



CITY OF MENDOTA

"Cantaloupe Center Of The World"

ROLANDO CASTRO
Mayor

JESUS MENDOZA
Mayor Pro Tem

JOSE ALONSO

JOSEPH R. RIOFRIO

OSCAR ROSALES

AGENDA MENDOTA CITY COUNCIL

Regular City Council Meeting
CITY COUNCIL CHAMBERS
643 QUINCE STREET
November 8, 2022
6:00 PM

CRISTIAN GONZALEZ
City Manager

JOHN KINSEY
City Attorney

The Mendota City Council welcomes you to its meetings, which are scheduled for the 2nd and 4th Tuesday of every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda. **Please turn your cell phones on vibrate/off while in the council chambers.**

Any public writings distributed by the City of Mendota to at least a majority of the City Council regarding any item on this regular meeting agenda will be made available at the front counter at City Hall, located at 643 Quince Street Mendota, CA 93640, during normal business hours, 8 AM – 5 PM.

In compliance with the Americans with Disabilities Act, individuals requiring special assistance to participate at this meeting please contact the City Clerk at (559) 655-3291 or (559) 577-7692. Notification of at least forty-eight hours prior to the meeting will enable staff to make reasonable arrangements to ensure accessibility to the meeting.

Si necesita servicios de interpretación para participar en esta reunión, comuníquese con la Secretaria de la Ciudad al (559) 655-3291 o (559) 577-7692 entre las 8 a.m. y las 5 p.m. de lunes a viernes. La notificación de al menos veinticuatro horas antes de la reunión permitirá al personal adoptar las disposiciones necesarias para garantizar su participación en la reunión.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

INVOCATION

FINALIZE THE AGENDA

1. Adjustments to Agenda
2. Adoption of final Agenda

PRESENTATION

1. Chief Smith to introduce Police Officer Joshua Comen.
2. Council to receive presentation regarding HOME ARP funding and Fresno County's CDBG/HOME Programs.

CITIZENS' ORAL AND WRITTEN PRESENTATIONS

At this time, members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to the City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium and state their names and addresses for the record. Please watch the time.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of October 25, 2022.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

CONSENT CALENDAR

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. OCTOBER 26, 2022 THROUGH OCTOBER 31, 2022
WARRANT LIST CHECK NOS. 52447 THROUGH 52486
TOTAL FOR COUNCIL APPROVAL = \$303,564.99
2. Proposed adoption of **Resolution No. 22-69**, approving the Government Agency Agreement with the Flock Group, Inc., and authorizing the City Manager or their designee to execute all necessary documents.
3. Proposed adoption of **Resolution No. 22-70**, approving a budget amendment to the Fiscal Year 2022-2023 budget.

BUSINESS

1. Council discussion and consideration of **Resolution No. 22-71**, approving a contract with MRC and the bids received for an inclusive playground, including surfacing, at Rojas-Pierce Park, and authorizing the City Manager or their designee to execute all necessary documents.
 - a. *Receive report from Finance Director Banda*
 - b. *Inquiries from City Council to staff*
 - c. *Mayor Castro opens floor to receive any comment from the public*
 - d. *City Council provides input and considers Resolution No. 22-71 for adoption*

2. Council discussion and consideration of appointing Mendota residents to the Mendota Planning and Recreation Commissions.
 - a. *Receive report from City Clerk Cabrera-Garcia*
 - b. *Inquiries from City Council to staff*
 - c. *Mayor Castro opens floor to receive any comment from the public*
 - d. *City Council takes action as appropriate*

PUBLIC HEARING

1. Council discussion and consideration of **Resolution No. 22-72**, authorizing and approving the issuance of Lease Revenue Bonds, Series 2022, in the aggregate principal amount not to exceed \$3,500,000; approving the execution and delivery of a Site and Facility Lease, a Lease Agreement, and a Private Placement Agreement; authorizing actions and execution of documents related thereto; and approving a Notice of Exemption from the California Environmental Quality Act.
 - a. *Receive report from City Manager Gonzalez*
 - b. *Inquiries from City Council to staff*
 - c. *Mayor Castro opens the public hearing*
 - d. *Once all comment has been received, Mayor Castro closes the public hearing*
 - e. *Council provides input and considers Resolution No. 22-72 for adoption*

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Finance Director
 - a) Grant Update
2. City Engineer
 - a) Update
3. City Attorney
 - a) Update
4. City Manager

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)
2. Mayor

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code sections 54954.5, subdivision (f), 54957.6
 - a. Agency Designated Representative: Cristian Gonzalez, City Manager
 - b. Employee Organization: Mendota Police Officers Association

ADJOURNMENT

CERTIFICATION OF POSTING

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota City Council Regular Meeting of November 8, 2022, was posted on the outside bulletin board located at City Hall, 643 Quince Street, on Friday, November 4, 2022, at 5:00 p.m.



Celeste Cabrera-Garcia, City Clerk



MINUTES OF MENDOTA REGULAR CITY COUNCIL MEETING

Regular Meeting

October 25, 2022

Meeting called to order by Mayor Pro Tem Mendoza at 6:17 p.m.

Roll Call

Council Members Present: Mayor Pro Tem Jesus Mendoza and Councilors Jose Alonso, and Joseph Riofrio

Council Members Absent: Mayor Rolando Castro and Councilor Oscar Rosales

Flag salute led by Mayor Pro Tem Mendoza

Invocation led by Police Chaplain Ophelia Lugo

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda.

City Manager Gonzalez requested that Business item 1 be tabled to the next regular meeting agenda.

A motion was made by Councilor Riofrio to adopt the modified agenda as requested by staff, seconded by Councilor Alonso; unanimously approved (3 ayes, absent: Castro and Rosales).

PRESENTATION

1. Bethany Matos to provide educational information on the West Hills College Bond.

Bethany Mathos, Dr. Carla Tweed, and Dr. Kristin Clark with West Hills College provided educational information on the West Hills College Bond. Discussion was held on the information provided.

CITIZENS ORAL AND WRITTEN PRESENTATIONS

Kevin Romero – provided an update on youth sports.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of October 11, 2022.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

A motion was made by Councilor Riofrio to approve items 1 and 2, seconded by Councilor Alonso; unanimously approved (3 ayes, absent: Castro and Rosales).

CONSENT CALENDAR

1. OCTOBER 4, 2022 THROUGH OCTOBER 18, 2022
WARRANT LIST CHECK NOS. 52410 THROUGH 52446
TOTAL FOR COUNCIL APPROVAL = \$301,825.18
2. Proposed adoption of **Resolution No. 22-65**, cancelling the November 22nd and December 27th regular City Council meetings and authorizing the City Manager to execute any necessary warrants.
3. Proposed adoption of **Resolution No. 22-66**, accepting and filing the Community Facilities District No. 2006-1 Annual Report for Fiscal Year 2022/2023.
4. Proposed adoption of **Resolution No. 22-67**, authorizing the submittal of an application to the Backup Generator Funding Program and authorizing the City Manager and Chief Plant Operator to execute all required documents.
5. Proposed adoption of **Resolution No. 22-68**, awarding the construction contract for the 2022 Local Street Reconstruction Project to Emmett Valley Construction, Inc., in the amount of \$784,742.

A motion was made by Councilor Riofrio to approve items 1 through 4 of the Consent Calendar, seconded by Councilor Alonso; unanimously approved (3 ayes, absent: Castro and Rosales).

BUSINESS

1. *Council discussion and consideration of appointing Mendota residents to the Mendota Planning and Recreation Commissions.*

Business item 1 was tabled to the next regular City Council meeting.

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Animal Control, Code Enforcement, and Police Department
 - a) Monthly Reports

Chief of Police Smith presented the monthly logs for the Animal Control and Code Enforcement Departments.

Discussion was held on a potentially vicious dog in the community.

Chief Smith presented the monthly statistics for the police department; reported on the Red Ribbon/Halloween activities that the department participated in; presented an informational video regarding stopping for buses; and showed a video on the department participating in the chip challenge.

2. City Attorney
 - a) Update

Assistant City Attorney Castro stated that he had nothing to report.

3. City Manager

City Manager Gonzalez reported that the City's airport permit has been suspended and that the airport has been closed effective immediately.

Discussion was held on the status of the airport; the status of the 580 Derrick Avenue development; and the status of the Taco Bell property.

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)

Councilor Alonso provided reminders for upcoming community events.

Councilor Riofrio commented on the chip challenge video shown by the police department.

