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TO BE RECORDED AND WHEN RECORDED

RETURN TO:

Nixon Peabody LLP

555 West Fifth Street 46th Floor

Los Angeles, California 90013

Attention: Charles C. Wolf, 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

This LEASE AGREEMENT (this "Lease"), dated as of December 1, 2010, is between the RICHMOND JOINT POWERS FINANCING AUTHORITY, a joint powers authority duly organized and existing under the Joint Powers Agreement, dated as of December 1, 1989, by and between the City of Richmond and the Richmond Redevelopment Agency, and under the laws of the State of California (the "Authority"), as lessor, and the CITY OF RICHMOND, a charter city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City"), as lessee.

BACKGROUND:

1. The City has determined to finance certain improvements to three fire stations located generally in the City of Richmond, and in order to accomplish such financing the City has agreed to lease the real property located at 4801 Bayview Avenue, Richmond California, as such real property is described more fully in Appendix A attached hereto and made a part hereof (the "Leased Property") to the Authority by entering into a Site Lease dated as of December 1, 2010 (the "Site Lease"), which has been recorded concurrently herewith;

2. The Authority has agreed to assist the City accomplish such financing by entering into this Lease, pursuant to which the Authority will sublease the Leased Property back to the City and the City will be obligated to make lease payments to the Authority;

3. In order to raise the funds needed for that purpose, the Authority has assigned certain of its rights under this Lease and the Site Lease, including the right receive and enforce payment of the lease payments that are payable by the City hereunder, to Bank of America, N.A., under an Assignment Agreement dated as of December 1, 2010 (the "Assignment Agreement"), which has been recorded concurrently herewith; and

4. The City is authorized to enter into a lease-leaseback arrangement with the Authority under Section 37350 of the California Government Code and under its municipal affairs powers as a charter city.

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.

"Additional Payments" means any and all amounts payable by the City hereunder (other than Lease Payments), including rebate payments to the federal government.

"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:

- (a) the existence, cleanup, and/or remedy of contamination on property;
- (b) the protection of the environment from spilled, deposited, or otherwise emplaced contamination;
- (c) the control of hazardous wastes; or

(d) the use, generation, transport, treatment, removal, or recovery of Hazardous Substances, including building materials.

“Assignee” means Bank of America, N.A., as assignee of certain rights of the Authority hereunder, its successors and assigns.

“Assignment Agreement” means the Assignment Agreement dated as of December 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 Richmond Joint Powers Financing Authority, a joint powers agency duly organized and existing under the Joint Powers Agreement, dated as of December 1, 1989 by and between the City and the Richmond Redevelopment Agency, and the laws of the State of California.

“Bond Counsel” means any 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 Richmond, a charter city and municipal corporation organized and existing 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 December 22, 2010.

“Event of Default” means any of the events of default as defined in Section 8.1.

“Facilities” means all buildings and other improvements at any time situated on the Site.

“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 December 1, 2010, between the Authority and the City, as originally executed or as thereafter amended under any duly authorized and executed amendments hereto.

“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.

“Lease Payment Date” means December 15 and June 15 in each year, commencing June 15, 2011, and continuing to and including the date on which the Lease Payments are paid in full.

“Leased Property” means, collectively, the Site and the Facilities.

“Net Proceeds” means amounts derived from any policy of casualty insurance or title insurance with respect to the Leased Property, or the proceeds of any taking of the Leased Property or any portion thereof in eminent domain proceedings (including sale under threat of such proceedings), to the extent remaining after payment therefrom of all expenses incurred in the collection and administration 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 Agreement; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions disclosed in the title insurance policy required by Section 5.7 with respect to the Leased Property issued as of the Closing Date; and (e) any easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the City certifies in writing will not materially impair the use of the Leased Property for its intended purposes.

“Rental Period” means each period during the Term of the Lease commencing on and including December 2 in each year and extending to and including the next succeeding December 1. The first Rental Period begins on the Closing Date and ends on December 1, 2011.

