

LEASE

by and between

COUNTY OF MONTEREY

and

CITY OF SALINAS

312 EAST ALISAL STREET

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LEASE  
(County of Monterey)

This Lease (the "Lease") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the County of Monterey, a political subdivision of the State of California (the "County" or the "Landlord") and the City of Salinas, a charter city and municipal corporation (the "City" or the "Tenant").

PART 1.  
SUBJECT OF LEASE

Section 1.1 Overview.

The purpose of this Lease and a companion lease of this same nature is to secure two properties owned by the Parties to allow the Parties to perform due diligence and to obtain financing for improvements in advance of the anticipated exchange of the properties: County property (312 East Alisal Street, Salinas California) ("Property") and the City's property (331 North Sanborn Road). While being leased by the City, it is required by the County as part of the City's due diligence under a separate agreement, that the City demolish and remove all improvements and structures from the Leased Premises. It is anticipated that when the due diligence is completed and both properties are vacant and free of buildings and encumbrances, that a Property Exchange Agreement will be executed between the County and City, whereby the City will then receive the transfer of title to the County's property and County will then receive the transfer of title to the City's property.

PART 2.  
DEFINITIONS

Section 2.1 Definitions.

The following terms shall have the following meanings in this Lease:

- (a) "Ancillary Use" means the use of portions of the Property and Improvements thereon for the hosting of lectures, meetings, or reception and other uses as permitted under Section 5.1 below.
- (b) "City" shall mean the City of Salinas, a municipal corporation, operating through its governing body, the City Council, and its various departments.
- (c) "Claim" means, for purposes of Section 5.12, any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including but not limited to attorneys' fees and expenses), arising directly or indirectly, in whole or in part, out of (a) the presence on or under

the Property of any Hazardous Materials, or any releases or discharges of any Hazardous Materials on, under or from the Property, or (b) any activity carried on or undertaken on or off the Property in connection with the handling, treatment, removal, storage, decontamination, clean-up, transport or disposal of any Hazardous Materials at any time located or present on or under the Property.

(d) "Commencement Date" shall mean the date first written above.

(e) "County" shall mean the County of Monterey, a political subdivision of the State of California, and its successor and assigns.

(f) "Expiration Date" means the midnight on December 31 of the year in which occurs the twenty-fifth (25<sup>th</sup>) anniversary of the Commencement Date, as may be extended pursuant to Section 3.3.

(g) "Extension" means an extension of the Lease Term of up to five years pursuant to Section 3.3.

(h) "Event of Material Default" means the events of default listed throughout the Lease including but not limited to those contained in Section 5.3, Section 5.12, 7.2 and 11.1(a) triggering the provisions of Section 11.1(b), (d) and (e) and Section 11.2.

(i) "Governmental Use" shall mean a building constructed and used for the duration of this Lease for a governmental purpose, dedicated solely to the public that includes City or County uses as defined by State Health and Safety Code Section 34181 (a), subject to County approval for that location, that would include a public safety building or other City operated public service for the community.

(j) "Hazardous Materials" means any substance defined as "hazardous wastes," "hazardous substances," "hazardous materials," "toxic substances" or words to that effect under any applicable current or future federal or state laws or regulations including petroleum and asbestos.

(k) "Hazardous Materials Laws" means all federal, state and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials.

(l) "Improvements" shall include any and all structures that currently exist on the Leased Premises.

(m) "Insurance Trustee" means the commercial bank or trust company designated by the Landlord pursuant to Section 8.6(c) below.

(n) "Landlord" means the County.

(o) "Lease" means this Lease Agreement.

(p) "Lease Interest Rate" means the prime or reference rate charged by Bank of America plus three percent (3%), but in no event greater than the maximum rate allowed by law.

(q) "Mortgage" means deeds of trust or other similar security instruments.

(r) "Permitted Uses" means the use of the Property and the improvements thereon as a Governmental Use (Section 2.1(i)) and as further described in Section 5.1 of this Lease.

(s) "Personal Property" means all fixtures, furnishings, equipment and other personal property necessary to operate the Property and Improvements for the Permitted and Ancillary Uses as required under Section 4.1(h) below.

(t) "Property" shall have the meaning set forth in Section 1.1 above.

(u) "Term" means the term of this Lease, which shall commence on the Commencement Date and terminating at midnight December 31 of the year in which occurs the twenty-fifth (25<sup>th</sup>) anniversary of the commencement date, as may be extended pursuant to Section 3.3.

(v) "Transfer" means:

(1) Any total or partial sale, assignment or conveyance, or any trust or power, or any transfer in any other mode or form, of or with respect to this Lease or of the leasehold estate in the Property or any part thereof or any interest therein, of the Improvements thereon, or the income or receipts there from or any contract or agreement to do any of the same; or

(2) Any dissolution of the Tenant; or

(3) Any sublease of all of any portion of the Property or the Improvements thereon.

### PART 3. BASIC LEASE TERMS

#### Section 3.1 Lease of Property.

Upon and subject to the terms, covenants and conditions of this Lease, and in consideration of the rents to be paid pursuant to this Lease, the Landlord hereby leases the Property to the Tenant and the Tenant hereby leases and takes from the Landlord the Property. The Landlord and the Tenant agree to the following: that the leasing is upon and subject to the terms, covenants and conditions of this Lease; that the Tenant covenants, as a part of the consideration of this Lease, to keep, perform and observe each and all of said terms, covenants,

and conditions by the Tenant to be kept, performed or observed; and that this Lease is made upon the condition of such performance.

Section 3.2 Lease Term.

Unless earlier terminated pursuant to the provisions of this Lease, the Term shall be for the period commencing on the Commencement Date and terminating the Expiration Date, as may be extended pursuant to Section 3.3.

Section 3.3 Extension of Lease Term.

The Tenant may extend the Term up to five (5) times, each extension shall be for an additional five (5) years extension, under the same terms and conditions herein; provided, however, that the Tenant is not then in default under the terms of this Lease and further provided that the Contracts/Purchasing Officer approves such extension in writing on behalf of Landlord. Not less than one (1) year, but not more than twenty-four (24) months prior to the Expiration Date, as may be extended under this Section 3.3, the Tenant shall give the Contracts/Purchasing Officer written notice of its desire to extend the Term. Within one (1) month of the Tenant's written notice, Contracts/Purchasing Officer shall approve or disapprove the Extension in writing to the Tenant, which approval shall not be unreasonably withheld. Upon the Landlord's written approval of the Extension, the Lease shall terminate at midnight on December 31 of the year in which occurs the fifth (5<sup>th</sup>) anniversary of the then most current Extension commencement date.

Section 3.4 Rent.

The Tenant shall pay rent to the Landlord in lawful money of the United States of America, to the Landlord at the address for the Landlord set forth in Section 12.4 below, or to such other person or at such other place as the Landlord may from time to time designate by notice in writing to the Tenant, during the Term in accordance with the terms of this Lease. The rent shall be One Dollar (\$1) for each year or portion of a year in the Term. Rent shall be paid in advance or before January 1 of each year in the Term, except that rent for the year or portion of a year in which the Term commences shall be paid on or before the date of execution of the Lease.

Section 3.5 Advances for Lease Obligations.

In addition to and not by way of limitation of the Landlord's rights under specific provisions of this Lease, the Landlord shall at all times have the right (at its sole election and without any obligation so to do) to advance on behalf of the Tenant any amount payable under this Lease by the Tenant, or to otherwise satisfy any of the Tenant's obligations under this Lease, provided that (except in case of emergency calling for immediate payment) the Landlord shall first have given the Tenant no less than fifteen (15) days advance written notice of the Landlord's intention to advance such amounts on behalf of the Tenant. No advance by the Landlord shall operate as a waiver of any of the Landlord's rights under this Lease and the Tenant shall remain fully responsible for the performance of its obligations under this Lease. All amounts advanced by the Landlord shall be separate from and additional to the rent specified in Section 3.4 above

and shall be immediately due and payable by the Tenant to the Landlord and shall bear interest from the date of advance at the Lease Interest Rate. If Bank of America is no longer in existence, the Lease Interest Rate shall be prime or reference rate charged by a bank or financial institution reasonably selected by the Landlord, which bank or financial institution shall be one of the five largest doing business in California. All amounts advanced by the Landlord pursuant to this Section 3.5 or similar provisions of this Lease are hereinafter referred to as "Advances."

Section 3.6 Triple Net Lease.

This Lease is a triple-net lease which shall mean that in addition to the payment of Rent, the Tenant shall be directly responsible for the payment of all utilities, insurance, any applicable taxes and assessments and any other costs connected with the operation and maintenance of the Property and Improvements. Rent and other payments payable to or on behalf of the Landlord shall be paid without notice or demand and without offset, counterclaim, abatement, suspension, deferment, deduction or defense.

Section 3.7 Physical Condition of Property.

(a) The Property shall be leased to the Tenant in "As-is, Where-is" condition. The Tenant is responsible for the demolition of the existing structures, soil conditions regarding sufficient soil compacting on the Property, for removing any subsurface obstruction, and correcting any subsurface condition on the Property. It shall be the sole responsibility of the Tenant, at the Tenant's expense, to investigate and determine the conditions of the Property and the suitability of the Property for the Improvements.

(b) Landlord represents that all Hazardous Materials have been removed from the soils. If the conditions of the Property are not in all respects entirely suitable for the use or uses to which it will be put as described in this Lease, the Landlord retains the sole responsibility and obligation to correct any Hazardous Materials conditions to put the Property in a condition suitable for construction of the Improvements. The Landlord hereby waives any right to seek reimbursement or indemnification from the Tenant of the Landlord's costs related to any physical conditions related to Hazardous Materials on the Property.

Section 3.8 No Termination.