Mayor Pro Tem Mendoza thanked State Senator Caballero for visiting the City and presenting it with a ceremonial check.

2. Mayor

Mayor Castro was absent.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 7:21 p.m. by Councilor Riofrio, seconded by Councilor Alonso; unanimously approved (3 ayes, absent: Castro and Rosales).

Jesus Mendoza, Mayor Pro Tem

ATTEST:

Celeste Cabrera-Garcia, City Clerk

CITY OF MENDOTA
CASH DISBURSEMENTS
10/26/2022 - 10/31/2022
CK# 52447 - 52486

Date	Check #	Check Amount	Vendor	Department	Description
October 26, 2022	52447	\$ 131,450.00	CITY OF MENDOTA PAYROLL	GENERAL	PAYROLL TRANSFER 10/10/22-10/23/22
October 26, 2022	52448	\$ 64.54	ADT SECURITY SERVICES	WATER	SECURITY SERVICES 1300 2ND ST NOV 4-DEC 3 2022
October 26, 2022	52449	\$ 26,397.50	AETNA LIFE INSURANCE COMPANY	GENERAL	MEDICAL INSURANCE NOVEMBER 2022
October 26, 2022	52450	\$ 592.40	AFLAC	GENERAL	AFLAC INSURANCES FOR OCTOBER 2022
October 26, 2022	52451	\$ 549.01	ALERT-0-LITE	STREETS	(30) CONE 18" ORANGE REFLECTIVE RS4 OCT.2022
October 26, 2022	52452	\$ 18,132.85	DBA BOBCAT OF FRESNO	WATER	E32 EXCAVATOR ROLL OVER DAMAGE-PARTS & REPAIRS
October 26, 2022	52453	\$ 1,218.31	BSK ASSOCIATES	WATER-SEWER	GENERAL EDT WEEKLY TREATMENT & DISTRIBUTION(3),WW WEEKLY GRAB SAMPLE BOD TDS(3), GENERAL EDT MONTHLY
October 26, 2022	52454	\$ 168.83	CORELOGIC INFORMATION	GENERAL-WATER-SEWER	REAL QUEST SERVICES FOR 09/01/22-09/30/22
October 26, 2022	52455	\$ 1,094.01	CORBIN WILLITS SY'S INC.	GENERAL-WATER-SEWER	MULTI-METER ACCOUNT BILLING AND MAINTENANCE.ENHANCEMENT AND SERVICE FEES NOVEMBER-22 MOMS
October 26, 2022	52456	\$ 5,301.01	CORE & MAIN LP	WATER	(10) FORD A23-NL 5/8X3/4 METER ADAPTER, (100) 3/4SS IN, (10) A24-NL MTR ADPT(PR) 5/8X4X1" SEPT.22, (10) 3/4" NO LEAD CPLG PJ
October 26, 2022	52457	\$ 1,412.09	FRESNO COUNCIL OF GOVERNMENTS	GENERAL	MULTI-JURISDICTIONAL HOUSING ELEMENT
October 26, 2022	52458	\$ 200.00	DATA TICKET, INC.	GENERAL	DAILY CITATION PROCESSING,DAILY NOTICES (PD) SEPT.22
October 26, 2022	52459	\$ 345.14	ECS HOUSE INDUSTRIES, INC.	SEWER	RESERVIOR STAR (6)120CC (4)60CC W/GREASE&BATTERY
October 26, 2022	52460	\$ 1,252.73	EINERSON'S PREPRESS	WATER-SEWER-REFUSE	(500) BUSINESS CARDS,16 PT MATTE, J ANGEL-PUBLIC WKS, (10000) UTILITY BILLING PAPER
October 26, 2022	52461	\$ 135.85	GRAINGER INC.	WATER	(6) PRESSURE GAUGE,1/4 IN. NPT, 2-1/2 IN. SEP.22
October 26, 2022	52462	\$ 5,021.05	GRISWOLD INDUSTRIES	WATER	REPLACE PILOT CONTROL VALVES FOR FILTERS 1-4(4)1/4
October 26, 2022	52463	\$ 614.47	M.C REPAIRS FULL DIAGNOSTIC	GENERAL	UNIT#81-MRC MOUNTS, BELT,TRANSMISSION MOUNT R&R-PD
October 26, 2022	52464	\$ 292.75	BOBBY MARTINEZ	WATER-SEWER	BAKER SUPPLIES AND REPAIRS 10/5/22 REIMBURSEMENT.EXPENSE REIMBURSEMENT BOOT PURCHASE MOU 10/17/22
October 26, 2022	52465	\$ 6,858.08	McCROMETER	WATER	12" ULTRAMAG PROCOMM AC.SENSUS JUNE 22. PRISON SITE WATER METER
October 26, 2022	52466	\$ 1,956.71	MUTUAL OF OMAHA	GENERAL	LIFE AD&D,LTD.STD INSURANCE FOR NOVEMBER 2022
October 26, 2022	52467	\$ 800.00	NHA ADVISORS, LLC	SEWER	MENDOTA CONTINUING DISCLOSURE COMPLIANCE 2021WWBD
October 26, 2022	52468	\$ 5,992.00	PROVOST & PRITCHARD	GENERAL	PASSTHRU-WESTLANDS PROJ JULY 2022 PROF SERVICE,PASSTHRU-21-10 CARBALLO APT JULY 2021
October 26, 2022	52469	\$ 3,062.97	PURCHASE POWER	GENERAL-SEWER-WATER	POSTAGE METER 9/14/22- 9/25/22
October 26, 2022	52470	\$ 1,662.34	RAMON'S TIRE &	GENERAL	UNIT#M82-ADVANTAGE CONTROL 4 TIRE INSTALL UNIT #M82 RT LOWER CONTROL ARM,STEERING KNUCKLE (PD)
October 26, 2022	52471	\$ 63,970.00	SIGNATURE PUBLIC FUNDING	WATER-SEWER	SOLAR GENERATING FACILITIES & INTEGRATED SWITCH, VFD
October 26, 2022	52472	\$ 18,014.86	WANGER JONES HELSLEY PC ATTORNEY	GENERAL	PASSTHRU LEGAL SERV RE:BOCA DEL RIO 7/15/2022.LEGAL SERV RE: GENERAL LEGAL SERV 9/15/2022
October 31, 2022	52473	\$ 180.00	MADERA DISPOSAL SYSTEMS INC	GENERAL	ANIMAL CONTROL DISPOSAL
October 31, 2022	52474	\$ 25.00	CITY CLERKS ASSOCIATION OF CALIFORNIA	GENERAL-WATER-SEWER	CCAC VIRTUAL SOUNTHERN NUT&BOLT WORKSHOP A.PIZANO
October 31, 2022	52475	\$ 300.00	MADERA POLICE DEPARTMENT	GENERAL	ADVANCE FIREARM COURSE REGISTRATION FEE (PD) SEPTEMBER 2022
October 31, 2022	52476	\$ 479.99	COMCAST BUSINESS	GENERAL	FRESNO COUNTY SHERIFF TO MENDOTA PD CIRCUIT OCT2022
October 31, 2022	52477	\$ 502.00	DEPARTMENT OF JUSTICE	GENERAL	SEPTEMBER 2022-(1)FINGERPRINT APP.FBI,PEACE,CCW-PD
October 31, 2022	52478	\$ 300.67	FASTSIGNS	GENERAL	DEPOSIT FOR HONORING VETERANS DOUBLE SIDED BANNERS
October 31, 2022	52479	\$ 2,040.00	ICAD INC.	SEWER-WATER	(9.5 HR) SERVICE WORK & TRAVEL PRISON.WELL#7
October 31, 2022	52480	\$ 33.00	MARY HELEN MEDINA	GENERAL	REFUND FOR LIVESCAN NOT COMPLETE PER DEFAULT
October 31, 2022	52481	\$ 30.00	MENDOTA COMMUNITY CORPORATION	GENERAL	HAT FOR DEPUTY CITY CLERK A. PIZANO
October 31, 2022	52482	\$ 774.48	OFFICE DEPOT	GENERAL-WATER-SEWER	OFFICE SUPPLIES: REFILL ENERGL 7MM PEN (2),(1)PERFORATED COPY PAPER FOR BILLING,6" 3 RING BINDER BLACK BINDER XTRALIFE
October 31, 2022	52483	\$ 1,040.00	PRICE, PAIGE & COMPANY	GENERAL-STREETS-SEWER-WATER	PROFESSIONAL SERVICE RE:6/30/22 AUDITED FINANCIAL STATEMENTS
October 31, 2022	52484	\$ 470.00	THE RADAR SHOP	GENERAL	ONSITE RADAR RE-CERT W/ CERT OF ACCURACY

CITY OF MENDOTA
 CASH DISBURSEMENTS
 10/26/2022 - 10/31/2022
 CK# 52447 - 52486

October 31, 2022	52485	\$ 60.35	SEBASTIAN	GENERAL	SECURITY SERVICES FOR 9/21/22-10/20/22
October 31, 2022	52486	\$ 770.00	THE BUSINESS JOURNAL	GENERAL-WATER-SEWER	LEGAL AD FOR NOTICE TO BIDDERS- COUNCIL&PD BUILD
		\$ 303,564.99			

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: KEVIN W. SMITH, CHIEF OF POLICE
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: APPROVING THE PURCHASE OF FLOCK SAFETY LICENSE PLATE RECOGNITION CAMERAS
DATE: NOVEMBER 8, 2022

ISSUE

Shall the City Council adopt Resolution No. 22-69, approving the purchase of flock safety license plate recognition cameras?