“Site” means the real property which is more particularly described in Appendix A. From and after the date of any substitution of property under Section 4.7 or release of property under Section 4.8, the term “Site” means the real property which remains subject to this Lease following such substitution or release.

“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 charter city and municipal corporation 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 the Site Lease and this Lease and to carry out and consummate all transactions contemplated thereby and hereby, and by proper action the City has duly authorized the execution and delivery of the Site Lease and this Lease.
- (b) Due Execution. The representatives of the City executing the Site Lease and 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. The Site Lease and this Lease have each been duly authorized, executed and delivered by the City and each constitutes the legal, valid and binding agreement of the City enforceable against the City in accordance with its terms.
- (d) No Conflicts. The execution and delivery of the Site Lease and this Lease, the consummation of the transactions therein and herein contemplated and the fulfillment of or compliance with the terms and conditions thereof and hereof, do not and will not conflict with or constitute a violation or breach

of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease or 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 the Site Lease or this Lease, or the consummation of any transaction therein or 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 the Site Lease or 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 the Site Lease or this Lease, or the financial condition, assets, properties or operations of the City.
- (g) Essential Purpose. The Leased Property and the financing pursuant to this Lease and the Assignment Agreement are essential to the City's efficient and economic operation, and are in the best interests of the City.
- (h) Budget. The obligations of the City under this Lease, including without limitation the obligation to make Lease Payments, are obligations payable from the City's general fund budget.
- (i) Available Funds. The City has funds available for the payment of Lease Payments due during the current Fiscal Year and reasonably believes that

sufficient funds can be obtained to make all Lease Payments and payments of other amounts required to be paid hereunder.

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 powers agency duly organized and existing under the laws of the State of California, has full legal right, power and authority to enter into the Site Lease, this Lease and the Assignment Agreement 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 Agreement.
- (b) Due Execution. The representatives of the Authority executing the Site Lease, this Lease and the Assignment Agreement are fully authorized to execute the same under official action taken by the Commission of the Authority.
- (c) Valid, Binding and Enforceable Obligations. The Site Lease, this Lease and the Assignment Agreement have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of the Site Lease, this Lease and the Assignment Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease, this Lease and the Assignment Agreement or the financial condition, assets, properties or operations of the Authority.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any

governmental authority is necessary in connection with the execution and delivery of the Site Lease, this Lease or the Assignment Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

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

ARTICLE III

LEASE OF LEASED PROPERTY; LEASE PAYMENTS

SECTION 4.1. *Lease of Leased Property by Authority to City*. For and in consideration of the application by the Authority of funds in accordance with Section 3.1, the Authority leases the Leased Property to the City and the City hereby leases from the Authority, pursuant to this Lease upon the terms and provisions hereof.

SECTION 4.2. *[Reserved]*.

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.

SECTION 4.4. *Lease Payments*.

(a) Obligation to Pay. Subject to the provisions of Section 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. The interest components of the Lease Payments have been calculated

based on an interest rate of 6.50% per annum, on the basis of a 360-day year of twelve 30-day months.

(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 in inverse order of maturity; 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 8.00% 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 deposit 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 legally available funds of the City, subject to the provisions of Sections 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 Agreement, 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 Authority shall hold leasehold 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 allocable to the Leased Property, or upon the deposit by the City of security for such Lease Payments as provided in Section 9.1, all right, title and interest of the Authority in and to the 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. *Substitution of Property.* With the prior written consent of the Assignee, the City may substitute other land, facilities, improvements, equipment or other property (the "Substitute Property") for the Leased Property or any portion thereof (the "Former Property"), provided that the City has satisfied all of the following requirements which are hereby declared to be conditions precedent to such substitution:

- (a) No Event of Default has occurred and is continuing.
- (b) The City has filed with the Authority and the Assignee, and caused to be recorded in the Office of the Contra Costa County Recorder sufficient memorialization of, an amended Appendix A to this Lease which adds thereto a description of such Substitute Property and deletes therefrom the description of such Former Property.
- (c) The City has obtained a CLTA policy of title insurance insuring the City's leasehold estate hereunder in the Substitute Property, in an amount at least equal to the aggregate unpaid principal components of the Lease Payments and naming the Assignee as an additional insured.
- (d) The City has certified in writing to the Authority and the Assignee that such Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California.
- (e) The Substitute Property does not cause the City to violate any of its covenants, representations and warranties made herein.
- (f) The City has certified in writing to the Authority and the Assignee that the estimated value and the estimated fair rental value of the Substitute Property

are at least equal to the estimated value and the estimated fair rental value, respectively, of the Former Property, and that the useful life of the Substitute Property extends to June 15, 2025.