Except as otherwise expressly provided in this Lease, this Lease shall not terminate nor shall the Tenant be entitled to the abatement of any rent or other payment due or any reduction or allocation thereof, nor shall the obligations of the Tenant under this Lease be otherwise affected by reasons of any damage to or destruction of all or any part of the Property from whatever cause or a taking of the Property or any portion thereof by condemnation, requisition or otherwise for any reason whatsoever, or the prohibition, limitation or restriction of the Tenant's use of all or any part of the Property, or the interference with such use by any person, or by reason of the termination or foreclosure of any Leasehold Mortgage (as defined in Section 9.2 below), or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties that the obligations of the Tenant

shall be separate and independent covenants and agreements, that the rent and all other payments payable by the Tenant under this Lease shall continue to be payable in all events, and that the obligations of the Tenant under this Lease shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease; provided, however, that during the continuance of any such damage, destruction, taking, prohibition, limitation, interference, eviction or foreclosure, the Tenant shall not be obligated to perform any obligations which are no longer capable of being performed as a result of such event.

PART 4.  
CONSTRUCTION OF IMPROVEMENTS

Section 4.1 Construction Standards.

Tenant may construct the Improvements, at Tenant's sole cost and expense, during the Lease Term provided the following conditions are met:

(a) Permits. The Tenant shall obtain a building permit for the Improvements prior to construction of the Improvements.

(b) General Standards. In addition to the more specific standards set forth in Sections 5.2 and 5.3 below, construction, alteration or repair work permitted by this Lease shall be accomplished by the selection of a qualified contractor(s), whose Contractors' License for the specific work is authorized by the License and is in good standing to do business in the State of California.

(c) Compliance with Approved Documents and Laws; Issuance of Permits. The Improvements shall be constructed in strict compliance with all applicable local, state and federal laws and regulations. The Tenant shall have the sole responsibility for obtaining all necessary permits and shall make application for such permits directly to the person or governmental agency having jurisdiction.

(d) Work Safeguards. The Tenant shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by the Tenant, all necessary safeguards for the protection of workers working on the Property and the general public.

(e) Notice of Completion. Upon completion of any work, the Tenant shall file or cause to be filed in the Official Records of the County of Monterey a notice of completion with respect to the Improvements, and the Tenant shall deliver to the Landlord, at no cost to the Landlord, an electronic set of the final plans and specifications for the Improvements.

(f) Discharge of Liens. The Tenant shall not create or permit or suffer to be created or to remain, and will discharge, any lien (including, but not limited to, the liens of mechanics, laborers, material men, suppliers or vendors for work or materials alleged to be done

or furnished in connection with the Property or improvements thereon), encumbrances or other charge upon the Property or improvements thereon, or any part thereof, or upon the Tenant's leasehold interest therein; provided, however, that the Tenant shall not be required to discharge any such liens, encumbrances or charges as may be placed upon the Property by the act of the Landlord.

The Tenant shall have the right to contest in good faith and by appropriate legal proceedings the validity or amount of any mechanics', laborers', materialmen's, suppliers' or vendors' lien or claimed lien; provided that the Tenant utilizes all reasonable means (including the posting of adequate security for payment) to protect the Property and any part thereof against foreclosure.

(g) Protection of Landlord. Nothing in this Lease shall be construed as constituting the consent of the Landlord, expressed or implied, to the performance of any labor or the furnishing of any materials or any specific improvements, alterations of or repairs to the Property or the Improvements thereon, or any part thereof, by any contractor, subcontractor, laborer or material man, nor as giving the Tenant or any other person any right, power or authority to act as agent of or to contract for, or permit the rendering of, any services or the furnishing of any materials in such manner as would give rise to the filing of mechanics' liens or other claims against the fee of the Property improvements thereon. The Landlord shall have the right at all reasonable times to post and keep posted on the Property any notices which the Landlord may deem necessary for the protection of the Landlord, the Property, and the Improvements thereon from mechanics' liens or other claims. In addition, but subject to the second paragraph of subsection (f) above, the Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons doing any work or furnishing any materials or supplies to the Tenant or any of its contractors or subcontractors in connection with the Property and improvements thereon.

(h) Tenant to Furnish and Equip Property. The Tenant covenants and agrees to furnish and equip the Property and the Improvements with all fixtures, furnishings, equipment and other personal property (collectively, the "Personal Property") of a quantity as necessary to operate the Property and the Improvements for the Permitted Uses and Ancillary Uses (as defined in Section 5.1 below). The Tenant further agrees to take good care of such Personal Property, to keep the same in good order and condition, and promptly, at the Tenant's own cost and expense, to make all necessary repairs, replacements and renewals thereof. As used in this Lease, the term "Personal Property" includes all such replacements and renewals, and all fixtures, furnishings, equipment and other personal property of the Tenant located in, on or about the Property and the Improvements thereon.

#### Section 4.2 Construction of Improvements.

(a) Specific Standards. In accordance with this Lease, the Tenant shall construct the Improvements as required by this Lease. The Improvements shall be constructed in full conformity with plans submitted to and approved by the County.

(b) Commencement and Completion. Once the Tenant commences work on the Improvements, the Tenant shall not halt or cease work for a period of more than thirty (30) days, subject to delays excused in writing by the Landlord.

(c) Equal Opportunity. During the construction of the Improvements, there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in the construction work. The Tenant and its construction contractors, employees and agents shall comply with all applicable state laws, including all equal opportunity and fair employment laws and regulations applicable to the Property. Moreover, the Tenant by and through its construction contractor(s), shall give preference, to the extent practicable, for employment to those individuals residing within the City as provided by relevant State law.

(d) Prevailing Wages. The Tenant shall and shall cause the contractor and subcontractors to pay prevailing wages in the construction of the Improvements, as those wages are determined pursuant to Labor Code Sections 1720 et seq., to employ apprentices as required by Labor Code Sections 1777.5 et seq. and the implementing regulations of the Department of Industrial Relations (the "DIR") and the Tenant shall and shall cause the contractor and subcontractors to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR. The Tenant shall and shall cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to Labor Code Sections 1720 et seq., that apprentices have been employed as required by Labor Code Sections 1777.5 et seq. and shall, from time to time upon the request of the Landlord provide to the Landlord such records and other documentation reasonably requested by the Landlord. Copies of the currently applicable per diem prevailing wages are available from the DIR. During the construction of the Improvements, the Tenant shall or shall cause the contractor to post at the Property the applicable prevailing rates of per diem wages. Tenant shall cause its respective contractors and subcontractors to be registered as set forth in Labor Code Section 1725.5. In addition, the Tenant shall cause its respective contractors and subcontractors to do all the following:

(1) All calls for bids, bidding materials and the construction contract documents for the Improvements must specify that:

(A) No contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Project unless registered with the DIR pursuant to Labor Code Section 1725.5.

(B) The Improvements work is subject to compliance monitoring and enforcement by the DIR.

(2) The Tenant is required to provide the Landlord all information required by Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within 2 days of the award of the construction contract (<https://www.dir.ca.gov/pwc100ext/>).

(3) The Tenant shall cause its respective contractors to post job site notices, as prescribed by regulation by the DIR.

(4) The Tenant shall cause its respective contractors to furnish payroll records required by Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

The Tenant shall indemnify, hold harmless and defend (with counsel reasonably selected by the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Tenant, its contractor and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq., to meet the conditions of Labor Code Section 1771.4, to employ apprentices pursuant to Labor Code Sections 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and the implementing regulations of the DIR in connection with the construction of the Improvements or any other work undertaken or in connection with the Property. This Section 4.2 (d) shall survive the expiration of the Term.

(e) Certificate of Occupancy. The Tenant shall obtain a certificate of occupancy for the Improvements prior to occupancy and use of the Improvements.

#### Section 4.3 Additional Work on Property.

(a) Specific Standards. Any additional or replacement building erected on any portion of the Property permitted under this Lease, and any demolition, construction, alteration, remodeling, reconstruction or repair work undertaken on or within any existing improvement on any portion of the Property shall at all times be of high quality construction and architectural design. All such additional demolition, construction, alteration, remodeling, reconstruction or repair work shall be diligently prosecuted, and completed (1) without cost to the Landlord, (2) in good and workmanlike manner, and (3) in accordance with any plans and specifications approved by the Landlord pursuant to subsection (b) below.

(b) Approval of Plans. Prior to commencing any alteration, construction, remodeling, or any other work with costs in excess of Five Thousand Dollars (\$5,000) and as specified in subsection (a), the Tenant shall submit to the Landlord for the Landlord's approval, which approval shall not be unreasonably withheld, plans and specifications for such work. In the event that prior to or during the course of work on the Property or the Improvements, the Tenant desires to make any material change in excess of Five Thousand Dollars (\$5,000) in the work from that contemplated in the approved plans and specifications, the Tenant shall, prior to making such change, obtain the Landlord's approval of the desired change.

PART 5.  
USE, OPERATION AND MAINTENANCE OF IMPROVEMENTS

Section 5.1 Permitted and Ancillary Uses.

The Tenant may use the Property and the Improvements thereon as a Governmental Use as defined in Section 2.1(i) to, among other things, provide public services, programs and activities promoting the community's wellbeing (the "Permitted Uses"). In addition, the Tenant may use portions of the Property and the Improvements thereon for Ancillary Uses, including the hosting of lectures, meetings, educational programs, receptions and other similar uses, so long as such uses are not the primary uses of the Property and the Improvements thereon.

Section 5.2 Use Prohibitions.

The Tenant agrees that in connection with the use and operation of the Property and the Improvements, the Tenant will not:

- (a) Change uses without prior written consent of the County;
- (b) Create, cause, maintain or permit any nuisance in, or about the Property or the Improvements; or
- (c) Commit or suffer to be committed any waste in, on or about the Property or the Improvements; or
- (d) Use or allow the Property or the Improvements to be used for any unlawful purpose; or
- (e) Cause or permit obnoxious odors to emanate or be dispelled from the Improvements; or
- (f) Permit undue accumulations of garbage, trash, rubbish or any other refuse; or
- (g) Do or permit to be done anything in any way which unreasonably disturbs the occupants of neighboring property.