BACKGROUND

Since June 1, 2021, there has been research conducted on a camera system that works primarily with law enforcement and assists with identifying individuals who violate our laws. The system is integrated with other agencies in Fresno County and adjacent counties which allows us the ability to network with our allied agency partners. The system makes vehicle detection ideal for ever-changing investigative needs, which means faster leads and increased case clearance.

ANALYSIS

Staff has requested proposals from three different suppliers. None of the other supplies are capable integrating with other local cities/counties. Flock has agreed to the total price; Year 1 for six cameras totaling \$20,100. Recurring Annual Total: \$18,000. with tax and license fees.

FISCAL IMPACT

The purchase price was approved by the City Council and budgeted for in the Fiscal Year 2022-23 General Fund budget.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 22-69, approving the purchase of flock safety license plate recognition cameras.

Attachment(s):

1. Resolution No. 22-69
2. Exhibit "A" – Agreements with the Flock Group, Inc.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
THE GOVERNMENT AGENCY AGREEMENT
WITH THE FLOCK GROUP, INC., AND
AUTHORIZING THE CITY MANAGER OR
THEIR DESIGNEE TO EXECUTE ALL
NECESSARY DOCUMENTS**

RESOLUTION NO. 22-69

WHEREAS, the City of Mendota's ("City") Police Department (the "Department") desires to purchase license plate recognition cameras for use within the City's boundaries to enhance public safety efforts; and

WHEREAS, the Flock Group, Inc., offers a specialized and unique software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock's technology platform, and, upon detection, the Flock Services are capable of capturing audio, video, image, and recording data and can provide notifications to the Department, meeting the Department's needs; and

WHEREAS, the Department desires to access to the Flock Service on existing cameras, provided by the Department, or Flock-provided Flock Hardware in order to create, view, search, and archive footage and receive notifications; and

WHEREAS, Flocks agrees to provide such law enforcement services for the Department within the City's boundaries, according to the terms and conditions set forth in the Government Agency Agreement (the "Agreement"), attached hereto as Exhibit "A," and the City agrees to pay Flock the cost of performing such services at the rates and under the terms and conditions set forth therein.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the City Council approves the Agreement with Flock, in substantially the form attached hereto as Exhibit "A," and authorizes the City Manager, or their designee, to execute the Agreement and any and all documents necessary to effectuate the purchase and services related to license plate recognition cameras.

Rolando Castro, Mayor

ATTEST:

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 8th day of November, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

Exhibit A

FLOCK GROUP INC.
SERVICES AGREEMENT
ORDER FORM

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Agency**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY AGREEMENT” attached (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the “**Agreement**”). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Agency: CA - Mendota PD Legal Entity Name:	Contact Name: Kevin Smith
Address: 1000 Airport Blvd Mendota, California 93640	Phone: (559) 655-9120 E-Mail: kevin.smith@fcle.org
Expected Payment Method:	Billing Contact: (if different than above)

Initial Term: 24 months Renewal Term: 24 months	Billing Term: Annual payment due Net 30 per terms and conditions
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Name	Price	QTY	Subtotal
Falcon Flex	\$3,000.00	1.00	\$3,000.00
Falcon	\$2,500.00	6.00	\$15,000.00
Professional Services - Standard Implementation Fee	\$350.00	6.00	\$2,100.00

(Includes one-time fees)

Year 1 Total \$20,100.00

Recurring Total: \$18,000.00

I have reviewed and agree to the Customer Implementation Guide on Schedule B at the end of this agreement.

By executing this Order Form, Agency represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Agency: CA - Mendota PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

flock safety

GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block of the Order Form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, video, image, and recording data and can provide notifications to Agency upon the instructions of Non-Agency End User (as defined below) (“**Notifications**”);

WHEREAS, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from Non-Agency End Users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, Flock deletes all Footage on a rolling thirty (30) day basis, excluding Wing Replay which is deleted after seven (7) days. Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree that this Agreement, and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Advanced Search**” means the provision of Services, via the web interface using Flock’s software applications, which utilize advanced evidence delivery capabilities including convoy analysis, multi-geo search, visual search, cradlepoint integration for automatic vehicle location, and common plate analysis.

1.2 “**Agency Data**” means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.3 “**Agency Generated Data**” means the messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, other information or materials posted, uploaded, displayed, published, distributed, transmitted, broadcasted, or otherwise made available on or submitted through the Wing Suite.

1.4. “**Agency Hardware**” means the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5. “**Aggregated Data**” means information that relates to a group or category of individuals, from which any potential individuals’ personal identifying information has been permanently “anonymized” by commercially available standards to irreversibly alter data in such a way that a data subject (i.e., individual person or impersonal entity) can no longer be identified directly or indirectly.

1.6 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.7 “**Deployment Plan**” means the strategic geographic mapping of the location(s) and implementation of Flock Hardware, and/or other relevant Services required under this Agreement.

1.8 “**Documentation**” means text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.9 “**Embedded Software**” means the software and/or firmware embedded or preinstalled on the Flock Hardware or Agency Hardware.

1.10 “**Falcon Flex**” means an infrastructure-free, location-flexible license plate reader camera that enables the Agency to self-install.

1.11 “**Flock Hardware**” means the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.12 “**Flock IP**” means the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.13 “**Flock Safety Falcon™**” means an infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.14 “**Flock Safety Raven™**” means an audio detection device that provides real-time alerting to law enforcement based on programmed audio events such as gunshots, breaking glass, and street racing.

1.15 “**Flock Safety Sparrow™**” means an infrastructure-free license plate reader camera for residential roadways that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.17 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services.

1.18 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e. NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.19 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined below.

1.20 “**Installation Services**” means the services provided by Flock for installation of Agency Hardware and/or Flock Hardware, including any applicable installation of Embedded Software on Agency Hardware.

1.21 “**Non-Agency End User(s)**” means any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.

1.22 “**Services**” or “**Flock Services**” means the provision, via the Web Interface, of Flock’s software applications for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.23 “**Support Services**” means Monitoring Services, as defined in Section 2.10 below.

1.24 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.25 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services, in accordance with the terms of this Agreement.

1.26 “**Wing Suite**” means the Flock interface which provides real-time access to the Flock Services, location of Flock Hardware, Agency Hardware, third-party cameras, live-stream video, Wing Livestream, Wing LPR, Wing Replay, alerts and other integrations.

1.27 “**Wing Livestream**” means real-time video integration with third-party cameras via the Flock interface.

1.28 “**Wing LPR**” means software integration with third-party cameras utilizing Flock’s Vehicle Fingerprint Technology™ for license plate capture.

1.29 “**Wing Replay**” means enhanced situational awareness encompassing Footage retention, replay ability, and downloadable content from Hot Lists integrated from third-party cameras.

1.30 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

2. SERVICES AND SUPPORT

2.1 **Provision of Access.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Agency's designated administrator, listed on the Order Form, and any Authorized End Users to access and download via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username ("*User ID*"). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User's use of the Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage) which makes the Services available to Agency and Authorized End Users. Warranties provided by said third party service providers are the agency's sole and exclusive remedy and Flock's sole and exclusive liability with regard to such third-party services, including without limitation hosting the Web Interface. Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

2.2 **Embedded Software License.** Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Flock Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

2.3 **Documentation License.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Term in connection with its use of the Services as contemplated herein, and under Section 2.5 below.

2.4 **Wing Suite License.** Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Wing Suite software and interface.