- (g) The City has delivered to the Authority and the Assignee an Opinion of Bond Counsel to the effect that such substitution of Leased Property will not affect the City's eligibility to receive subsidy payments from the federal government with respect to the interest portion of the Lease Payments.

If at any time the Facilities are 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 Facilities under this Section 4.7; *provided, however*, that nothing in this paragraph shall supercede the provisions of Article VI.

Upon the satisfaction of all conditions precedent to any substitution under this Section 4.7, the Term of this Lease will thereupon end as to the Former Property and commence as to the Substitute Property. The Authority and the City shall execute, deliver and cause to be recorded all documents required to discharge this Lease and the Assignment Agreement of record against the Former Property.

SECTION 4.8. *Release of Property.* With the prior written consent of the Assignee, the City may release any portion of the Leased Property from this Lease (the "Released Property") provided that the City has satisfied all of the following requirements which are hereby declared to be conditions precedent to such release:

- (a) No Event of Default has occurred and is continuing.
- (b) The City has filed with the Authority and the Assignee, and caused to be recorded in the Office of the Contra Costa County Recorder sufficient memorialization of, an amendment hereof which removes the Released Property from this Lease.
- (c) The City has certified in writing to the Authority and the Assignee that the value of the property which remains subject to this Lease following such release is at least equal to the aggregate unpaid principal components of the Lease Payments, and the fair rental value of the property which remains subject to this Lease following such release is at least equal to the Lease Payments thereafter coming due and payable hereunder.
- (d) The City has delivered to the Authority and the Assignee an Opinion of Bond Counsel to the effect that such release of Leased Property will not affect the City's eligibility to receive subsidy payments from the federal government with respect to the interest portion of the Lease Payments.

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 and the Assignment Agreement of record against the Released Property.

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 are the sole responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the 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 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 City, the Authority 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 of at least \$1,000,000.00 and may be subject to such deductibles as the City deems 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. *Casualty Insurance; Flood Coverage.*

(a) Requirement to Maintain Casualty Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, casualty insurance against loss or damage to the Facilities by fire and lightning, with extended coverage insurance, vandalism and malicious mischief insurance and sprinkler system leakage insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount at least equal to the lesser of (i) the replacement value of the insured Facilities, or (ii) the aggregate unpaid principal components of the Lease Payments, and may be subject to such deductibles as the City deems 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 Net Proceeds of such insurance as provided in Article VI.

(b) Flood Insurance. So long as the Leased Property is located in a 100-year flood area as shown on a Flood Insurance Rate Map published by the Federal Emergency Management Agency, the policy or policies of casualty insurance provided under this Section 5.4 shall include insurance against loss or damage to the Facilities due to flooding. If the City obtains an exception or waiver to the designation of the Facilities as being within a 100-year flood area from the Federal Emergency Management Agency, the City shall not be required to provide flood insurance as set forth in this subsection (b).

(c) Federal or State Disaster Aid. Should the Facilities be damaged or destroyed as a result of an event for which federal or State of California disaster aid is available, the Authority and/or the City shall promptly apply for disaster aid. Any disaster aid proceeds received shall be used to repair, reconstruct, restore or replace the damaged or destroyed portions of the Facilities, or, at the option of the City and the Authority, to prepay the Lease Payments if permitted under the disaster aid program.