Section 5.3 Operation of Improvements.

During the Term, the Tenant shall operate the Improvements (or any additional or subsequent improvements) for the Permitted Uses and Ancillary Uses as a Governmental Use according to the best management practices applicable to said use.

In the event that the Tenant desires to make any material change in the operation of the Improvements, such change shall first be proposed in writing and approved by the Landlord. Landlord approval is based solely on the need to assure adherence to the continued use a

governmental facility, that adherence to building codes that may apply if a material change of use occurs, and the need to insure that the building maintenance and functionality are maintained, but will otherwise not be unreasonably withheld.

The obligation of the Tenant set forth in this Section 5.3 constitutes a "material" obligation. Failure by the Tenant to observe any such covenant, agreement or obligation or to fail to operate the Improvements for the Permitted Uses and Ancillary Uses for a period of three (3) months or longer shall constitute an Event of Material Default by the Tenant for which the Tenant shall be subject to the provisions of Sections 11.1 and 11.2 below.

Section 5.4 Maintenance of Property and Improvements.

During the Term, the Tenant shall operate and maintain the Property and the Improvements thereon in a neat, clean and orderly condition. All repairs or replacements of materials, apparatus, and facilities within or around the Improvements shall be made with materials, apparatus, and facilities of a quality at least equal to the quality of the materials, apparatus, and facilities being repaired or replaced. If there arises a condition in contravention of this requirement, and if Tenant has not cured such condition within thirty (30) days after receiving notice of such a condition, then in addition to any other rights available to Landlord, the Landlord shall have the right to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Property.

Section 5.5 Costs of Operation and Maintenance of Property and Improvements.

As between the Landlord and the Tenant, all costs incurred in the operation and maintenance of the Property and the Improvements thereon shall be paid by the Tenant.

Section 5.6 Landlord Not Obligated to Repair.

The Landlord shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Property and the Improvements thereon.

Section 5.7 Non-discrimination.

There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, age, source of income, or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property and the Improvements thereon, or any part thereof, and the Tenant or any person claiming under or through the Tenant, shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property or the Improvements thereon, or any part thereof.

The Tenant shall refrain from restricting the rental, sale or lease of the Property or the Improvements thereon, or any portion thereof, on the basis of race, color, creed, religion, sex,

sexual orientation, marital status, national origin, ancestry, age, source of income, or disability of any person.

Section 5.8 Compliance with Laws.

The Tenant shall comply with and shall cause any occupants or subtenants to comply with all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances affecting the Property, the use thereof, or demolition or construction work thereon, including those which require the making of any structural, unforeseen or extraordinary changes, whether or not any such statutes, laws, rules, orders, regulations or ordinances which may be hereafter enacted were within the contemplation of the parties at the time of execution of this Lease, or involve a change of policy on the part of the governmental body enacting the same.

The Tenant shall also comply with each and every requirement of all policies of public liability, fire and other insurance which at any time may be in force with respect to the Property or the Improvements thereon as further described in Part 8 below.

Section 5.9 Property Taxes.

The Tenant acknowledges and agrees that this Lease will create a possessory interest that may be subject to property taxation. The Tenant agrees to pay and discharge, during the Term, before delinquency, all taxes, fees, levies, water and sewer rents, rates and charges, vault license fees or rentals, license and permit fees and other governmental charges of any kind or nature whatsoever, general and special, ordinary and extraordinary, foreseen and unforeseen, currently or hereafter levied or assessed in lieu of or in substitution of any of the foregoing which are or may be, at any time or from time to time during the Term, levied, charged, assessed or imposed upon or against the Property or any improvements thereon, or against any of the Tenant's personal property located thereon, or which may be levied, charged, assessed or imposed upon or against the leasehold estate created hereby or which may be imposed upon any taxable interest of the Tenant acquired pursuant to the Lease.

Section 5.10 Landlord's Right to Cure.

If the Tenant, in violation of the provisions of this Lease, shall fail to pay and to discharge any taxes, the Landlord may (but shall not be obligated to) pay or discharge such taxes, and the amount paid by the Landlord and the amount of all costs, expenses, interest and penalties connected therewith, including attorneys' fees, together with interest at the Lease Interest Rate, shall be deemed to be and shall, upon demand of the Landlord, be payable by the Tenant as repayment of an Advance.

Section 5.11 Services and Utilities.

The Tenant shall pay promptly as the same become due and payable all charges, costs, bills and expenses of and for water, gas, electricity, sewer, air-conditioning, telephone, communication services, and all other public or private services and utilities of whatever kind

furnished or supplied to or used by the Tenant or any other party in connection with the use, occupancy, maintenance or operation of the Property and the Improvements thereon or any part thereof, and shall comply with all contracts relating to such services and shall do all other things necessary and required for the maintenance and continuance of such services.

Section 5.12 Hazardous Materials.

(a) Purpose. This section establishes requirements and procedures to prevent contamination of the Property and surrounding properties by Hazardous Materials; to remediate any Hazardous Materials contamination that may occur; and to provide for the allocation of costs and liabilities related to Hazardous Materials contamination.

(b) Covenants. The Tenant covenants and agrees that, throughout the Term of this Lease:

(1) The Tenant shall not permit the Property or any portion thereof to be a site for the use, generation, manufacture, storage, disposal or transportation of Hazardous Materials, except for those Hazardous Materials which may be lawfully used in the ordinary course of business and operation of the Improvements.

(2) The Tenant shall keep and maintain the Property and each portion thereof in compliance with, and shall not cause or permit the Property or any portion thereof to be in violation of, any Hazardous Materials Laws.

(3) Every sublease or other occupancy arrangement for space in the Improvements, if any, shall impose the requirements set forth in subparagraphs (1) and (2) above on each subtenant.

(4) The Tenant shall immediately advise the Landlord in writing of:

(A) the Tenant's receipt of notice of any and all enforcement, cleanup, removal or government or regulatory actions instituted, completed or threatened pursuant to any applicable Hazardous Materials Laws; and

(B) the Tenant's receipt of notice of any and all Claims made or threatened by any third party against the Tenant, the Landlord, the Agency, or the Property.

(5) Without the Landlord's prior written consent, the Tenant shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Claim.

(c) Remediation. Upon institution of any action or proceeding asserting a Claim or upon identification by either party of a potential Hazardous Materials problem caused

or permitted to be caused by the Tenant on the Property, and not by third parties other than permissive users of the Property, the Tenant shall promptly prepare a plan for remediation or settlement of the asserted Claim or potential Hazardous Materials problem caused or permitted to be caused by the Tenant, and shall submit such plan for the Landlord's approval, which approval shall not be unreasonably withheld. The Tenant shall thereafter diligently prosecute to completion, at its sole cost, such approved plan.

(d) Indemnification. The Tenant shall indemnify and hold the Landlord, the Agency and their respective officers, agents and employees harmless against any and all Claims and the costs of remediation of any potential Hazardous Materials problem caused or permitted to be caused by the Tenant, and not by third parties other than permissive users of the Property. The foregoing indemnification is intended as an amplification of, and in no way limits, the Tenant's indemnification obligation under the provisions of Section 8.3, and the provisions of Section 8.3 shall apply to the foregoing indemnification. Such indemnification shall survive the expiration or other termination of this Lease.

(e) Default. Each of the covenants, agreements and obligations of the Tenant set forth in this Section 5.12 constitute "material" covenants, agreements and obligations. Failure by the Tenant to observe any such covenant, agreement or obligation shall constitute an Event of Material Default by the Tenant for which the Tenant shall be subject to the provisions of Sections 11.1 and 11.2.

## PART 6.

### OWNERSHIP AND REMOVAL OF IMPROVEMENTS AND PERSONAL PROPERTY

#### Section 6.1 Ownership of Improvements and Personal Property.

Any subsequent or additional improvements constructed on the Property by the Tenant, as permitted or required by the terms of this Lease, and Personal Property shall be and remain the property of the Tenant during the Term; provided that the Tenant shall have no right to waste, destroy, demolish or remove the Improvements except as specifically provided for in this Lease or otherwise approved in writing by the Landlord. The Tenant shall have the exclusive right to claim all depreciation, amortization, cost recovery allowances, credits, and other tax benefits arising from the Improvements and Personal Property during the Term of this Lease.

Upon expiration of the Term (as may be extended pursuant to Section 3.3 above), the Improvements (defined in Section 2(l)) shall become the property of the Landlord.

#### Section 6.2 Removal of Personal Property.

If the Lease is terminated for any reason prior to the Expiration Date (as may be extended pursuant to Section 3.3 above), subject to Section 10.1 below, the Tenant shall have the right to remove all Personal Property in the Improvements or on the Property.

Within sixty (60) days of the Expiration Date (as may be extended pursuant to Section 3.3 above), the Landlord may demand that the Tenant remove from the Property all Personal Property in the Improvements or on the Property at the Tenant's sole expense.

PART 7.  
ASSIGNMENT AND SUBLETTING

Section 7.1 Purpose of Restrictions on Transfer; Applicability.

This Lease is granted to the Tenant solely for the purpose of development and operation of the Property and the Improvements thereon, and their subsequent use in accordance with the terms of this Lease, and not for speculation in landholding. The Tenant recognizes that the qualifications and identity of the Tenant are of particular concern to the community and the Landlord, in view of:

- (a) The importance of the redevelopment of the Property to the general welfare of the community;
- (b) The fact that a Transfer is for practical purposes a transfer or disposition of the leasehold interest in the Property;
- (c) The fact that the Property and the Improvements thereon are not to be acquired or used for speculation, but only for development and operation by the Tenant in accordance with this Lease; and
- (d) The fact that the Property is being leased to the Tenant for One Dollar (\$1) per year.