2.5 Usage Restrictions.

2.5.1 **Flock IP.** The permitted purpose for usage of the Flock Hardware, Agency Hardware, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency ("*Permitted Purpose*"). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of

any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Flock Hardware, Documentation, or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Agency's rights under Sections 2.1, 2.2, 2.3, or 2.4.

2.5.2. Flock Hardware. Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Except for Falcon Flex products, which are designed for self-installation, Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of the restricted actions of this Section 2.5.2, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

2.6 Retained Rights; Ownership. As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. There are no implied rights.

2.7 Suspension.

2.7.1 Service Suspension. Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP by Agency; (b) Agency's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Agency's account ("**Service Suspension**"). Agency shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit.

2.7.2 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or

emergency maintenance (“**Service Interruption**”). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Agency and to provide updates regarding resumption of access to Flock Services. Flock will use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Agency or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Agency’s direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency’s account that have been impacted. For example, in the event of a Service Interruption lasting five (5) continuous days, Agency will receive a credit for five (5) free days at the end of the Term.

2.8 Installation Services.

2.8.1 Designated Locations. For installation of Flock Hardware, excluding Falcon Flex products, prior to performing the physical installation of the Flock Hardware, Flock shall advise Agency on the location and positioning of the Flock Hardware for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Flock Hardware (“**Designated Location**”) and collaborate with Agency to design the Deployment Plan confirming the Designated Locations. Flock shall have final discretion on location of Flock Hardware. Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency’s delay in confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary. After installation, any subsequent changes to the Deployment Plan (“**Reinstalls**”) will incur a charge for Flock’s then-current list price for Reinstalls, as listed in the then-current Reinstall policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment fees. For clarity, Agency will receive prior notice and provide approval for any such fees. These changes include but are not limited to re-positioning, adjusting of the mounting, re-angling, removing foliage, replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. Flock shall have full discretion on decision to reinstall Flock Hardware.

2.8.2 Agency Installation Obligations. Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. Although Flock Hardware is designed to utilize solar power, certain Designated Locations may require a reliable source of 120V or 240V AC power. In the event adequate solar power is not available, Agency is solely responsible for costs associated with providing a reliable source of 120V or 240V AC power to Flock Hardware. Flock will provide solar options to supply power at each Designated Location. If Agency refuses recommended solar options, Agency waives any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar power. Additionally, Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process of installation of cameras or AC power; (ii) any federal, state, or local taxes including property, license, privilege, sales, use, excise, gross receipts, or other similar taxes which may now or

hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Flock Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Flock Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment, or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency (“**Agency Installation Obligations**”). In the event that a Designated Location for Flock Hardware requires permits, Flock may provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Flock Hardware from the temporary alternate location to the permitted location at no additional cost. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.8.3 Flock’s Obligations. Installation of Flock Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are confirmed. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Following the initial installation of the Flock Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance of Flock Hardware for the length of the Term and will receive access to the Footage for a period of seven (7) business days after the initial installation for quality control and provide any necessary maintenance. Labor may be provided by Flock or a third-party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware. Notwithstanding anything to the contrary, Agency understands that Flock will not provide installation services for Falcon Flex products.

2.8.4 Ownership of Hardware. Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Agency default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock’s discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock’s rights to any damages Flock may sustain as a result of Agency’s default and Flock shall have the right to enforce any other legal remedy or right.

2.9 Hazardous Conditions. Unless otherwise stated in the Agreement, Flock’s price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

2.10 Support Services. Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or

the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations (“**Monitoring Services**”). Flock will use commercially reasonable efforts to respond to requests for support. Flock will provide Agency with reasonable technical and on-site support and maintenance services (“**On-Site Services**”) in-person or by email at support@flocksafety.com, at no additional cost. Notwithstanding anything to the contrary, Agency is solely responsible for installation of Falcon Flex products. Agency further understands and agrees that Flock will not provide monitoring services or on-site services for Falcon Flex.

2.11 Special Terms. From time to time, Flock may offer certain special terms related to guarantees, service and support which are indicated in the proposal and on the Order Form and will become part of this Agreement, upon Agency’s prior written consent (“**Special Terms**”). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.12 Upgrades to Platform. Flock may, in its sole discretion, make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock’s products or services to its agencies, (b) the competitive strength of, or market for, Flock’s products or services, (c) such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not materially change any terms or conditions within this Agreement.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Flock will assist Agency Authorized End Users in the creation of a User ID. Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person’s name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency will not share its account or password with anyone and must protect the security of its account and password. Unless otherwise stated and defined in this Agreement, Agency may not designate Authorized End Users for persons who are not officers, employees, or agents of Agency. Authorized End Users shall only use Agency-issued email addresses for the creation of their User ID. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Agency Representations and Warranties. Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. Although Flock has no obligation

to monitor Agency 's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA

4.1 **Confidentiality.** To the extent allowable by applicable FOIA and state-specific Public Records Acts, each Party (the “*Receiving Party*”) understands that the other Party (the “*Disclosing Party*”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “*Proprietary Information*” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Flock Hardware or Agency Hardware, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors . The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event will a Party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock’s use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Flock may store deleted Footage in order to comply with certain legal obligations, but such retained Footage will not be retrievable without a valid court order.

4.2 **Agency Data.** As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to (i) use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.10 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Data as a part of the Aggregated Data, (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring for elected law enforcement Hotlists as well

as provide Footage search access to law enforcement for investigative purposes only, and (iii) and obtain Aggregated Data as set forth below in Section 4.5. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion. Notwithstanding the foregoing, Flock automatically deletes Wing Replay after seven (7) days, during which time Agency may view, save and/or transmit such data to the relevant government agency prior to deletion. Flock does not own and shall not sell Agency Data.

4.3 Agency Generated Data in Wing Suite. Parties understand that Flock does not own any right, title, or interest to third-party video integrated into the Wing Suite. Flock may provide Agency with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Wing Suite, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Agency. Agency shall retain whatever legally cognizable right, title, and interest that Agency has in Agency Generated Data. Agency understands and acknowledges that Flock has no obligation to monitor or enforce Agency's intellectual property rights to Agency Generated Data. To the extent legally permissible, Agency grants Flock a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Generated Data for the sole purpose of providing Flock Services. Flock does not own and shall not sell Agency Generated Data.

4.4 Feedback. If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

4.5 Aggregated Data. Flock shall have the right to collect, analyze, and anonymize Agency Data and Agency Generated Data to create Aggregated Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right (during and after the Term hereof) to use and distribute such Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts. Parties understand that the aforementioned license is required for continuity of Services. No rights or licenses are granted except as expressly set forth herein. Flock does not sell Aggregated Data.

5. PAYMENT OF FEES

5.1.1 Software Product Fees. For Order Forms listing Wing Suite, Advanced Search and other software-only products, Agency will pay Flock the fees for the Initial Term (as described on the Order Form attached hereto) on or

before the 30th day from the date of invoice. For any Renewal Terms, Agency shall pay invoice on or before the 30th day from the date of renewal invoice.

5.1.2 Hardware Product Fees. For Order Forms listing Falcon, Sparrow, Raven and Falcon Flex products, Agency will pay Flock fifty percent (50%) of the fees for the Initial Term as set forth on the Order Form on or before the 30th day from date of invoice. Upon commencement of installation, Flock will issue an invoice for twenty-five percent (25%) of total fees, and Agency shall pay on or before 30th day following date of invoice. Upon completion of installation, Flock will issue an invoice for the remaining balance and Agency shall pay on or before 30th day following date of final invoice. Flock is not obligated to commence the Installation Services unless and until the first payment has been made and shall have no liability resulting from any delay related thereto. For any Renewal Terms, Agency shall pay the total invoice on or before the 30th day from the date of renewal invoice.

5.2 Notice of Changes to Fees. Flock reserves the right to change the fees or applicable charges and to institute new charges and fees on subsequent terms by providing sixty (60) days' notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email).

5.3 Invoicing, Late Fees; Taxes. Flock may choose to bill through an invoice, in which case, full payment for invoices must be received by Flock thirty (30) days after the receipt of invoice. If Agency is a non-tax-exempt entity, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock's net income. If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

6. TERM AND TERMINATION

6.1 Term. The initial term of this Agreement shall be for the period of time set forth on the Order Form and shall commence at the time outlined in this section below (the "**Term**"). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

- a. For Wing Suite products: the Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.
- b. For Falcon and Sparrow products: the Term shall commence upon first installation and validation of Flock Hardware.
- c. For Raven products: the Term shall commence upon first installation and validation of Flock Hardware.
- d. For Falcon Flex products: the Term shall commence upon execution of this Agreement.
- e. For Advanced Search products: the Term shall commence upon execution of this Agreement.