(d) Self-Insurance. As an alternative to providing the insurance required by this Section, the City may provide a self-insurance method or plan of protection if and to the extent such self-insurance method or plan of protection affords reasonable coverage for the risks required to be insured against, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State of California other than the City. Before such other method or plan may be provided by the City, and annually thereafter so long as such method or plan is being provided to satisfy the requirements of this Lease, there shall be filed with the Authority a certificate of an actuary, insurance consultant or other qualified person (who may be an employee of the City), stating that, in the opinion of the signer, the substitute method or plan of protection is in accordance with the requirements of this Section and, when effective, would afford reasonable coverage for the risks required to be insured against. There shall also be filed a certificate of the City setting forth the details of such substitute method or plan. In the event of loss covered by any such self-insurance method, the liability of the City hereunder shall be limited to the amounts in the self-insurance reserve fund or funds created under such method.

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. Such rental interruption or use and occupancy insurance shall not be self-insured and the City acknowledges that this requirement may limit their ability to self-insure under Section 5.4. 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 the Assignment Agreement and 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 Assignee's interests in the estate established hereunder in the Leased Property, subject only to Permitted Encumbrances, in an amount equal to the original principal components of the Lease Payments. The City will apply the Net Proceeds received under such title insurance policy to prepay the remaining Lease Payments under Section 9.3.

SECTION 5.8. *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 ten days before the cancellation or revision becomes effective. Each insurance policy or rider required by Sections 5.3, 5.4 and 5.5 shall 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 PROCEEDS; ABATEMENT OF LEASE PAYMENTS

SECTION 6.1. *Deposit of Net Proceeds.* The Net Proceeds of any taking of the Leased Property or any portion thereof in eminent domain proceedings, and the Net Proceeds of any policy of insurance maintained under Section 5.4, shall be paid to the City or the Authority to be applied as hereinafter set forth in Section 6.2.

SECTION 6.2. *Application of Net Proceeds.* If the Leased Property is taken in eminent domain proceedings at any time during the Term of this Lease, or if the Leased Property is damaged due to an insured casualty which is covered by a policy of insurance maintained under Section 5.4, the City shall as soon as practicable after such event, with the prior written consent of the Assignee, 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 Assignee's reasonable approval, whereupon such replacement shall be substituted in this Lease by appropriate endorsement;
- (c) substitute additional property as provided in Section 4.7; or
- (d) prepay the Lease Payments in accordance with Section 9.3.

The City will notify the Authority and the Assignee of which course of action it has elected to take within 30 days after the occurrence of such eminent domain proceedings or 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.

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 Lease

Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable 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 to the extent that rental interruption insurance proceeds are available to pay Lease Payments which would otherwise be abated under this Section 6.3, it being hereby declared that such amounts constitute special funds for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS OF THE CITY

SECTION 7.1. *Disclaimer of Warranties.* THE AUTHORITY MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE 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 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 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 use of the Leased Property by the City.

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, following at least 48 hours written notice provided to the City, 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, following at least 48 hours written notice provided to the City, 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 hereby indemnifies the Authority, the Assignee and their respective directors, officers, employees, agents, successors and assigns against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the 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 negligence or willful misconduct of the City or

of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property, (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Leased Property, (e) the acquisition, construction, improvement and equipping of the Leased Property, (f) the use, presence, storage, disposal or clean-up of any Hazardous Substances or toxic wastes on the Leased Property, (g) the failure to comply with any Applicable Environmental Laws, or (h) any loss of the subsidy payment received from the federal government with respect to the interest portion of Lease Payments and any interest or penalties imposed by the Internal Revenue Service in connection therewith, any such amount to be paid to the Assignee in a single lump sum payment upon demand of the Assignee, or the authorization of payment of the costs thereof. No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or gross negligence under this Lease by the Authority, the Assignee, or 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 under the Assignment Agreement. 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. With the prior written consent of the Assignee, 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 and the Assignee a true and complete copy of such sublease.
- (c) Any sublease shall be expressly subject and subordinate to this Lease.
- (d) 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.
- (e) The City shall furnish the Authority and the Assignee with a written opinion of Bond Counsel stating that such sublease does not affect the City's

eligibility to receive subsidy payments from the federal government with respect to the interest portion of the Lease Payments.