The Tenant further recognizes that it is because its unique qualifications and identity as a charter city and municipal corporation, that the Landlord is entering into this Lease with the Tenant and that Transfers are permitted only as provided in this Lease.

Section 7.2 Transfers by Tenant.

The Tenant may transfer property to a non-profit corporation as part of an Internal Revenue Service "63-20" financing plan to pay the cost of the Improvements, which by law will then leased-back by Tenant from the non-profit corporation after they have been built.

The Tenant represents and agrees that it has not made or created any other consideration for Transfer but for that referenced above, and will not make or create or suffer to be made or created any other Transfer, either voluntarily or by operation of law.

Any Transfer made in contravention of this Section 7.2 shall be void and shall be deemed to be an Event of Material Default by Tenant under this Lease whether or not the Tenant knew of or participated in such Transfer.

Section 7.3 Temporary Use.

Notwithstanding the provisions of Sections 7.1 to 7.2 above, arrangements for temporary use of the Improvements by community groups shall not be considered a Transfer so long as the arrangement is an Ancillary Use.

Section 7.4 Transfer by Landlord.

In the event of a sale, assignment, transfer or conveyance by the Landlord of the fee interest in the Property or of the Landlord's rights under this Lease, the Landlord shall be released from any future liability upon any of the covenants or conditions of this Lease, expressed or implied, in favor of the Tenant, and, in such event, the Tenant agrees to look solely to the responsibility of the successor in interest of the Landlord in and to the Property or this Lease. This Lease shall not be affected by any such sale, and the Tenant agrees to attorn to any such purchaser or assignee.

In the event of a sale, assignment, transfer by the Landlord of the fee interest in the Property to the Tenant, this Lease shall be terminated upon the date the City's deed is recorded and placed on Title.

PART 8.

INSURANCE, INDEMNIFICATION, DAMAGE AND DESTRUCTION

Section 8.1 Required Insurance Policies.

(a) The Tenant shall furnish at its sole cost and expense to the Landlord the type and amounts of self-insurance or insurance specified in Section 8.1(b) and such specified insurance shall be maintained in force during the entire Term of this Lease and any Extensions thereof.

(b) The Tenant shall maintain self-insurance or insurance and keep:

(1) Worker's Compensation insurance, including Employer's Liability coverage, with limits not less than required by applicable law;

(2) Comprehensive General Liability Insurance, with limits of not less than Two Million Dollars (\$2,000,000) for each occurrence of combined single-limit bodily injury and property damage;

(3) Comprehensive Automobile Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Body Injury and Property Damage, including coverage for owned non-owned and hired vehicles as applicable;

(4) Umbrella Insurance, with a limit of not less than Two Million Dollars (\$2,000,000); and

(5) Property insurance covering the Property and Improvements thereon covering all risks of loss, including earthquake, (but only if it is commercially affordable at a reasonable price and with a reasonable deductible, in the Landlord's reasonable opinion, and if Landlord requests in writing that such coverage be carried) and flood, if the Property is located in a flood zone, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the Landlord, naming the Landlord as a Loss Payee, as its interest may appear.

(c) Coverages under policies required under Section 8.1 shall include contractual liability, personal injury, owners' and contractors' protection (only during the course of any substantial demolition or construction work), products and completed operations, and liquor liability; provided, however, that liquor liability coverage may be limited to particular events at which liquor is served.

(d) The Tenant shall cause any general contractor or agent working on the Property under direct contract with the Tenant to maintain insurance of the types and in at least the minimum amounts described in Section 8.1(b)(1), (b)(2) and (b)(3) above, and shall require that such insurance shall meet all of the general requirements of Section 8.2 below.

(e) Subcontractors working on the Property or Improvements thereon under indirect contract with the Tenant shall be required to maintain the insurance described in subsections (b)(1), (b)(2), and (b)(3) above; provided that the amount of Commercial General Liability Insurance for each subcontractor shall have a limit of not less than One Million Dollars (\$1,000,000). Liability and Comprehensive Automobile Liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insured the Landlord and the County its Supervisors, board members, officers, agents, and employees.

(f) At the Tenant's election and sole cost and expense, the Tenant shall maintain and keep in force during the Term property insurance, in addition to those required under Section 8.1, of the types and nature and in such amounts deemed necessary by the Tenant.

#### Section 8.2 General Insurance Policy Requirements.

(a) Form of Policies. All self-insurance or insurance provided for in this Part 8 shall be effected under valid and enforceable policies issued by responsible insurers authorized to do business in the State of California and to issue policies of the nature and in the liability amounts required above. The policies required (if any) pursuant to Section 8.1 above shall name the Landlord as additional insureds. A certificate of each insurance policy shall be provided to the Landlord on or before the beginning of the Term and upon the renewal of each policy. All such policies issued by the respective insurers shall contain an agreement by the insurers that such policies shall not be cancelled or modified to reduce or eliminate coverage or insured risks without at least thirty (30) days prior written notice to the Landlord.

(b) Self-Insurance. The Landlord acknowledges that the Tenant maintains a self-insurance program and the Tenant's self-insurance program is hereby deemed acceptable by the Landlord, and the Tenant has no obligation to procure or maintain any particular type or amount of insurance in connection with this Lease for so long as the Tenant maintains the same self-insurance program.

Section 8.3 Hold Harmless and Indemnification.

Tenant shall indemnify, defend, and hold harmless the Landlord, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Lease by Tenant and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the Landlord. It is the intent of the parties to this Lease to provide the broadest possible coverage for the Landlord. The Tenant shall reimburse the Landlord for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Tenant is obligated to indemnify, defend and hold harmless the Landlord under this Lease.

The provisions of this Section 8.3 shall survive the expiration or other termination of this Lease with respect to events occurring prior to termination of this Lease.

Section 8.4 No Termination of Lease; Obligation to Restore.

Except as otherwise provided in Sections 8.5 or 8.6, no loss or damage by fire or any other cause resulting in either partial or total destruction of any buildings or improvements now or hereafter located in, upon or on the Property, or any fixtures, equipment or machinery used or intended to be used in connection with the Property or the Improvements thereon shall operate to terminate this Lease, or to relieve or discharge the Tenant from the payment of any rent or other amounts payable under this Lease, as rent or otherwise, as and when they become due and payable, or from the performance and observance of any of the agreements, covenants and conditions herein contained to be performed and observed by the Tenant. The Tenant hereby waives the provisions of Civil Code Section 1932, subsection 2, and Section 1933, subsection 4, as either or both may from time to time be amended, replaced or restated.

Except as provided in Section 8.5, the Tenant shall if damage is caused by Tenant promptly repair any damage or destruction caused to the Property and the Improvements and restore the Property and the Improvements to at least as good a condition as existed prior to the damage or destruction, as more specifically provided in Section 8.6. The Tenant's failure to make such full repair and restoration under any conditions in which it has elected or is required so to do shall constitute a default under this Lease.

Section 8.5 Damage or Destruction.

(a) If the Improvements on the Property are damaged or destroyed by any casualty where the insurance proceeds available are in an amount sufficient to repair and restore the Improvements, then the Tenant shall promptly make repair of such damage or destruction in accordance with the provisions of Sections 8.4 and 8.6; provided that, if the cost of repair and restoration of the Improvements is more than fifty percent (50%) of the replacement cost of the Improvements, the Tenant and the Landlord may mutually agree to terminate this Lease instead of having the Tenant repair the damage or destruction.

(b) If the Improvements on the Property are damaged or destroyed by any casualty where (1) the insurance proceeds available are insufficient to repair and restore such improvements, (2) the casualty causing such damage or destruction was not insured against and was not required to be insured against under the terms of this Lease, or (3) the Tenant is in default with respect to its obligation to maintain insurance against the casualty causing such damage or destruction, then the Landlord shall have the right either to terminate this Lease or provide the Tenant with time to raise sufficient funds to repair the damage or destruction. The Landlord shall give the Tenant notice of its determination within ninety (90) days following written notice from the Tenant of the amount of insurance proceeds available and the cost of repair. If the Landlord does give the Tenant the opportunity to raise funds to effectuate repair and the Tenant fails to raise such funds within the time period specified by the Landlord, then the Landlord may terminate this Lease.

#### Section 8.6 Procedures for Repair and Restoration.

The provisions of this Section 8.6 shall apply whenever the Improvements on the Property are to be repaired or restored under the provisions of this Part 8.

(a) In the event of any damage or destruction to the Property or the Improvements, the Tenant shall promptly give the Landlord written notice of such damage or destruction, setting forth the cause (if known), the date on which such damage or destruction occurred, and the estimated cost of repair and restoration as certified by a professional cost estimator experienced in such matters. Whenever any part of the Property or the Improvements shall have been damaged or destroyed, the Tenant shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims which the Tenant may have against insurers or others based upon any such damage or destruction. Sums of money received as payments for any losses pursuant to said insurance policies shall be used and expended for the purpose of fully repairing or reconstructing the portions of the Property and the Improvements which have been destroyed or damaged.

(b) Within ninety (90) days after the event of damage or destruction unless this Lease has been terminated pursuant to Section 8.5 above, the Tenant shall make available to the Insurance Trustee, described in subsection (c) below, the difference, if any, between the certified estimated cost of repair and restoration and the amount of insurance proceeds anticipated to be received for such repair and restoration.

(c) All proceeds of insurance together with the Tenant's contribution, if any, shall be paid by the Tenant to the Insurance Trustee, which Insurance Trustee shall be a

commercial bank or trust company experienced in such matters and designated by the Landlord. The Insurance Trustee shall hold such proceeds in trust and shall disburse same to the Tenant as follows: from time to time as the work of restoration progresses, the Tenant shall submit to the Insurance Trustee a certificate of the Tenant, signed by an authorized officer or representative thereof, and approved by an architect selected by the Tenant and approved by the Landlord (the Architect), which certificate shall (1) accurately describe the work for which the Tenant is requesting payment and the cost incurred by the Tenant in connection therewith, (2) certify that the Tenant has not theretofore received payment for such work, and (3) contain or be accompanied by a statement by the Tenant that the work for which the Tenant is requesting payment has been performed substantially in accordance with plans and specifications therefore approved by the Landlord.

