Any notice to or demand upon the Trustee may be served or presented, and such demand may be made, at the Principal Corporate Office of the Trustee (original address shown below), or at such other address as may have been filed in writing by the Trustee to the City and the Authority. Any notice to or demand upon the Authority or the City shall be deemed to have been sufficiently given or served for all purposes by being delivered or sent by telex or by being deposited, postage prepaid, in a post office letter box, addressed, as the case may be, to the respective following addresses (or to such other address as may have been filed in writing by such party with the Trustee):

If to the Authority:	Pasadena Public Financing Authority c/o The City of Pasadena 117 East Colorado Boulevard Pasadena, California 91105 Attention: Acting Director of Finance
If to the City:	City of Pasadena 117 East Colorado Boulevard Pasadena, California 91105 Attention: Acting Director of Finance
If to the Trustee:	Deutsche Bank National Trust Company, N.A. 101 California Street San Francisco, California 94111 Attention: Trust Department
If to the Credit Provider with respect to credit matters, to:	Citibank, N.A. 390 Greenwich Street New York, New York 10013 Attention: Muni Credit Surveillance 8th Floor

If to the Credit Provider  
with respect to operations/  
money transfer issues, to:

Citibank, N.A.  
c/o Citicorp North America, Inc.  
3800 Citibank Center, Building B, Third Floor  
Tampa, Florida 33610  
Attention: Standby Letter of Credit Department

**Section 11.02 Binding Effect.** This Sublease shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns.

**Section 11.03 Credit Provider as Third Party Beneficiary.** The Credit Provider is hereby designated a third party beneficiary hereunder for the purpose of enforcing any rights granted the Credit Provider hereunder.

**Section 11.04 Net Lease.** It is the purpose and intent of the Authority and the City that lease payments hereunder shall be absolutely net to the Authority so that this Sublease shall yield to the Authority the Rental Payments, free of any charges, assessments or impositions of any kind charged, assessed or imposed on or against the Leased Property, and without counterclaim, deduction, defense, deferment or set off by the City except as herein specifically otherwise provided. The Authority shall not be expected or required to pay any such charge, assessment or imposition, or be under any obligation or liability hereunder except as herein expressly set forth, and all costs, expenses and obligations of any kind relating to the maintenance and operation of the Leased Property which may arise or become due during the term of this Sublease shall be paid by the City.

**Section 11.05 Amendments.** (a) The provisions of this Sublease and the Lease and the rights and obligations of the City and the Authority may be modified, amended or supplemented from time to time and at any time when the written consent of the Credit Provider and the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding shall have been filed with the Trustee, or if less than all of the Outstanding Bonds are affected, the written consent of the Owners of at least a majority in aggregate principal amount of all affected Outstanding Bonds; provided that if such modification, amendment or supplement shall, by its terms, not take effect so long as Bonds of any particular maturity remain Outstanding, and, with respect to Variable Rate Bonds if the conditions of subsection (c) of this Section are satisfied, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any such calculation of Bonds Outstanding for purposes of this Section. No such modification, amendment or supplement shall (i) extend the payment date of any Base Rental Payment, or reduce the principal or interest component of any Base Rental Payment, without the consent of the Owner of each Bond so affected; or (ii) reduce the aforesaid percentage of Bonds, the consent of the Owners of which is required to effect any such modification, amendment or supplement, without the consent of the Owners of all of the Bonds then Outstanding; or (iii) modify the rights or obligations of the Credit Provider without the consent of such Credit Provider.

It shall not be necessary for the consent of the Owners to approve the particular form of any amendment or supplement, but it shall be sufficient if such consent shall approve the substance thereof.

Prior to the adoption of any amendment or supplement to this Sublease or the Lease for any of the purposes of this Section, the City shall cause notice of the proposed adoption of such amendment or supplement to be mailed, by first class mail, postage prepaid, to the Owners of all Outstanding Bonds (or the affected Outstanding Bonds) at their addresses appearing on the bond register. Such notice shall briefly set forth the nature of the proposed amendment or supplement and shall state that copies thereof are on file at the Principal Corporate Trust Office of the Trustee for inspection by each Owner of an Outstanding Bond.