SECTION 7.6. *Amendment Hereof.* This Lease may be amended with the prior written consent of the Assignee. 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 City's eligibility to receive subsidy payments from the federal government with respect to the interest portion of the Lease Payments.

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 affect the City's eligibility to receive subsidy payments from the federal government with respect to the interest portion of the Lease Payments.

(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) 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.

(f) Rebate Fund. There is hereby created a special trust fund to be known as the "City of Richmond, California, RZEDB Rebate Fund" (the "Rebate Fund") to be held in trust by the City for the purposes stated herein, to be held, disbursed and returned in accordance with the following terms:

(i) Within the Rebate Fund, the City shall maintain such accounts or subaccounts as are necessary pursuant to that certain Nonarbitrage Certificate, dated as of December 22, 2010, relating to the Lease (the "Nonarbitrage Certificate"). The City shall deposit moneys in the Rebate Fund as necessary in accordance with the provisions of the

Nonarbitrage Certificate. Subject to the transfer provisions provided in paragraph (iv) below, all money at any time deposited in the Rebate Fund shall be held by the City in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Nonarbitrage Certificate), for payment to the federal government of the United States of America, and none of the City, the Authority or the Assignee shall have any right in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 7.7 and by the Nonarbitrage Certificate (which is incorporated herein by reference).

(ii) The City shall deposit an amount into the Rebate Fund, if and to the extent required, so that the balance of the amount on deposit thereto shall be equal to the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the City in accordance with the Nonarbitrage Certificate. The City shall maintain written evidence that the computation of the Rebate Requirement has been made.

(iii) The City shall invest all amounts held in the Rebate Fund in Qualified Investments. Money, including investment earnings, shall not be transferred from the Rebate Fund except as provided in paragraph (iv) below.

(iv) The City shall remit part or all of the amounts in the Rebate Fund to the United States of America, as so directed. In addition, the City will deposit moneys into or transfer moneys out of the Rebate Fund from or into such accounts or fund as necessary to satisfy the Rebate Requirement. Any funds remaining in the Rebate Fund in excess of the Rebate Requirement as of the end of any Bond Year (as defined in the Nonarbitrage Certificate) shall be transferred to the fund from which Lease Payments and Additional Payments are made.

(v) Notwithstanding any other provision hereof or any provision of the Nonarbitrage Certificate, the obligation to remit the Rebate Amount to the United States Department of the Treasury and to comply with all other requirements contained in the Nonarbitrage Certificate shall constitute Additional Payments hereunder and shall survive the termination of the Lease.

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 Assignee. The City will transmit copies of all notices, orders, or statements received from any governmental entity concerning violations or asserted violations of Applicable Environmental Laws with respect to the Leased Property and any operations conducted thereon or any conditions existing thereon to the Assignee, and the City will notify the

Assignee in writing immediately of any release, discharge, spill, or deposit of any Hazardous 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 Assignee.

(c) Access for Inspection. The City shall permit the Assignee, its agents, or any experts designated by the Assignee 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 Assignee has no obligation to do so, or any liability for any failure to do so, or any liability should it do so.

SECTION 7.9 *Financial Statements; Budgets.* Within 270 days following the end of each Fiscal Year of the City during the Term of this Lease, the City shall provide the Assignee with a copy of its audited financial statements for such Fiscal Year. Such audited financial statements shall include a balance sheet, a statement of revenues, expenses and changes in fund balances for budget and actual, a statement of cash flows, notes, schedules and any attachments to the financial statements and such other financial information as the Assignee shall reasonably request. Upon Assignee's request, the City will provide the Assignee with a copy of its annual budget and any interim updates or modifications to such budget.

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. However, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, the Authority and the Assignee shall not unreasonably withhold their consent to an extension of such time (for a period not to exceed 60 days) if corrective action is instituted by the City within such 30-day period and diligently pursued until the default is corrected.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition

with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

- (d) Any representation, warranty or certification made by the City hereunder or in connection herewith shall have been incorrect or misleading when made.