Within five (5) days after receipt of any such certificate, the Insurance Trustee shall pay to the Tenant, from the funds on hand, an amount equal to ninety percent (90%) of the amount of the cost of the work for which the Tenant is requesting payment, as shown on such certificate. Upon completion of such work, the remainder of such cost (to the extent of the balance of the funds held by the Insurance Trustee) and all other insurance proceeds held by the Insurance Trustee shall be paid to the Tenant within five (5) days after the delivery to the Insurance Trustee of a certificate of the Tenant, signed by an authorized officer or representative thereof and approved by the Architect for the work, stating that the work has been completed and setting forth the total cost thereof, which certificate shall: (1) contain or be accompanied by a statement by the Tenant that the work has been completed substantially in accordance with plans and specifications therefore approved by the Landlord and (2) be accompanied by either (a) an unconditional waiver or release of mechanics' and materialmen's liens executed by all persons or entities supplying labor or materials in connection with such work or (b) other evidence reasonably satisfactory to the Landlord that the period for filing any such lien has expired and no such lien has been filed, or, if filed, has been bonded by the Tenant to the reasonable satisfaction of the Landlord and the Insurance Trustee. The Insurance Trustee shall not be required to invest or pay interest on any funds held by such trustee, except in accordance with any agreement between the Tenant and the Insurance Trustee.

(d) The Tenant shall promptly commence and complete, in a good and workmanlike manner and in accordance with Part 4, the reconstruction or repair of any part of the Property or the Improvements thereon damaged or destroyed after (1) the Landlord has approved the Tenant's plans, drawings, specifications and work schedule for such reconstruction or repair as such approval may be required under Part 4, and (2) the proceeds of insurance, if any, applicable to such reconstruction or repair have been made available for such purpose.

#### Section 8.7 Procedures Upon Permitted Termination.

(a) Permitted Terminations. Any insurance proceeds available upon termination of this Lease pursuant to Sections 8.5 or 8.6, or insurance proceeds not used in repair or restoration shall be distributed as follows:

(1) First, to the Lender of a permitted Leasehold Mortgage, the amount required by such Lender.

(2) Second, at the option of the Landlord, to the Landlord in the amount necessary to raze remaining improvements, clear the Property and make it safe.

(3) Third, any balance shall be divided between the Landlord and the Tenant on the following basis: The Tenant shall receive a share of the balance equal to the remaining years in the Term divided by twenty-five (25) and the Landlord shall receive a share of the balance equal to the years elapsed in the Term divided by twenty-five (25).

All other insurance proceeds shall be paid to and become the sole property of the Tenant. The Tenant shall be responsible for paying all indebtedness owed on permitted Leasehold Mortgages from the Tenant's share of insurance proceeds allocated pursuant to this Section 8.7 or from other sources available to the Tenant.

(b) Prosecution of Claims. In connection with and as a condition of any termination pursuant to Section 8.5, the Tenant shall make proof of loss and proceed to collect or commence collection of all valid claims which the Tenant may have against insurers or others based upon such damage or destruction, and shall assign and transfer to the Landlord all rights under insurance policies and against others and proceeds of insurance and other claims resulting from the casualty.

Upon termination of this Lease, the Tenant shall deliver possession of the Property and the Improvements thereon to the Landlord and quitclaim to the Landlord all right, title and interest in the Property and the Improvements thereon. In addition, the Tenant shall execute such other documents reasonably requested by the Landlord to document or evidence the termination and change of possession.

## PART 9. MORTGAGE OF LEASEHOLD

### Section 9.1 Prohibited Encumbrances.

Except as permitted in Section 9.2 below, the Tenant shall not:

(a) Place or create any mortgage or deed of trust upon the Property or upon the Tenant's leasehold estate therein or the Improvements thereon; or

(b) Place or suffer to be placed upon the Property or the Tenant's leasehold estate therein or the Improvements thereon, any lien or other encumbrance (other than a lien upon the leasehold estate for taxes levied but not delinquent or payable with penalty); or

(c) Suffer any levy or attachment to be made on the Property or on the Tenant's leasehold estate therein or the Improvements thereon.

Any such mortgage, encumbrance or lien prohibited by this Section 9.1 shall be deemed to be a violation of this covenant on the date of its execution or filing of record, regardless of whether or when it is foreclosed or otherwise enforced, unless the Tenant shall, within thirty (30) days of such date of execution or filing of record, remove any such mortgage, encumbrance or lien or provide adequate security to the reasonable satisfaction of the Landlord to protect the Property and the Improvements thereon from such mortgage, encumbrance or lien.

Section 9.2 Permitted Leasehold Mortgages.

The Tenant shall not encumber the Property or the Improvements thereon or the leasehold created by this Lease by any Leasehold Mortgage (as defined below) unless such Leasehold Mortgage is a condition of financing the Improvements and is contemplated by and consistent with the evidence of financing approved by the Landlord, who may exercise its sole discretion in giving or withholding its approval. As used herein, the term "Leasehold Mortgage" or "Leasehold Mortgages" shall mean any mortgage, deed of trust or other security instrument, including, without limitation, an assignment of the leasehold estate created by this Lease as security, which constitutes a lien on the leasehold estate created by this Lease is subject to this Lease, and given for purposes of securing loans made to the Tenant to finance the Improvements. As used herein, the term "Lender" or "Lenders" shall mean a beneficiary, mortgage or secured party of a permitted Leasehold Mortgage.

If the Landlord permits a Leasehold Mortgage pursuant to this Section 9.2, then the Landlord shall agree as follows:

(a) The Landlord shall, at the time the Landlord gives the Tenant, the Tenant's assigns, or the Tenant's subtenants any written notice of a default or failure to perform under this Lease, also give the Lender a written notice of such default or failure. The Lender shall have the right, but not the obligation, at any time prior to termination of this Lease, without payment of any penalty or late payment charge (except as provided in subparagraph (b) below), to pay all of the rents due hereunder, to effect any insurance, to pay any taxes, to do any other act required of the Tenant hereunder, and to do any act which may be necessary or proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent termination of this Lease. All payments so made and all things so done and performed by any Lender shall be as effective to prevent a termination of this Lease as the same would have been if made, done or performed by the Tenant.

(b) The Landlord shall not take any action to terminate this Lease because of a default or failure to perform until the Landlord has given the Lender an opportunity to cure such default or failure to perform. Such opportunity shall be provided by the Landlord giving written notice to the Lender that the Tenant, or the Tenant's assigns or subtenants have failed to cure such default or failure to perform within the applicable cure period. Such notice shall give the Lender at least thirty (30) days in which to cure such default or failure to perform or such longer period as is reasonably necessary to cure such default or failure to perform, taking into account the nature of the default or failure to perform and as agreed between the Lender and the Landlord in writing. In the event the default is of the type which requires possession of the Property in order to be cured, the period of time in which the Lender shall be allowed to cure the default

shall include sufficient time to permit the Lender to obtain possession of the Property through foreclosure or other means.

(c) The Landlord agrees that so long as a Lender holds a Leasehold Mortgage, the Landlord shall not agree with the Tenant, its assignees or subtenants to terminate, amend or modify this Lease without having first obtained the written consent of the Lender, which consent shall not be unreasonably withheld. There shall be no merger of this Lease, any interest in this Lease, or the leasehold estate created by this Lease, with the fee title interest in the Property by reason of the fact that this Lease or such interest herein or such leasehold estate may be directly or indirectly held by or for the account of any party who shall hold the fee title interest in the Property, or any interest in such fee title interest, nor shall there be such a merger by reason of the fact that all or any part of the leasehold estate created by this Lease may be conveyed or mortgaged under a Leasehold Mortgage to a Lender who shall hold the fee title interest in the Property or any interest of the Landlord under this Lease.

(d) Notices, demands and requests from the Landlord to the Lender shall be either personally delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, to the address given by the Lender to the Landlord, and notices, demands and requests from the Lender to the Landlord shall be either personally delivered or mailed to the address specified in Section 12.4 of this Lease. Any such notice, demand or request shall be given in accordance with the provisions of such Section 12.4.

(e) A Lender is not obligated to rehabilitate or complete the Improvements or to guarantee such completion; nor shall any covenant or any other provision in the Lease be construed so as to obligate such Lender. Nothing in this Lease shall be deemed to construe, permit or authorize any such Lender to devote the Property or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Lease.

(f) Nothing contained in this Lease shall be deemed to permit or authorize a Lender to undertake or continue the completion of any improvements (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed the Tenant's obligations under this Lease to the Landlord by written agreement reasonably satisfactory to the Landlord. The Lender in that event must agree to complete, in the manner provided in this Lease, the Improvements, and submit evidence satisfactory to the Landlord that it has the qualification and financial responsibility necessary to perform the obligations of the Tenant under this Lease.

### Section 9.3 Limitation on Encumbrances.

A permitted Leasehold Mortgage, authorized pursuant to Section 9.2 above, shall encumber no interest in property other than the Tenant's interest in the Property and the Improvements thereon, including Personal Property, or a portion thereof. Any permitted Leasehold Mortgage shall be without subordination of the title of the Landlord in and to the Property and the Improvements thereon, and any such permitted Leasehold Mortgage shall be of no further force and effect at the expiration or sooner termination of this Lease.

Section 9.4 Continuing Terms and Covenants.