6.2 Termination for Convenience. At any time during the agreed upon Term, either Party may terminate this Agreement for convenience. Termination for convenience of the Agreement by the Agency will be effective immediately. Termination for convenience by Agency will result in a one-time removal fee of \$500 per Flock Hardware. Termination for convenience by Flock will not result in any removal fees. Upon termination for convenience, a refund will be provided for Flock Hardware, prorated for any fees for the remaining Term length set forth previously. Wing Suite products and Advanced Search are not subject to refund for early termination. Flock will provide advanced written notice and remove all Flock Hardware at Flock's own convenience, within a commercially reasonable period of time upon termination. Agency's termination of this Agreement for Flock's material breach of this Agreement shall not be considered a termination for convenience for the purposes of this Section 6.2.

6.3 Termination. Notwithstanding the termination provisions in Section 2.5.2, in the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period. Either Party may terminate this Agreement, without notice, (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. Upon termination for Flock's material breach, Flock will refund to Agency a pro-rata portion of the pre-paid fees for Services not received due to such termination.

6.4 No-Fee Term. Flock will provide Agency with complimentary access to Hotlist alerts, as further described in Section 4.2 ("**No-Fee Term**"). In the event a Non-Agency End User grants Agency access to Footage and/or notifications from a Non-Agency End User, Agency will have access to Non-Agency End User Footage and/or notifications until deletion, subject to a thirty (30) day retention policy for all products except Wing Replay, which is subject to a seven (7) day retention policy. Flock may, in their sole discretion, provide access or immediately terminate the No-Fee Term. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine to impose a price per No-Fee Term upon thirty (30) days' notice to Agency. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days' notice.

6.5 Survival. The following Sections will survive termination: 2.5, 2.6, 3, 4, 5, 6.4, 7.3, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 9.6.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Flock Hardware or Embedded Software (a "**Defect**"), Agency must notify Flock's technical support as described in Section 2.10 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Flock Hardware provided that such inspection

and test shall occur within a commercially reasonable time, but no longer than seven (7) business days after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Flock Hardware at no additional cost to Agency. Absent a Defect, in the event that Flock Hardware is lost, stolen, or damaged, Agency may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Flock Hardware, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Flock Hardware and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Flock Hardware or Agency Hardware.

7.2 Exclusions. Flock will not provide the remedy described in Section 7.1 if Agency has misused the Flock Hardware, Agency Hardware, or Service in any manner.

7.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6.

7.5 Insurance. Flock will maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of Flock's business risk. Certificates of Insurance can be provided upon request.

7.6 Force Majeure. Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-Party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, weather conditions or acts of hackers, internet service providers or any other third Party acts or omissions. Force Majeure includes the novel coronavirus Covid-19 pandemic, and the potential spread of variants, which is ongoing as of the date of the execution of this Agreement.

8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

8.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6.

8.2 Additional No-Fee Term Requirements. IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.4 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.4 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complementary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement.

8.3 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees.

Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses in connection with any claim or action that arises from an alleged violation of Section 3.1, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third Party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.1 or this Agreement.

10. MISCELLANEOUS

10.1. **Compliance With Laws.** The Agency agrees to comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s). In the event Flock is legally compelled to comply with a judicial order, subpoena, or government mandate, to disclose Agency Data or Agency Generated Data, Flock will provide Agency with notice.

10.2. **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

10.3. **Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

10.4. **Entire Agreement.** This Agreement, together with the Order Form(s), the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>), Deployment Plan(s), and any attached addenda are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail.

10.5. **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever. Flock shall at all times be and act as an independent contractor.

10.6. **Governing Law; Venue.** This Agreement shall be governed by the laws of the State in which the Agency is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is

located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

10.7.**Publicity.** Upon prior consent from Agency, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

10.8.**Export.** Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.9.**Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

10.10.**Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

10.11. **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210
ATLANTA, GA 30318
ATTN: LEGAL DEPARTMENT
EMAIL: legal@flocksafety.com

AGENCY NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

flock safety

Flock Safety Falcon™ Flex

Location-flexible license plate recognition camera designed for fast, easy deployment



Leverage the same Vehicle Fingerprint™ technology available on Flock Safety's stationary LPR with the Falcon Flex, an infrastructure-free, location-flexible license plate reader camera. Simple, mobile installation makes this vehicle detection device ideal for your ever-changing investigative needs. Less time to install means faster leads and increased case clearance.

Evidence capture simplified

Combine the power of Vehicle Fingerprint recognition with lightweight, adaptable mounting options, and a complementary LTE service is ideal for temporary installation virtually anywhere.

- ✓ 1 Falcon License Plate Reader Camera
- ✓ Unlimited LTE data service + software licenses
- ✓ 1 portable mount with varying sized band clamps
- ✓ 1 Charger for internal battery

Smarter reads for actionable leads

Not every vehicle has a plate. Search by license plates and unique vehicle characteristics including:



- Build type
- Make
- Color
- License plate state
- Missing and covered plates
- Bumper stickers
- Decals
- Roof racks
- & more



Capture more. Recharge less.

The Falcon Flex camera captures 25,000 license plates and Vehicle Fingerprint attributes of vehicles traveling up to 100 MPH at a maximum distance of 90 feet on a single battery charge.



Activate from the palm of your hand

On-site installation is made quick and easy with the mobile installation app for all your Android and iOS devices, including a DIY installation walkthrough and QR reader for device linking.



Sophisticated software outsmarts crime

Like all Flock Safety detection devices, the Falcon Flex license plate reader camera integrates with Flock Safety's suite of software solutions. With unlimited user licenses, every member of your agency can conduct complex searches, receive Hot List alerts, access 1B+ license plate reads each month via our nationwide network of footage sharing and more.



Trustworthy technology that delivers

25K

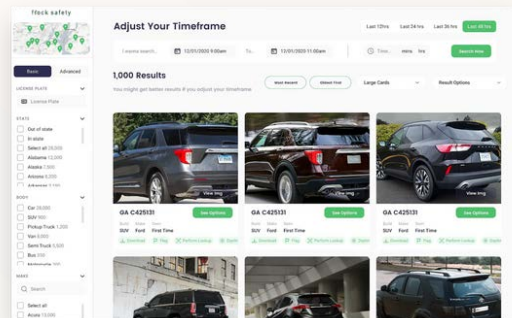
Plate reads on a single battery charge

120

Stolen plate and vehicle hits every hour

30%

More accurate than legacy ALPR



Camera Specifications

Design

Dimensions: 8.75" x 3"

Weight: 3 lbs

IP65 Waterproof

Power

14Ah Battery - Rechargeable

Data

16GB local storage, ~2 weeks

Motion

Passive Infrared Motion Detection

Connectivity

Embedded Cellular LTE Connection

Cellular service provider depends on area

Production

Designed & manufactured in the U.S.

Night Vision

850nm Custom IR Array

Cloud Storage

30 days storage (Amazon Web Services)

Accessible via secure website

Images can be downloaded and stored by department



Camera Performance

Motion

NCIC, AMBER Alert & Custom Notifications

Average of 10-15 seconds

Includes time, location, plate, and vehicle image

Includes state-specific alerts based on image

Processing Power

1.4GHz

64-bit quad-core CPU

Image Capture

Up to 100 ft from vehicles

Up to 2 lanes of traffic per camera

Date and time with camera location

Plate (state, partial, paper, and none)

Vehicle details (Make, type, color, etc.)

Pricing

\$3,000/camera per year

Field Technician maintenance is not included; If a camera is lost, stolen, or damaged, a new device can be purchased discounted price of \$1500.

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: NANCY BANDA, FINANCE DIRECTOR
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: APPROVING A BUDGET AMENDMENT TO THE FISCAL YEAR 2022-2023 BUDGET
DATE: NOVEMBER 8, 2022

ISSUE

Shall the City Council adopt Resolution No. 22-70, approving a budget amendment to the Fiscal Year 2022-2023 budget?

BACKGROUND

The City Council approved the City of Mendota’s (“City”) budget for the fiscal year 2022-2023 on June 14, 2022. There is a proposed budget amendment for the organizational structure of the Mendota Police Department and the Public Works/Public Works Department.