Whenever, at any time after the date of the mailing of the notice of the proposed adoption of an amendment or supplement to this Sublease or the Lease, the City shall have received an instrument or instruments in writing executed by or on behalf of the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding, or if less than all of the Outstanding Bonds are affected, the Owners of not less than a majority in aggregate principal amount of the affected Outstanding Bonds, which instrument or instruments shall refer to the proposed amendment or supplement described in the notice of the proposed adoption of such amendment or supplement and shall consent to the adoption thereof in substantially the form referred to in such notice, and the consent of the Credit Provider has been obtained, thereupon but not otherwise, the City and the Authority may adopt such amendment or supplement in substantially such form, without liability or responsibility to any Owner of any Bond, whether or not such Owner shall have consented thereto, and no Owner of any Bond shall have any right to object to such adoption, or to object to any of the terms and provisions contained therein or the operation thereof or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City Council or the Board of Directors from adopting the same or from taking any action pursuant to the provisions thereof.

(b) This Sublease and the Lease and the rights and obligations of the City and the Authority, the Trustee and the Owners of the Outstanding Bonds may also be modified, amended or supplemented from time to time and at any time with the consent of the Credit Provider but without the consent of any Owners of Bonds, so long as such modification, amendment or supplement shall not materially, adversely affect the interests of the Owners of the Bonds, for any one or more of the following additional purposes:

(i) to add to the conditions, covenants and agreements of the City or the Authority contained in this Sublease or the Lease other conditions, covenants and agreements thereafter to be observed or performed by the City or the Authority, or to surrender any right or power herein reserved to or conferred upon the City or the Authority;

(ii) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Sublease or the Lease, or in regard to matters or questions arising under this Sublease or the Lease, as the case may be, as the City may deem necessary or desirable;

(iii) to effect a Substitution, Addition or Removal in accordance with Section 2.06 hereof;

(iv) to facilitate the issuance of additional bonds as provided in Section 5.07 hereof;

(v) as required to set forth provisions in connection with the conversion of the interest rate on the Bonds to another Mode;

(vi) to modify, amend or supplement this Sublease in any other respect.

(c) Notwithstanding anything contrary in this Section, the provisions of this Sublease and the Lease may also be modified, amended or supplemented, including modifications, amendments and supplements which would otherwise be described in subsection (a) of this Section, without the consent of the Owners of Bonds constituting Variable Rate Bonds if (i) the effective date of such amendment or supplement is a date on which such Bonds are subject to mandatory tender for purchase pursuant to the Indenture or (ii) the notice described in the third paragraph of subsection (a) of this Section is given to Owners of such Bonds at least thirty (30) days before the effective date of such amendment or supplement, and on or before such effective date, such Owners of Bonds have the right to demand purchase of their Bonds pursuant to the Indenture.

(d) Notwithstanding anything contained in this Article to the contrary, to the extent the consent of Owners is required in connection with any amendment, modification or supplement of this Sublease or the Lease, the Credit Provider and not the Owners of such Bonds shall be entitled to consent to the adoption of any modification, amendment or supplement to this Sublease or the Lease, as the case may be, references to the Owners of the Bonds in connection with such consent shall be deemed references to the Credit Provider, and the consent of the Credit Provider shall be deemed the consent of the Owners of the Bonds for all purposes of this Sublease or the Lease, as the case may be.

**Section 11.06 Discharge of City.** Upon the payment, or making provision for the payment, of all Outstanding Bonds, in accordance with Article X of the Indenture, and payment in full of all amounts owing to the Credit Provider, all of the obligations of the City hereunder shall thereupon cease, terminate and become void and shall be discharged and satisfied.