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 located as close as possible to the City in the County of Contra Costa 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 and Additional 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, 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, without reinvestment, 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 the obligation of the City to cure any deficiency in the

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. The City hereby grants a first priority security interest in and the lien on said security deposit and all proceeds thereof in favor of the Authority and the Assignee. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

SECTION 9.2. *Optional Prepayment.* The City may prepay the unpaid principal components of the Lease Payments in whole, on any date on or after December 1, 2018, by paying a prepayment price equal to the principal components of the Lease Payments to be prepaid, together with the interest required to be paid on such Lease Payment Date, without premium or penalty. The City shall give the Authority notice of its intention to exercise its option to prepay the Lease Payments under this Section 9.2 not less than 30 days in advance of the date of exercise.

SECTION 9.3. *Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City may prepay the unpaid principal components of the Lease Payments in whole or in part on any date, from and to the extent of any Net Proceeds to be used for such purpose under Section 6.2, by paying a prepayment price equal to the principal components of the Lease Payments to be prepaid, together with the interest required to be paid on such Lease Payment Date, without premium or penalty. The City shall give the Authority notice of its intention to exercise its option to prepay the Lease Payments under this Section 9.3 not less than 60 days in advance of the date of exercise.

ARTICLE X

MISCELLANEOUS

SECTION 10.1. *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 Assignee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City:

City of Richmond
450 Civic Center Plaza
Richmond, California 94804
Attention: Finance Director
Fax: (510) 620-6522

If to the Authority: Richmond Joint Powers Financing Authority
c/o City of Richmond
450 Civic Center Plaza
Richmond, California 94804
Attention: Finance Director
Fax: (510) 620-6522

If to the Assignee: Bank of America, N.A.
555 California Street, 4th Floor
San Francisco, California 94104
Attention: Contract Administration
Fax: (415) 343-0531

SECTION 10.2. *Binding Effect.* This Lease inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns.

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

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

SECTION 10.5. *Further Assurances and Corrective Instruments.* The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

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.

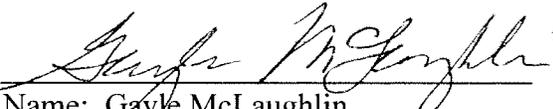
SECTION 10.7. *Applicable Law.* This Lease is governed by and construed in accordance with the laws of the State of California.

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.

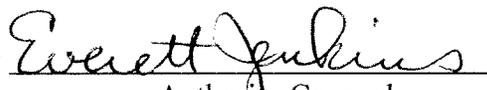
[Signature Page Follows]

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

**RICHMOND JOINT POWERS FINANCING
AUTHORITY, as Lessor**

By 
Name: Gayle McLaughlin
Title: President

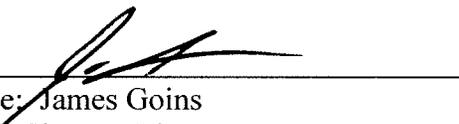
Approved as to Form:

By 
Authority Counsel

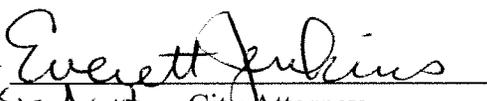
Attest:

By 
Secretary

**CITY OF RICHMOND, CALIFORNIA, as
Lessee**

By 
Name: James Goins
Title: Finance Director

Approved as to Form:

By 
Sr. Asst. City Attorney

Attest:

By 
City Clerk

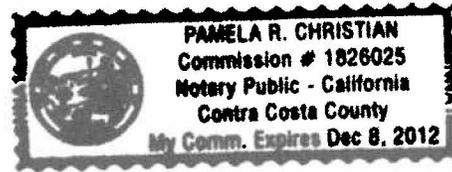
STATE OF CALIFORNIA)
) §
County of Contra Costa)

On December 17, 2010, before me, Pamela R. Christian a Notary Public, personally appeared Gayle McLaughlin, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Pamela R. Christian
Signature of Notary



(Affix seal here)