ANALYSIS

The Mendota Police Department (“MPD”) has been operational with three Sergeant positions for the past fiscal year of 2021-2022 and the first part of this fiscal year. With the scheduling, there is a shift that lacks supervisory for those Officers on duty. City Administration has concluded that an additional Sergeant position is needed to plan, prioritize, assign, and review the work of law enforcement staff involved in various assignments such as Patrol, Traffic, Narcotics, Detectives, Motorcycle Patrol, Canine, Youth Services, and Gang Suppression. Not only will this organizational change be beneficial for the MPD, but it will also be beneficial for the community of Mendota. This change will be beneficial to the MPD by adding a promotional opportunity for Police Officers to advance, improve morale, and reduces the City and Department liability.

The City has required Public Works/Public Utilities employees to obtain their Commercial Class B License in order to operate any heavy machinery as part of their conditions of employment. In January 2022, the requirements to get a Commercial Class B License increased in license fees substantially, and with an extensive educational course. Since the City will still require a Commercial Class B License, City Administration recommends promoting the employee to the next job classification to accommodate the employee’s commitment to obtaining the Commercial Class B at their own expense and for those individuals who currently have their Commercial Class B License.

FISCAL IMPACT

There will be an increase in salaries and benefits for the following funds:
General Fund (01) \$1,279
Water Fund (02) \$1,983
Sewer Fund (10) \$1,688

Gas Tax Fund (07) \$296
LTF Fund (12) \$731
Measure C Fund (14) \$196
Refuse (13) \$296
COPS Fund (23) \$2,990
CFD Fund (61) \$2,990
Total \$12,449.00

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 22-70, approving a budget amendment to the fiscal year 2022-2023 budget.

Attachment(s):

1. Resolution No. 22-70

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
A BUDGET AMENDMENT TO THE
FISCAL YEAR 2022-2023 BUDGET**

RESOLUTION NO. 22-70

WHEREAS, the City of Mendota (“City”) approved the budget for Fiscal Year 2022-2023 on June 14, 2022; and

WHEREAS, since adopting the City’s Fiscal Year 2022-2023 budget, the City has had to make decisions regarding the organizational structure of the Mendota Police Department and the Public Works/Public Utilities Department; and

WHEREAS, the City Administration has determined an Officer position shall advance to a Sergeant position in order to keep stability in the Police Department; and

WHEREAS, since the State of California’s license requirements for a Class B have increased excessively in the opinion of the City Administration, the City will promote employees who already have or who obtain a Class B license to the next department classification within the Public Works/Public Utilities Department.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the City Council hereby approves an amendment to the Fiscal Year 2022-2023 budget by replacing an Officer position with a Sergeant position and promoting Public Works/Public Utilities employees with a Class B license to the next department classification.

Rolando Castro, Mayor

ATTEST:

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 8th day of November, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: NANCY BANDA, FINANCE DIRECTOR
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: APPROVING A CONTRACT WITH MRC AND THE BIDS RECEIVED FOR AN INCLUSIVE PLAYGROUND, INCLUDING SURFACING, AT ROJAS-PIERCE PARK, AND AUTHORIZING THE CITY MANAGER OR THEIR DESIGNEE TO EXECUTE ALL DOCUMENTS
DATE: NOVEMBER 8, 2022

ISSUE

Shall the City Council adopt Resolution No. 22-71, approving a contract with MRC and the bids received for an inclusive playground, including surfacing, at Rojas-Pierce Park, and authorizing the City Manager or their designee to execute all documents?

BACKGROUND

The City of Mendota (“City”) has wanted to install an inclusive playground at Rojas-Pierce Park since 2019. The City has applied for two rounds of grant funding to the California Department of Parks and Recreation but has not been successful. The California Department of Parks and Recreation currently does not have any funding available to assist the City with the construction of an inclusive park.

In Resolution No. 19-85, approved on November 12, 2019, the City adopted a mitigated negative declaration covering the proposed improvements and construction at Rojas-Pierce Park, which included, among other things, an inclusive playground as a planned improvement. Accordingly, all environmental reviews and approvals required under the California Environmental Quality Act have been satisfied such that the City may proceed toward construction of an inclusive playground at Rojas-Pierce Park upon approving an agreement with a suitable company for the design, supply, and installation of the proposed improvements.

ANALYSIS

The City has approximately forty families that have children with disabilities. Currently, there is no playground equipment that would cater to children with disabilities. The parks are accessible to individuals with disabilities; however, there is an absence of playground equipment that contains accessible and inclusive play components.

City staff researched this type of project during the grant preparation for the Proposition 68 funding opportunity. The City received no formal introductions to any particular vendor for an inclusive playground, but, as staff gathered information, they discovered that the City of Tulare has completed an inclusive playground project with MRC Recreation (“MRC”) following a request for proposals process.

Upon performing additional research, City staff learned of a time-sensitive grant opportunity through OMNIA Partners which has partnered with MRC and GameTime, the inclusive playground equipment manufacturer, to offer approximately \$150,000 in discounted equipment for this project.

The City's formal contract bidding procedures are outlined in Chapter 2.48 of the Mendota Municipal Code ("MMC"). MMC section 2.48.110, subdivision (C), states, "In lieu of publishing and receiving its own bids, the purchasing agent may elect to utilize bids under a state, county or other city bid package." (MMC, § 2.48.110, subd. (C).)

To expedite the bidding process and ensure the City's eligibility for time-sensitive, substantial grant savings, the City will use the City of Tulare's bid package to construct an inclusive playground. The City of Tulare's bid package received two responses, the lowest responsible bidder being MRC Recreation. City staff recommends proceeding with this project through MRC as a result.

The City received three quotes for the entire project through MRC: GameTime, GTIMPAX – Impact Absorbent Accessible Surfacing, and RubbeRecycle – Recycled Rubber Products. The total amount for the main play equipment is \$301,479.00. The manufacturer, GameTime, will pay 50% of the cost of the main play equipment, \$153,150.50, via the grant discussed above. The total cost of the project is \$398,423.26 including the \$153,150.50 discount.

FISCAL IMPACT

\$398,423.26 from the General Fund.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 22-71, approving a contract with MRC and the bids received for an inclusive playground, including surfacing, at Rojas-Pierce Park, and authorizing the City Manager or their designee to execute all documents.

Attachment(s):

1. GameTime Quote C/O MRC
2. GTIMPAX Quote C/O MRC
3. RubbeRecycle Quote C/O MRC
4. Rojas-Pierce Design Detail
5. Rojas-Pierce Inclusive Park Design Map
6. Resolution No. 22-71



C/O MRC
 PO Box 106
 Spring Lake, NJ 07762
 Ph: 732-458-1111
 Fx: 732-974-0226
 Em: MRC@GAMETIME.COM
 Web: www.mrcrec.com

10/31/2022
 Quote #
 108525-01-07

CA Mendota City of Rojas-Pierce Park Inclusive

Mendota City of
 Attn: Cristian Gonzalez
 297 San Pedro Street
 Mendota, CA 93640
 Phone: 559-655-4298
 Cristian@cityofmendota.com

Ship to Zip 93640

Quantity	Part #	Description	Unit Price	Amount
1	3256	GameTime - Cantata Chimes	\$6,475.00	\$6,475.00
1	RDU	GameTime - PowerScape Custom 5-12 unit	\$301,479.00	\$301,479.00
1	3259	GameTime - Concert Trio	\$5,743.00	\$5,743.00
2	3274	GameTime - Sensory Wave Seat	\$2,539.00	\$5,078.00
1	RDU	GameTime - ADA PrimeTime 3 Bay Swing, with (2) Belt Seats, (1) 2-5 Zero G Seat, (1) Expression Swing and (2) 5-12 Zero G Seat	\$9,181.00	\$9,181.00
1	6264	GameTime - Inclusive Whirl - Playful	\$17,779.00	\$17,779.00
1	14927	GameTime - NDS Play On Sign Package		
1	14928	GameTime - NDS Inclusive Play Sign Package		
1	INSTALL	GameTime - by a certified GameTime installer- <ul style="list-style-type: none"> • Install Gametime Custom Play Structure • Furnish Temporary Fencing (Chain Link) • Prevailing Wages <p>Exclusion: . Responsibility for any underground utilities at and around the job site . City Permits and fees . Site preparation by others and not included in our scope of work . Furnish of Play equipment . Concrete Border . ADA Ramp . Spoils Remain on Site . Making Site accessible for Equipment . Any irrigation removal and repair . Repair of damage any underground utilities from digging . Water Access</p>	\$85,949.00	\$85,949.00
Contract: OMNIA #2017001134			Sub Total	\$431,684.00
			Discount	(\$153,150.50)
			Freight	\$11,800.00
			Tax	\$22,213.05
			Total	\$312,546.55