**Section 11.07 Continuing Disclosure.** The City hereby covenants to comply with and carry out all of the provisions of a disclosure agreement with respect to the Bonds, if required by the provisions of Rule 15c2-12 promulgated by the Securities and Exchange Commission (as amended from time to time, the "Rule"), that complies with the provisions of the Rule and is in form and substance satisfactory to the Participating Underwriters (as defined in the Rule). Notwithstanding any provision of the Sublease, failure of the City to enter into and comply with such a disclosure agreement shall not be considered an event of default thereunder; however, any Owner or beneficial owner may and the Trustee, at the written request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Bonds, shall, but only to the extent it has been indemnified to its satisfaction from any loss, liability or expense, including without limitation, fees and expenses of its attorneys and advisors and additional fees and expenses of the Trustee, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations hereunder.

**Section 11.08 Reference to Credit Provider.** All provisions hereof regarding consents, approvals, directions, appointments or requests by the Credit Provider shall be deemed not to require or permit such consents, approvals, directions, appointments or requests by the Credit Provider during any time in which no Credit Facility is in effect and no amounts are owing to the Credit Provider, or the Credit Provider has failed to honor a demand for payment presented to it in strict conformance with the applicable provisions of the Credit Facility, or after the Credit Facility shall at any time for any reason cease to be valid and binding on the Credit Provider, or while the Credit Provider is denying further liability or obligation under the Credit Facility (unless such Credit Facility has been fully drawn or to the extent that the conditions to payment thereunder have not been fully satisfied) or after the Credit Provider has rescinded, repudiated or terminated the Credit Facility and no amounts are owing to the Credit Provider; provided, however, that nothing contained in this Section shall limit the rights hereunder at any time amounts are owing to the Credit Provider or the rights of the Credit Provider as a Owner of Credit Provider Bonds.

**Section 11.09 Partial Invalidity.** If any one or more of the agreements, conditions, covenants or terms hereof 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 agreements, conditions, covenants or terms hereof shall be affected thereby, and each provision of this Sublease shall be valid and enforceable to the fullest extent permitted by law.

**Section 11.10 California Law.** This Sublease shall be governed by and construed and interpreted in accordance with the laws of the State.

**Section 11.11 Section Headings.** All Section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision hereof.

**Section 11.12 Execution in Counterparts.** This Sublease may be executed and entered into in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.



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

**PASADENA PUBLIC FINANCING  
AUTHORITY**

By \_\_\_\_\_  
Cynthia J. Kurtz,  
Executive Director

ATTEST:

\_\_\_\_\_  
Jane L. Rodriguez,  
Secretary

**CITY OF PASADENA**

By \_\_\_\_\_  
Steven B. Mermell,  
Acting Director of Finance

(SEAL)

ATTEST:

\_\_\_\_\_  
Jane L. Rodriguez,  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Michele Beal Bagneris,  
City Attorney

**EXHIBIT A**

**DESCRIPTION OF LEASED PROPERTY**

**EXHIBIT B**

**BASE RENTAL PAYMENTS SCHEDULE**

<b>Annual Base Rental for the Lease Year Ending in</b>	<b>Principal Component of Base Rental Payment Due First Business Day of December*</b>
2006	
2007	
2008	
2009	
2010	
2011	
2012	
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023	

Interest Component of Base Rental Payments. The interest component of Base Rental Payments due hereunder shall be equal to the interest on the outstanding Bonds as the interest rate payable with respect to the Bonds is designated from time to time pursuant to the Indenture. Such interest components of the Base Rental Payments will be due and payable hereunder on each Interest Payment Date in immediately available moneys and shall be in an amount equal to the interest on the outstanding Bonds which is due and payable on such Interest Payment Date.

\* Subject to adjustment as provided in Section 5.05 as a result of the prepayment of Base Rental Payments pursuant to such Section.

## **EXHIBIT C**

### **DESCRIPTION OF IMPROVEMENTS**

The Rose Bowl Improvements consist of the acquisition, construction and installation of locker facilities and a media center to the Rose Bowl Stadium.

The City Hall Improvements consist of the seismic retrofitting of City Hall.

STATE OF CALIFORNIA )

) ss.

COUNTY OF LOS ANGELES )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

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[Notarial Seal]