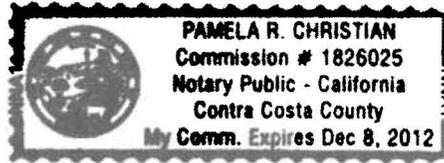
STATE OF CALIFORNIA)
) §
County of Contra Costa)

On December 17, 2010, before me, Pamela R. Christian a Notary Public, personally appeared James Goins, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Pamela R. Christian
Signature of Notary



(Affix seal here)

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of the following described land located in the City of Richmond, County of Contra Costa, State of California, together with all buildings, facilities and other improvements which constitute real property and which are located thereon:

ALL THAT REAL PROPERTY SITUATED IN THE CITY OF RICHMOND, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, BEING A PORTION OF LOT 2, BLOCK 10 AS SHOWN ON THE MAP OF TRACT 2638 RECORDED JUNE 22, 1961, IN MAP BOOK 83 AT PAGES 5 THROUGH 20, INCLUSIVE, IN THE OFFICE OF THE RECORDER OF CONTRA COSTA COUNTY, CALIFORNIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 2, BLOCK 10, SUBDIVISION 2638 (83 M5- 20 INCL.); THENCE SOUTH $19^{\circ} 05' 06''$ EAST 24.47 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT THE RADIUS POINT OF WHICH BEARS NORTH $70^{\circ} 54' 54''$ EAST DISTANT 440 FEET THROUGH A CENTRAL ANGLE OF $25^{\circ} 02' 14''$ AN ARC DISTANCE OF 192.27 FEET; THENCE SOUTH $44^{\circ} 07' 20''$ EAST, 22.53 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH $44^{\circ} 07' 20''$ EAST, 198.50 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT THE RADIUS POINT OF WHICH BEARS NORTH $45^{\circ} 52' 40''$ EAST DISTANT 360.00 FEET THROUGH A CENTRAL ANGLE OF $90^{\circ} 36' 04''$ AN ARC DISTANCE OF 60.33 FEET; THENCE SOUTH $53^{\circ} 43' 24''$ EAST, 43.48 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT THE RADIUS POINT OF WHICH BEARS SOUTH $36^{\circ} 16' 36''$ WEST DISTANT 20.00 FEET THROUGH A CENTRAL ANGLE OF $85^{\circ} 26' 52''$ AN ARC DISTANCE OF 29.83 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT THE RADIUS POINT OF WHICH BEARS SOUTH $58^{\circ} 16' 32''$ EAST DISTANT 610 FEET THROUGH A CENTRAL ANGLE OF $9^{\circ} 51' 08''$ AN ARC DISTANCE OF 104.89 FEET; THENCE SOUTH $21^{\circ} 52' 20''$ WEST, 106.66 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT THE RADIUS POINT OF WHICH BEARS NORTH $68^{\circ} 07' 40''$ WEST DISTANT 30.00 FEET THRU A CENTRAL ANGLE OF $88^{\circ} 36' 06''$ AN ARC DISTANCE OF 46.39 FEET TO A POINT OF COMPOUND CURVATURE; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT THE RADIUS POINT OF WHICH BEARS NORTH $20^{\circ} 28' 26''$ EAST DISTANT 946.76 FEET THROUGH A CENTRAL ANGLE OF $15^{\circ} 41' 22''$ AN ARC DISTANCE OF 259.25 FEET; THENCE LEAVING SAID CURVE NORTH $21^{\circ} 52' 20''$ EAST, 346.20 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY INSTRUMENT DATED DECEMBER 7, 1982 AND RECORDED JANUARY 27, 1983, IN BOOK 11102, PAGE 199, OFFICIAL RECORDS DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHEASTERLY LINE OF CARLSON BOULEVARD, DISTANT ALONG SAID LINE NORTHWESTERLY 13.93 FEET FROM THE SOUTHEASTERLY TERMINUS OF THE CURVE WITH THE RADIUS OF 946.76 FEET AS SHOWN ON SAID TRACT 2638 MAP; THENCE CONTINUE ALONG SAID LINE FROM A TANGENT THAT BEARS N. 68° 40' 58" W., ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 946.70 FEET THROUGH AN ANGLE OF 10°05' 35" AN ARC DISTANCE OF 166.77 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE OF CARLSON BOULEVARD FROM A TANGENT THAT BEARS S. 58° 35' 23" E., ALONG A CURVE TO THE LEFT WITH A RADIUS OF 30.00 FEET THROUGH AN ANGLE OF 38° 31' 47" AN ARC DISTANCE OF 20.17 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 40.00 FEET, THROUGH AN ANGLE OF 33° 29' 00", AN ARC DISTANCE OF 23.38 FEET; THENCE S. 63° 38' 11" E., 84.03 FEET; THENCE ALONG TANGENT CURVE TO THE RIGHT WITH RADIUS OF 40.00 FEET, THROUGH AN ANGLE OF 33° 29' 00" AN ARC DISTANCE OF 23.38 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 30.00 FEET, THROUGH AN ANGLE OF 38° 31' 47" AN ARC DISTANCE OF 20.17 FEET TO THE POINT OF COMMENCEMENT.