Comments

- * All orders must ship by 12/30/2022 to qualify.
- * Order must be received by October 28, 2022
- * Full payment must be received at time of order
- * Safety surfacing is not included in price
- * Unloading and uncrating equipment from the truck is not included in price

jp af



C/O MRC
 PO Box 106
 Spring Lake, NJ 07762
 Ph: 732-458-1111
 Fx: 732-974-0226
 Em: MRC@GAMETIME.COM
 Web: www.mrcrec.com

10/31/2022
 Quote #
 108525-01-07

CA Mendota City of Rojas-Pierce Park Inclusive

CHOOSE YOUR COLOR SCHEME: IT IS VERY IMPORTANT THAT YOU CHOOSE A COLOR SCHEME FOR YOUR MODULAR PLAYGROUND UNIT AT TIME OF ORDER. PLEASE SELECT FROM ONE OF THE MANY "PLAY PALETTES" LISTED IN THE BACK OF THE GAMETIME CATALOG OR ON OUR WEBSITE: www.gametime.com. INDICATE YOUR SELECTION BELOW. GAMETIME PLAY PALETTE:

NOTE: COLOR SELECTION FOR ALL OTHER EQUIPMENT SHOULD BE ENTERED IN THE SP ACE PROVIDED UNDER THAT SPECIFIC ITEM.

This quotation is subject to policies in the current GameTime Park and Playground Catalog and the following terms and conditions. Our quotation is based on shipment of all items at one time to a single destination, unless otherwise noted, and changes are subject to price adjustment. Purchases in excess of \$1,000.00 to be supported by your written purchase order made out to GAMETIME, c/o Marturano Recreation . Kindly issue one order for the equipment and a separate order for surfacing and/or equipment installation services. Customer is responsible for any required permits and fees pertaining to such permits.

PRICING / PAYMENT: This quote is valid for 30 days from date of quotation. Payment terms: Check in full at time of order made payable to Gametime.

TAXES: State and local taxes, if applicable, will be added at time of invoicing unless a tax exempt certificate is provided at the time of order entry.

FREIGHT/SHIPMENT: Freight charges: Prepaid and added at time of invoicing. Shipment: order will ship within 8-10 weeks after GameTime's receipt and acceptance of your CHECK IN FULL, signed quotation and color selections.

RECEIPT OF GOODS: Customer is responsible for unloading and uncrating equipment from truck. Customer shall receive, unload and inspect goods upon arrival, noting any discrepancies on the Delivery Receipt prior to written acceptance of the shipment.

INSTALLATION: Installation by a Gametime Certified Installer

- Installation assumes a flat, dirt surface with no grading preparation required.
- Gametime's installer is not responsible for any site preparation, and/or grading.
- Customer is responsible for calling 888-DIG-SAFE a minimum of 72 hours before installation is to begin.
- Direct access is required for large construction vehicles.
- All work is to be done in one move.
- All excavated material is to remain on site.
- Customer is responsible for accepting delivery, storage of equipment and transporting equipment from storage to the site, if storage is other than installation site.
- Customer will be responsible for unloading the truck and disposal of packaging.
- The installation of border timbers is not included in the above price.
- Unforeseen subsurface obstructions may incur additional charges.

EXCLUSIONS: unless specifically included, this quotation excludes all site work and landscaping; removal of existing equipment; acceptance of equipment and off-loading; storage of goods prior to installation; safety surfacing; borders and drainage provisions.

TO ORDER: Please complete the acceptance portion of this quotation and provide color selections, check in full and other key information requested. Acceptance of this proposal indicates your agreement to the terms and conditions stated herein.

Sales Representative: Jennifer Peterson



C/O MRC
PO Box 106
Spring Lake, NJ 07762
Ph: 732-458-1111
Fx: 732-974-0226
Em: MRC@GAMETIME.COM
Web: www.mrcrec.com

10/31/2022
Quote #
108525-01-07

CA Mendota City of Rojas-Pierce Park Inclusive

Acceptance of quotation: (ALL INFORMATION REQUIRED)

Accepted By (printed): _____ P.O. No: _____

Signature: _____ Date: _____

Title: _____ Phone: _____

Email: _____ Facsimilie: _____

Purchase Amount: \$312,546.55

Order Information: (ALL INFORMATION REQUIRED)

Bill To: _____ Ship To: _____

Bill To Contact: _____ Ship To Contact: _____

Bill To Email: _____ Ship To Email: _____

Bill To Phone: _____ Ship To Phone: (Office): _____

(Cell): _____

Bill to Address: _____ Ship To Address: _____

Bill To City, State, Zip: _____ Ship To City, State, Zip: _____

SALES TAX EXEMPTION CERTIFICATE #: _____

(PLEASE PROVIDE A COPY OF CERTIFICATE)

Existing Mound

Existing Sidewalk

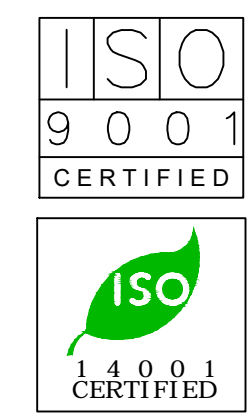
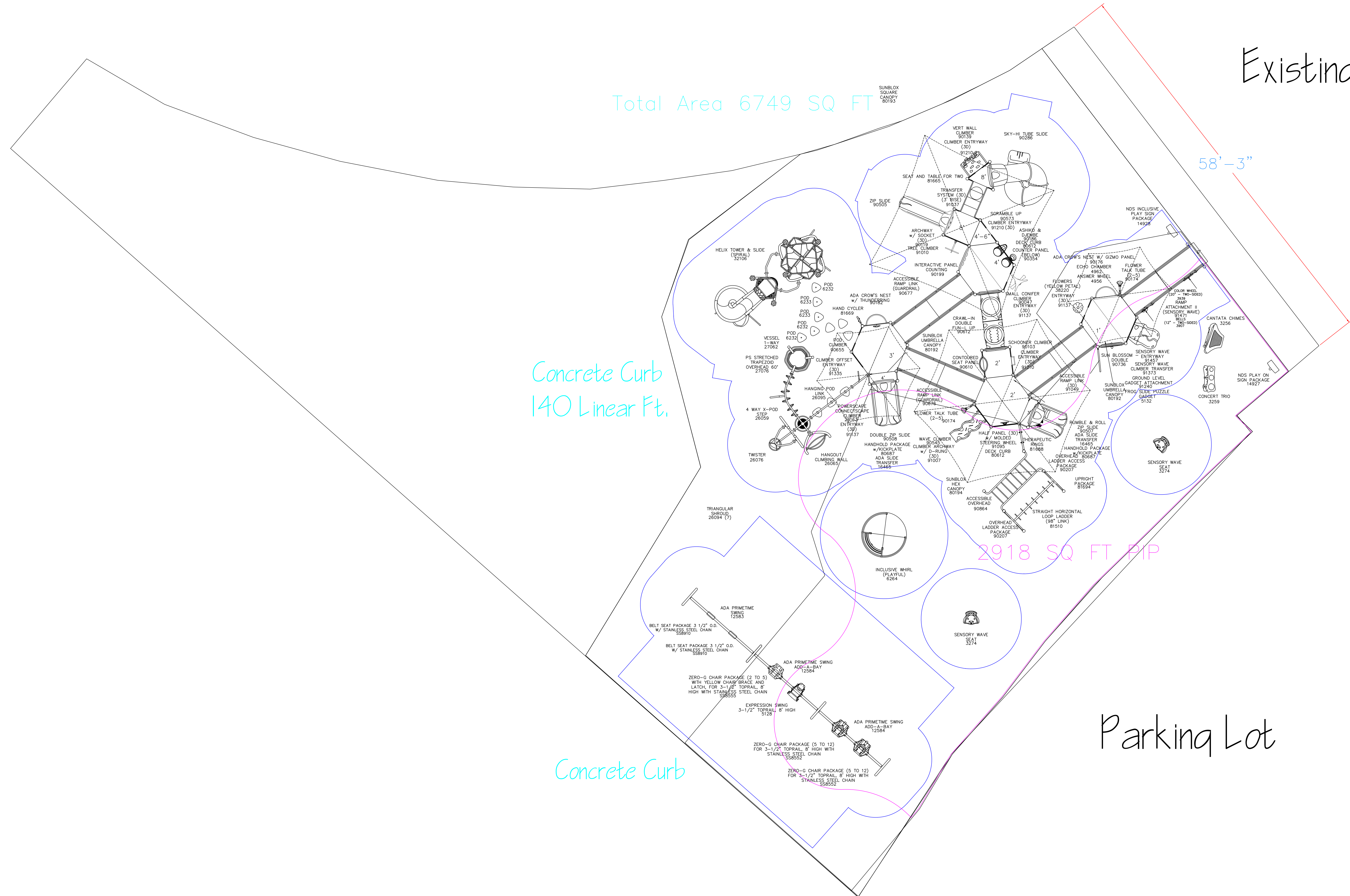
Total Area 6749 SQ FT

Concrete Curb
140 Linear Ft.