Notwithstanding any foreclosure of any permitted Leasehold Mortgage, the Tenant shall remain liable for (i) the payment of rent, Advances, and all other payments payable pursuant to this Lease, (ii) the performance of all of the terms, covenants and conditions of this Lease which by the terms of this Lease are to be carried out and performed by the Tenant that arise or accrue before such foreclosure, but not after foreclosure of any permitted Leasehold Mortgage, and (iii) the indemnification of the Landlord, the Agency, and their respective officers, agents and employees pursuant to Section 4.2(d), Section 5.12(d), Section 8.3 and Section 10.2 of this Lease.

PART 10.  
SURRENDER; HOLDING OVER

Section 10.1 Surrender of Property.

(a) The Tenant shall, at least ninety (90) days before the last day of the Term, give to the Landlord a written notice of the Tenant's intention to surrender the Property and the Improvements thereon on that date, but nothing contained in this section shall be construed as an extension of the Term or as consent of the Landlord to any holding over by the Tenant.

(b) Unless the Tenant has removed the Personal Property in the Improvements pursuant to Section 6.2 above, at the end of the Term or other sooner termination of this Lease and subject to the terms and conditions of Part 6 above, the Tenant shall surrender and deliver to the Landlord the Property and the possession of the Property, together with the Improvements and Personal Property the Landlord is entitled to retain on the Property pursuant to the terms of this Lease, in condition required for the Property and the Improvements to be maintained under this Lease, free and clear of all occupancies other than those granted non-disturbance, and free and clear of all liens and encumbrances other than those, if any, presently existing or created by the Landlord, without payment or allowance whatever by the Landlord on account of any such improvements.

(c) Concurrently with the surrender of the Property, the Tenant agrees, if requested by the Landlord and for the benefit of the Landlord, to execute, acknowledge and deliver to the Landlord a quitclaim deed to the Property and such instruments as may be reasonably requested by the Landlord to evidence or otherwise effect such passage and vesting of title to the Improvements and Personal Property, if any, retained on the Property.

Section 10.2 Holding Over.

If the Tenant shall retain possession of the Property or the Improvements thereon or any part thereof without the Landlord's prior written consent following the expiration or sooner termination of this Lease for any reason, Tenant shall pay the Landlord one (1) dollar per month and the holding over will be deemed a month-to-month tenancy upon the same terms

and conditions as set forth in this Lease. In the event the Tenant continues to hold-over without the written consent of the Landlord for a period of more than ninety (90) days, Landlord reserves the right to take further action as necessary to evict the Tenant and rid the Property from unauthorized encumbrances. The Tenant shall also indemnify and hold the Landlord harmless from any loss or liability resulting from delay by the Tenant in surrendering the Property, including, without limitation, any claims made by any succeeding tenant founded on such delay. Acceptance of rent by the Landlord following expiration or termination shall not constitute a renewal of this Lease and nothing contained in this Section 10.2 shall waive the Landlord's right of reentry or any other right. The Tenant shall be only a tenant at sufferance, whether or not the Landlord accepts any rent from the Tenant while the Tenant is holding over without the Landlord's written consent.

## PART 11. DEFAULT

### Section 11.1 Material Default by Tenant.

(a) Any of the following occurrences or acts shall constitute an "Event of Material Default" by the Tenant under this Lease:

(1) If the Tenant at any time during the Term (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings in law, in equity or before any administrative tribunal which have or might have the effect of preventing the Tenant from complying with the terms of this Lease) fails to operate the Improvements for the Permitted Uses and Ancillary Uses as set forth in Section 5.3 above;

(2) If the Tenant at any time during the Term (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings in law, in equity or before any administrative tribunal which have or might have the effect of preventing the Tenant from complying with the terms of this Lease) shall fail to make payment, when such payment is due, of any rent, Advances or of any other payment the Tenant is required to pay pursuant to this Lease and such failure continues for fifteen (15) days following receipt of written notice thereof by the Tenant;

(3) If the Tenant fails to observe or perform any of the material covenants, agreements or obligations of the Tenant under this Lease, other than those set forth in subsections (a)(1) and (a)(2) above and such material default is not cured within thirty (30) days after receipt of written notice thereof by the Tenant or, as to any curable material default which cannot with diligence be cured within such thirty (30) day period, if the Tenant shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such material default with diligence, it being intended in connection with a material default not susceptible of being cured with diligence within such period of thirty (30) days, that the time within which to cure the

same shall be extended for such period as may be reasonably necessary to complete the curing of the same with diligence; or

(4) If the Tenant shall file a petition in bankruptcy or for reorganization or for any arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent or shall make an assignment for the benefit of its creditors, or if a petition or answer proposing the adjudication of the Tenant as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within one hundred twenty (120) days after the filing thereof; or

(5) If a receiver, trustee or liquidator of the Tenant or of all or substantially all of the property of the Tenant, including the Property or the Improvements thereon, shall be appointed in any proceeding brought by the Tenant, or if any such receiver, trustee or liquidator shall be appointed in any proceeding brought by a third party (other than a Lender, as defined in Part 9 pursuing remedies under a Leasehold Mortgage, defined in Section 9.2) against the Tenant and if such receiver, trustee or liquidator shall not be discharged within one hundred twenty (120) days after such appointment, of if the Tenant shall acquiesce in or consent to such appointment.

(b) Subject to the rights of Lenders under Part 9 of this Lease, upon the occurrence of any such Event of Material Default and as long as the Event of Material Default continues, in addition to any and all other rights or remedies of the Landlord under this Lease or by law or in equity, the Landlord shall have the sole option to exercise the following rights and remedies:

(1) The right of the Landlord to declare the Term ended and to terminate this Lease, in which event the Tenant shall promptly surrender possession of the Property, and the Improvements and Personal Property thereon to the Landlord, and pay to the Landlord all rent to the date of such termination and all other payments, including Advances, due the Landlord under this Lease. If the Tenant does not so promptly surrender the Property and the Improvements and Personal Property thereon, the Landlord shall have the immediate right to reenter the Property and take possession thereof and remove all persons there from, other than persons granted non-disturbance.

(2) The right of the Landlord, without terminating this Lease, to enter the Property and the Improvements thereon and occupy the whole or any part thereof for and on account of the Tenant and to collect said rent and any other rent that may thereafter become payable, to refuse (notwithstanding any other term or provision of this Lease) to permit, and to deny the right of the Tenant to remove any or all of the Tenant's movable Personal Property located in, on or upon the Property and the Improvements thereon, and to use and take exclusive possession of same without payment to the Tenant or cost to the Landlord for so long as the Landlord so occupies the Property and the Improvements thereon or until this Lease is terminated pursuant to subsection (b)(3) below.

(3) The right of the Landlord, even though it may have reentered the Property and the Improvements thereon pursuant to subsection (b)(2) above, to thereafter elect to terminate this Lease.

(c) Prior to exercising the remedies set forth in subsection (b) above the Landlord shall give the Tenant not less than thirty (30) days prior written notice (which may be given concurrently with giving the Tenant notice of an Event of Material Default) of the Landlord's intent to exercise its remedies under this Section 11.1, which notice shall specify the remedy or remedies the Landlord intends to exercise.

(d) In the event the Landlord reenters the Property and the Improvements thereon pursuant to the provisions of subsection (b)(2) above, the Landlord shall not be deemed to have terminated this Lease, and the liability of the Tenant thereafter to pay rent, Advances and other sums payable under this Lease shall continue unless the Landlord notifies the Tenant in writing that the Landlord has so elected to terminate this Lease pursuant to subsection (b)(3) above. The Tenant further acknowledges and agrees that the service by the Landlord of any notice pursuant to the unlawful detainer or similar such statute of the State of California and the surrender of possession pursuant to such notice shall not be deemed to be a termination of this Lease.

(e) Should the Landlord elect to terminate this Lease pursuant to the provisions of subsection (b)(1) or (b)(3) above, the Landlord may recover from the Tenant, as damages:

(1) The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(2) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided through re-lease or sale of the Improvements; plus

(3) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that the Tenant proves could be reasonably avoided through re-lease or sale of the Improvements; plus

(4) Any other amount necessary to compensate the Landlord for any expenses or damages incurred which would have been avoided had the Tenant performed its obligations under this Lease.

As used in subsections (e)(1) and (e)(2) above, the term "worth at the time of award" is computed by allowing interest from the date such amount becomes due and payable at the Lease Interest Rate. As used in subsection (e)(3), above, the term "worth at the time of award" is computed by discounting the amount determined pursuant to subsection (e)(3) at the discount

rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

Section 11.2 Remedies Not Exclusive.

No right or remedy herein conferred upon or reserved to the Landlord or the Tenant is intended to be exclusive of any other right or remedy, except as expressly stated herein, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute, except such rights or remedies as are expressly limited herein.

Section 11.3 Default by Landlord.

In the event the Landlord shall fail to perform or observe any of the material covenants or provisions contained in this Lease on the part of the Landlord to be performed or observed within thirty (30) days after written notice from the Tenant to the Landlord specifying the particulars of such material default or breach of performance, or if more than thirty (30) days shall be reasonably required because of the nature of the material default, if the Landlord shall fail to proceed diligently to cure such material default after such notice, then in that event the Landlord shall be responsible to the Tenant for any and all actual damages sustained by the Tenant as a direct result of the Landlord's material default, and, in addition the Tenant shall be entitled to terminate this Lease upon giving the Landlord not less than ninety (90) days prior notice of the Tenant's intention to terminate this Lease for such material default.

Section 11.4 Limitations On Liability.

The Tenant agrees that the Tenant shall have no recourse with respect to the breach of any obligation of the Landlord under this Lease, or for any claim based upon this Lease against any County Supervisor, officer, director, employee or attorney, past, present or future of the Landlord, or against any person other than the Landlord.

PART 12.  
GENERAL PROVISIONS

Section 12.1 Enforced Delay.