APN: 509-242-010 AND 509-242-011

APPENDIX B

SCHEDULE OF LEASE PAYMENTS

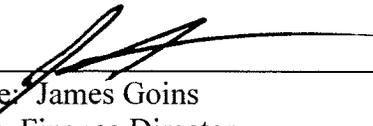
<u>Lease Payment Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Aggregate Lease Payment</u>
06/15/2011	\$ 34,408.70	\$ 41,106.72	\$ 75,515.42
12/15/2011	34,108.96	41,651.72	75,760.68
06/15/2012	34,718.65	40,543.18	75,261.83
12/15/2012	35,339.25	39,414.82	74,754.07
06/15/2013	35,970.94	38,266.29	74,237.23
12/15/2013	36,613.92	37,097.24	73,711.16
06/15/2014	37,268.39	35,907.29	73,175.68
12/15/2014	37,934.56	34,696.06	72,630.62
06/15/2015	38,612.65	33,463.19	72,075.84
12/15/2015	39,302.85	32,208.28	71,511.13
06/15/2016	40,005.39	30,930.94	70,936.33
12/15/2016	40,720.48	29,630.76	70,351.24
06/15/2017	41,448.36	28,307.35	69,755.71
12/15/2017	42,189.25	26,960.27	69,149.52
06/15/2018	42,943.38	25,589.12	68,532.50
12/15/2018	43,711.00	24,193.46	67,904.46
06/15/2019	44,492.33	22,772.86	67,265.19
12/15/2019	45,287.63	21,326.86	66,614.49
06/15/2020	46,097.15	19,855.01	65,952.16
12/15/2020	46,921.13	18,356.85	65,277.98
06/15/2021	47,759.85	16,831.91	64,591.76
12/15/2021	48,613.55	15,279.72	63,893.27
06/15/2022	49,482.52	13,699.78	63,182.30
12/15/2022	50,367.02	12,091.60	62,458.62
06/15/2023	51,267.33	10,454.67	61,722.00
12/15/2023	52,183.74	8,788.48	60,972.22
06/15/2024	53,116.52	7,092.51	60,209.03
12/15/2024	54,065.98	5,366.22	59,432.20
06/15/2025	55,032.41	3,609.08	58,641.49
12/15/2025	<u>56,016.11</u>	<u>1,820.52</u>	<u>57,836.63</u>
TOTALS:	\$1,316,000.00	\$717,312.76	\$2,033,312.76

CERTIFICATE OF ACCEPTANCE OF LEASE AGREEMENT

This is to certify that the interest in real property conveyed by the Lease Agreement, dated as of December 1, 2010, between Richmond Joint Powers Financing Authority, as lessor, and City of Richmond, as lessee (the "City"), is hereby accepted by the undersigned officer on behalf of the City pursuant to the authority conferred by resolution of the City Council of the City adopted on December 7, 2010, and the lessee consents to recordation thereof by its duly authorized officer.

Dated: December __, 2010

CITY OF RICHMOND, CALIFORNIA, as
Lessee

By 
Name: James Goins
Title: Finance Director