In addition to specific provisions of this Lease, performance by any party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; casualties; acts of god; acts of the public enemy; epidemics; government restrictions or priorities; freight embargoes, shortage of labor or materials; unusually inclement weather; lack of transportation; government restrictions or priorities; court order; or any other similar causes (other than lack of funds of the Tenant or the Tenant's inability to finance the construction of the Improvements) beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other

party within thirty (30) days from the commencement of the cause and such extension of time is not rejected in writing by the other party within thirty (30) days of receipt of the notice. Times of performance under this Lease may also be extended by written agreement of the Landlord and the Tenant.

#### Section 12.2 Estoppel Certificates.

Either party to this Lease shall, promptly upon the request of the other party, execute, acknowledge and deliver to or for the benefit of the other party or to or for the benefit of any actual or prospective Lender, at any time, from time to time, and at the expense of the party requesting a certificate as herein below described, promptly upon request, its certificate certifying (1) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications), (2) the dates, if any, to which all amounts due hereunder have been paid, (3) whether there are then existing any charges, offsets or defenses against the enforcement of any agreement, covenant or condition hereof on the part of the party requesting the certificate known to the party delivering the certificate in the performance or observance of any agreement, covenant or condition hereof to be performed or observed and whether any notice has been given of any default which has not been cured (and, if so, specifying the same), and (4) such other reasonable matters concerning this Lease or the Property as either party may request. Any such certificate may be relied upon by a prospective purchaser, mortgagee, lender or trustee or beneficiary under a deed of trust of the Property or the Improvements thereon or the leasehold estate hereunder or any part thereof.

#### Section 12.3 Waiver.

No waiver of any default under this Lease shall constitute or operate as a waiver of any subsequent default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege or option under this Lease shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege or option hereunder. No waiver of any provision hereof by the Landlord or the Tenant shall be deemed to have been made unless and until such waiver shall have been reduced to writing and signed by the Landlord or the Tenant, as the case may be. The receipt and acceptance by the Landlord of any amount owing under this Lease with knowledge of any default under this Lease shall not constitute or operate as a waiver of such default. Failure by the Landlord or the Tenant, as the case may be, to enforce any of the terms, covenants or conditions of this Lease for any length of time or from time to time shall not be deemed to waive or decrease the right of the Landlord to insist thereafter upon strict performance by the Tenant.

#### Section 12.4 Notices.

If at any time after the execution of this Lease it shall become necessary or convenient for one of the parties to this Lease to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally, or dispatched by the certified United States mail, return receipt requested, postage prepaid, or by

facsimile transmission or reputable overnight service and if intended for the Landlord shall be addressed to:

County of Monterey  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
Attn: RMA Finance

and if intended for the Tenant shall be addressed to:

City of Salinas  
200 Lincoln Avenue  
Salinas, CA 93901  
Attn: City Manager w/copy to City Attorney

or to such other address as either party may have furnished to the other in writing as a place for the service of notice. Any notice so mailed shall be deemed to have been given on the delivery date or the date delivery is refused by the addressee, as shown on the return receipt.

Whenever the approval, consent or other action of a party will be deemed to be given or taken within a period of time, pursuant to a provision of this Lease, the item submitted or request for action shall be made in writing to such party and shall be accompanied by written notice stating that it is being submitted or requested pursuant to a provision of this Lease identified in such notice and stating that such item will be deemed approved or that a specified action will be deemed taken within an identified period of time (as specified by such Lease provision), unless objection is made or other action taken within the time stated in such notice.

#### Section 12.5 Identity and Authority of Tenant.

Each of the persons executing this Lease on behalf of the Tenant does hereby covenant and warrant that the Tenant is a municipal corporation, that the Tenant has full right, power and authority to enter into this Lease; that the execution, delivery and performance of this Lease were duly authorized by proper action of the Tenant and no consent, authorization or approval of any person is necessary in connection with such execution and delivery or to carry out all actions contemplated by this Lease except as have been obtained and are in full force and effect; that the persons executing this Lease on behalf of the Tenant have full authority to do so and that this Lease constitutes the valid, binding and enforceable obligation of the Tenant. Upon the Landlord's request, the Tenant shall provide the Landlord with evidence reasonably satisfactory to the Landlord confirming the foregoing covenants and warranties.

#### Section 12.6 Landlord's Covenant of Quiet Enjoyment.

The Landlord hereby covenants to the Tenant that the Landlord possesses good and marketable fee simple title to the Property. Upon the Tenant paying the rent, Advances and other amounts payable hereunder and observing and performing all of the covenants, conditions and

provisions on the Tenant's part to be observed and performed hereunder, the Tenant shall peaceably hold and quietly enjoy the Property for the entire Term without hindrance, molestation or interruption by the Landlord or any party claiming through or under the Landlord.

Section 12.7 Entry by Landlord.

(a) Except as provided in Section 12.7(b) the Landlord and its authorized representatives, upon reasonable notice and opportunity to be accompanied by the Tenant's representatives, reserve and shall at all times have the right to enter upon the Property and the Improvements thereon at all reasonable times to inspect the physical plant and building maintenance, to determine compliance with the terms of this Lease, to inspect any construction work, to show the Property and the Improvements thereon to prospective purchasers, mortgagees, lenders or tenants, or to post notices, including, without limitation, notices of non-responsibility, all the foregoing without abatement of rent. In the event of an emergency, the Landlord shall have the right to use any and all means which the Landlord may deem necessary or proper to open any doors in order to obtain entry to any portion of the Property or the Improvements thereon, and any entry to the Property or the Improvements or portions thereof obtained by the Landlord by any of such means or otherwise, shall not under any circumstances be construed or deemed to be forcible or unlawful entry into, or a detainer of, the Property or the Improvements thereon or an eviction, actual or constructive, of the Tenant from the Property or the Improvements thereon. The Landlord shall indemnify and hold harmless the Tenant, and its respective subtenants, officers, employees, contractors and agents from and against all liabilities, damages, claims and expenses (including reasonable attorneys' fees) to third parties arising out of the Landlord's entry upon the Property and the Improvements pursuant to this Section 12.7.

(b) Landlord recognizes and understands that Tenant's services, identity of clients, and records relate to a confidential relationship between the Tenant and its clients, and Landlord agrees that, in its interaction with Tenant, its clients and records, whether through itself, its employees, or its agents, it will maintain such confidences as might become available to it and not release or divulge such confidential identities, information, or records. Landlord and Tenant shall consider the entire Premises a locked environment. Landlord and its agents shall exercise all possible care to preserve and maintain the confidentiality of any records and information, consistent with state and federal privacy laws relating to private and medical information.

Section 12.8 No Joint Venture.

It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture between the Landlord and the Tenant or between the Landlord and any other party or cause the Landlord to be responsible in any way for the debts or obligations of the Tenant or any other party.

Section 12.9 Miscellaneous Provisions.

(a) All rights, powers and remedies provided in this Lease may be exercised only to the extent that the exercise thereof does not violate any applicable law and is intended to

be limited to the extent necessary so that such exercise will not render this Lease invalid, unenforceable or not entitled to be recorded under applicable law. If any term of this Lease shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Lease shall in no way be affected thereby. Whenever the consent or approval of the Landlord or the Tenant is required under this Lease, such consent or approval shall not be unreasonably withheld or delayed unless another standard for consent or approval shall be expressly set forth. At all times the Landlord and the Tenant shall deal with each other fairly and in good faith.

(b) The Tenant shall not pay any money or provide any other consideration of any kind whatsoever or employ, contract with or sublease to or with any person or entity if such payment of money or provision of other consideration would violate or would have a reasonable likelihood of violating any law, statute, ordinance, directive, regulation, decision or opinion now or hereafter enacted or promulgated by the Landlord, the State of California or any governmental, public or judicial body, agency or department relating in any manner to conflicts of interest or if such payment or provision of consideration is to a person or entity which has discretionary authority or power of any kind over the development, use or occupancy of the Property or the Improvements thereon or any part thereof or with respect to the enforcement or interpretation of this Lease.

(c) The words "Landlord" and "Tenant" as used herein shall include a corporation and include the plural as well as the singular. Words used in the masculine gender include the feminine and neuter. If there be more than one Landlord and Tenant, the obligations hereunder imposed upon the Landlord and the Tenant shall be joint and several.

(d) Contemporaneously with the execution of this Lease, the Landlord and the Tenant shall execute, acknowledge and record in the Official Records of the County of Monterey, California, the Memorandum of Lease in the form attached as Exhibit B and incorporated herein by reference.

(e) The captions used herein are for convenience of reference only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions hereof.

(f) Time is of the essence of each and all of the agreements, covenants and conditions of this Lease.

(g) This Lease shall be interpreted in accordance with and governed by the laws of the State of California. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against the Landlord or the Tenant.

(h) This Lease and the agreements referenced herein constitute the entire agreement between the Landlord and the Tenant with respect to the subject matter hereof and supersede all prior offers and negotiations, oral and written. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the Landlord and the Tenant.

*SIGNATURES ON FOLLOWING PAGES*

IN WITNESS WHEREOF, the Landlord and the Tenant have executed this Lease by proper persons thereunto duly authorized as of the date first hereinabove written.

LANDLORD:

COUNTY OF MONTEREY,  
a political subdivision of the State of California

By: \_\_\_\_\_

Name: \_\_\_\_\_

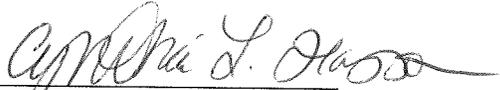
Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Gail T. Borkowski, Clerk of the Board

APPROVED AS TO FORM:

COUNTY COUNSEL



Cynthia L. Hasson  
Deputy County Counsel

*SIGNATURES CONTINUED ON NEXT PAGE*

TENANT:

CITY OF SALINAS,  
a charter city and municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

CITY ATTORNEY

\_\_\_\_\_  
Christopher A. Callihan

## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

The land is situated in the City of Salinas, County of Monterey, State of California, and is described as follows:

#### PARCEL I:

All that piece or parcel of land situated, lying and being in the Rancho El Sausal, Monterey County, California, and also within the corporate limits of the City of Salinas, described as follows, to wit:

Beginning at a point in the southerly line of Alisal Street at the most northerly corner of the lands of N. A. Holiday and also, at the most easterly corner of that tract of land conveyed to Victor Barlogio, et ux by deed recorded on the 14th day of March, A.D. 1919, in Vol. 161 of Deeds, at pages 450 and 451 in the office of the County Recorder of Monterey County, California; thence South 1 deg. 39 min. West along the line between the lands of Victor Barlogio and N. A. Holiday 726.1 feet to a point in the easterly line of the Southern Pacific Railroad Company's right of Way; thence South 34 deg. 49 min. East along the said easterly line of the Southern Pacific Railroad Company's right of way 166.9 feet to a point; thence North 1 deg. 39 min. East parallel to the said line between Victor Barlogio and N. A. Holiday 850.9 feet to a point in the said southerly line of Alisal Street; thence North 82 deg. 57 min. West along the said southerly line of Alisal Street, 100 feet to the place of beginning.

Excepting therefrom, all those portions conveyed to Salinas, a municipal corporation by deeds recorded April 6, 1961 in Volume 2137 OR 282 and recorded September 3, 1964, Reel 362 OR 466.

#### PARCEL II:

Certain real property situate, lying and being in the Rancho El Sausal within the corporate limits of the city of Salinas, in the County of Monterey, State of California, and being a part of that certain tract of land described in Deed of Trust, Talcott Lumber Company, Inc., a corporation, to Bank of America, dated March 21, 1950 and recorded in Volume 1203 of Official Records at page 411, Monterey County Records, said part being particularly described as follows, to-wit:

Beginning at a 1 inch diameter iron pipe standing in the southerly line of Alisal Street (66.0 feet wide at the northwest corner of said tract of land and running thence along said street line,

- (1) South 82 deg. 57 min. East, 175.0 feet at 135.0 feet a point herein and now designated as Point "A" for the purpose of reference thereto in further description hereinafter to be made, 175.0 feet to a 3/4 inch diameter iron pipe; thence leave said line of Alisal Street and running
- (2) South 1 deg. 41 1/2 min. West, 598.34 feet to a 1/2 inch diameter iron pipe; thence
- (3) North 88 deg. 40 min. West, 62.04 feet, at 41.20 feet to a point herein and now designated as Point "B" for the purpose of reference thereto in further description hereinafter to be made, 62.04 feet to a copper plug set in the concrete pavement; thence
- (4) South 1 deg. 58 min. West, 48.22 feet, at 45.22 feet a copper plug, 48.22 feet to the northwest corner of the westerly rail of the spur track; thence
- (5) North 88 deg. 04 min. West, 12.0 feet to a 1/2 inch diameter iron pipe; thence
- (6) South 1 deg. 50 min. West, 188.54 feet to a 1/2 inch diameter iron pipe; thence
- (7) North 88 deg. 12 min. West, 99.50 feet to the southwest corner of said tract of land described in said deed of trust; thence running along the west boundary of last mentioned tract of land

(8) North 1 deg. 41 1/2 min. East, 851.60 feet to the place of beginning.

Courses all true.

Also the right to use equally with the owners and/or tenants of that certain real property described in the deed from Talcott Lumber Company, Inc., a corporation, to Rudy R. Lamar, filed for record in the office of the Recorder of Monterey County, California, on October 17, 1951, in Volume 1335 Official Records at page 171, Monterey County Records, that certain spur track located upon said real property, for the purpose of receiving railroad cars on the extension of said spur track situated on that certain real property of the Diamond Match Company, its successors and assigns, described in the Deed from Talcott Lumber Company, a corporation, filed in the office of the Recorder of Monterey County, California, on August 11, 1952 in Volume 1398 Official Records at Page 327, Monterey County Records; the location of said spur track and extension being as shown on the plat designated "Southern Pacific Company Drawing No. 17107", attached to that certain deed recorded in Volume 1562 Official Records at Page 159, Monterey County Records.

APN: 003-041-039-000

EXHIBIT B

MEMORANDUM OF LEASE

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

County of Monterey  
168 West Alisal Street, 3rd Floor  
Salinas, CA 93901  
Attn: County Administrative Officer

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE § 27383

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MEMORANDUM OF LEASE

This Memorandum of Lease (the "Memorandum") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Salinas, a charter city and municipal corporation (the "Landlord"), and the County of Monterey, a political subdivision of the State of California (the "Tenant") with respect to that certain Lease (the "Lease") dated \_\_\_\_\_, \_\_\_\_ 2016, between the Landlord and the Tenant.

Pursuant to the Lease, the Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord the real property commonly known as 312 East Alisal Street, Salinas, County of Monterey, more particularly described in Exhibit A attached hereto, which real property is otherwise known as the Property. The Lease is for a term commencing on \_\_\_\_\_ 20\_\_, and ending on December 31, 2041 (the "Term"), or as may be extended pursuant to Section 3.3 of the Lease.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Lease, of which this is a memorandum.

IN WITNESS WHEREOF, the Landlord and the Tenant have executed this Memorandum by proper persons thereunto duly authorized as of the date first hereinabove written.

LANDLORD:

COUNTY OF MONTEREY,  
a political subdivision of the State of California

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Gail T. Borkowski, Clerk of the Board

APPROVED AS TO FORM:

COUNTY COUNSEL

\_\_\_\_\_  
Cynthia L. Hasson  
Deputy County Counsel

*SIGNATURES CONTINUED ON NEXT PAGE*

TENANT:

CITY OF SALINAS,  
a charter city and municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

CITY ATTORNEY

\_\_\_\_\_  
Christopher A. Callihan

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, 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.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, 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.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public

EXHIBIT A  
TO MEMORANDUM OF LEASE

Legal Description of Property

The land is situated in the City of Salinas, County of Monterey, State of California, and is described as follows:

PARCEL I:

All that piece or parcel of land situated, lying and being in the Rancho El Sausal, Monterey County, California, and also within the corporate limits of the City of Salinas, described as follows, to wit:

Beginning at a point in the southerly line of Alisal Street at the most northerly corner of the lands of N. A. Holiday and also, at the most easterly corner of that tract of land conveyed to Victor Barlogio, et ux by deed recorded on the 14th day of March, A.D. 1919, in Vol. 161 of Deeds, at pages 450 and 451 in the office of the County Recorder of Monterey County, California; thence South 1 deg. 39 min. West along the line between the lands of Victor Barlogio and N. A. Holiday 726.1 feet to a point in the easterly line of the Southern Pacific Railroad Company's right of Way; thence South 34 deg. 49 min. East along the said easterly line of the Southern Pacific Railroad Company's right of way 166.9 feet to a point; thence North 1 deg. 39 min. East parallel to the said line between Victor Barlogio and N. A. Holiday 850.9 feet to a point in the said southerly line of Alisal Street; thence North 62 deg. 57 min. West along the said southerly line of Alisal Street, 100 feet to the place of beginning.

Excepting therefrom, all those portions conveyed to Salinas, a municipal corporation by deeds recorded April 6, 1961 in Volume 2137 OR 282 and recorded September 3, 1964, Reel 362 OR 466.

PARCEL II:

Certain real property situate, lying and being in the Rancho El Sausal within the corporate limits of the city of Salinas, in the County of Monterey, State of California, and being a part of that certain tract of land described in Deed of Trust, Talcott Lumber Company, Inc., a corporation, to Bank of America, dated March 21, 1950 and recorded in Volume 1203 of Official Records at page 411, Monterey County Records, said part being particularly described as follows, to-wit:

Beginning at a 1 inch diameter iron pipe standing in the southerly line of Alisal Street (66.0 feet wide at the northwest corner of said tract of land and running thence along said street line,

(1) South 82 deg. 57 min. East, 175.0 feet at 135.0 feet a point herein and now designated as Point "A" for the purpose of reference thereto in further description hereinafter to be made, 175.0 feet to a 3/4 inch diameter iron pipe; thence leave said line of Alisal Street and running  
(2) South 1 deg. 41 1/2 min. West, 598.34 feet to a 1/2 inch diameter iron pipe; thence  
(3) North 88 deg. 40 min. West, 62.04 feet, at 41.20 feet to a point herein and now designated as Point "B" for the purpose of reference thereto in further description hereinafter to be made, 62.04 feet to a copper plug set in the concrete pavement; thence  
(4) South 1 deg. 58 min. West, 48.22 feet, at 45.22 feet a copper plug, 48.22 feet to the northwest corner of the westerly rail of the spur track; thence  
(5) North 88 deg. 04 min. West, 12.0 feet to a 1/2 inch diameter iron pipe; thence  
(6) South 1 deg. 50 min. West, 188.54 feet to a 1/2 inch diameter iron pipe; thence  
(7) North 88 deg. 12 min. West, 99.50 feet to the southwest corner of said tract of land described in said deed of trust; thence running along the west boundary of last mentioned tract of land

(8) North 1 deg. 41 1/2 min. East, 851.60 feet to the place of beginning.

Courses all true.

Also the right to use equally with the owners and/or tenants of that certain real property described in the deed from Talcott Lumber Company, Inc., a corporation, to Rudy R. Lamsar, filed for record in the office of the Recorder of Monterey County, California, on October 17, 1951, in Volume 1335 Official Records at page 171, Monterey County Records, that certain spur track located upon said real property, for the purpose of receiving railroad cars on the extension of said spur track situated on that certain real property of the Diamond Match Company, its successors and assigns, described in the Deed from Talcott Lumber Company, a corporation, filed in the office of the Recorder of Monterey County, California, on August 11, 1952 in Volume 1398 Official Records at Page 327, Monterey County Records; the location of said spur track and extension being as shown on the plat designated "Southern Pacific Company Drawing No. 17107", attached to that certain deed recorded in Volume 1562 Official Records at Page 159, Monterey County Records.

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