2918 SQ FT PIP

Concrete Curb

Parking Lot



150 PlayCore Drive SE
Fort Payne, AL 35967
www.gametime.com

Rojas-Pierce Option 2
Mendota, CA
Representative
MRC

This play equipment is recommended for children ages
5-12

Minimum Area Required:
Scale: 1" = 5'-0"
This drawing can be scaled only when in a 36" x 48" format

IMPORTANT: Soft resilient surfacing should be placed in the use zones of all equipment, as specified for each type of equipment, and at depths to meet the critical fall heights as specified by the U.S. consumer Product Safety Commission, ASTM standard F 1487 and Canadian Standard CAN/CSA-Z-614

Drawn By:
DBH
Date:
October 27, 2022
Drawing Name:
3



C/O MRC
 PO BOX 106
 SPRING LAKE, NJ 07762
 Ph: 732-458-1111 / Fx: 732-974-0226
 Em: MRC@GAMETIME.COM
 Web: www.mrcrec.com

10/31/2022
 Quote #
 108525-03-01

CA Mendota City of Rojas-Pierce Park Inclusive EWF

Mendota City of
 Attn: Cristian Gonzalez
 297 San Pedro Street
 Mendota, CA 93640
 Phone: 559-655-4298
 Cristian@cityofmendota.com

Ship to Zip 93640

Quantity	Part #	Description		
1	EWF107579	GT-Impax - Supply Only 190 CY Engineered Wood Fiber Safety Surfacing		
			Total	\$13,916.05

Comments

Installation is not included in this price

jp af

NOTE: No installation or landscape ties included in above price. Customer must be on site at time of delivery. Above price is only valid if felt is ordered and shipped with Game Time playground equipment.

This quotation is subject to policies in the current game time park and playground catalog and the following terms and conditions. Our quotation is based on shipment of all items at one time to a single destination, unless noted, and changes are subject to price adjustment. Purchases in excess of \$1,000.00 to be supported by your written purchase order made payable to GAMETIME, c/o MRC. Kindly issue one order for the equipment and a separate order for surfacing and/or equipment installation services. Customer is responsible for any required permits and fees pertaining to such permits.

PRICING / PAYMENT: Pricing f.o.b. factory, firm for 30 days from date of quotation. Payment terms: Purchase order payable to GameTime. Net 30 days for tax supported governmental agencies. A 1.5% per month finance charge will be imposed on all past due accounts. Equipment shall be invoiced separately from other services and shall be payable in advance of those services and project completion. Retainage not accepted.

TAXES: State and local taxes, if applicable, will be added at time of invoicing unless a tax exempt certificate is provided at the time of order entry.

FREIGHT/SHIPMENT: Freight charges: Prepaid and added at time of invoicing. Shipment: order shall ship within 30-45 days after GameTime's receipt and acceptance of your PURCHASE ORDER and signed quotation.

RECEIPT OF GOODS: Customer must be on-site at time of wood fiber delivery. Direct access to the site is required for a tractor-trailer to deliver the wood fiber.

EXCLUSIONS: unless specifically included, this quotation excludes all site work and landscaping; removal of existing safety surfacing; storage of wood fiber prior to installation; installation; installation tools/equipment; borders and drainage provisions.

TO ORDER: Please complete the acceptance portion of this quotation and provide your PURCHASE ORDER and other key information requested. Acceptance of this proposal indicates your agreement to the terms and conditions stated herein.

Sales Representative: Jenn Peterson



C/O MRC
 PO BOX 106
 SPRING LAKE, NJ 07762
 Ph: 732-458-1111 / Fx: 732-974-0226
 Em: MRC@GAMETIME.COM
 Web: www.mrcrec.com

10/31/2022
 Quote #
 108525-03-01

CA Mendota City of Rojas-Pierce Park Inclusive EWF

Acceptance of quotation: **(ALL INFORMATION REQUIRED)**

Accepted By (printed): _____ P.O. No: _____
 Signature: _____ Date: _____
 Title: _____ Phone: _____
 Email: _____ Facsimilie: _____

Purchase Amount: \$13,916.05

Order Information: **(ALL INFORMATION REQUIRED)**

Bill To: _____ Ship To: _____
 Bill To Contact: _____ Ship To Contact: _____
 Bill To Email: _____ Ship To Email: _____
 Bill To Phone: _____ Ship To Phone: (Office): _____
 (Cell): _____
 Bill to Address: _____ Ship To Address: _____
 Bill To City, State, Zip: _____ Ship To City, State, Zip: _____

SALES TAX EXEMPTION CERTIFICATE #: _____
 (PLEASE PROVIDE A COPY OF CERTIFICATE)



Rubber Recycle
1985 Rutgers University Boulevard
Lakewood, NJ 08701
p: 888.436.6846
f: 732.370.4247

10/31/2022
Quote #
108525-02-05

CA Mendota City of Rojas-Pierce Park Inclusive RR Surfacing

Mendota City of
Attn: Cristian Gonzalez
297 San Pedro Street
Mendota, CA 93640
Phone: 559-655-4298
Cristian@cityofmendota.com

Ship to Zip 93640

Quantity	Part #	Description	Unit Price	Amount
1	Rubberbond	RR - Supply and Installation 2,918 SF Rubberbond Safety Surfacing	\$52,524.00	\$52,524.00
1	Stone	RR - Supply and Installation 2,918 sf of Stone Base	\$16,049.00	\$16,049.00
			Sub Total	\$68,573.00
			Tax	\$3,490.66
			Total	\$72,063.66

Comments

Dumpster and site security are not included in price

Purchase orders are only accepted from public schools and municipalities

All non government, religious and private entities will require a 50% deposit; the remaining balance plus extras to be paid on the day of completion with a certified check or credit card

jp af



Rubber Recycle
1985 Rutgers University Boulevard
Lakewood, NJ 08701
p: 888.436.6846
f: 732.370.4247

10/31/2022
Quote #
108525-02-05

CA Mendota City of Rojas-Pierce Park Inclusive RR Surfacing

Payment Method:

Purchase orders are only accepted from public schools and municipalities. All non-government, religious and private entities will require a 50% deposit; the remaining balance plus extras to be paid on the day of completion with a certified check or credit card.

Signature: _____ Date: _____

Customer is responsible for keeping area closed, safe and secure during the 48 hour curing process for each phase or irrevocable damage will occur. Rubberecycle will not be held liable when the damage will occur, the customer will have to pay to have the damage repaired. Please Initial:

Rubberbond: There may be slight color variations during the curing process but should blend in a short period of time depending on weather conditions. Note: "Day Seams" may be required and visible based on size of the project and/or unforeseen weather conditions causing the process to be suspended. Any damage incurred during curing will be repaired at the customer's expense. Variations in texture may be visible due to temperature fluctuations. Note: All surfaces will darken initially. Swing areas and non-stationary equipment areas are subject to excess wear and are not covered under warranty. Wear mats are encouraged. The Wear Course is subject to rubber granulating. Periodic leaf blowing is recommended to maintain a clean and safe surface.

Aquabond Disclaimers: Color may go through a burnout or yellowing effect for a few weeks and then return to normal. Please Initial:

Rubber Mulch Disclaimers: Rubber mulch should not be stored or placed directly on or near asphalt. The petroleum distillates used in asphalts may adversely affect the pigmentation of the rubber mulch and cause a harmless "Bleeding affect" on the color. Installation is not included unless otherwise noted. Please Initial:

TERMS AND CONDITIONS: Poured Rubber safety surfaces: The Rubberecycle™ Quote is based on the information provided and is subject to change based on review of complete plans, site location, including final installation unless indicated above. Sub-base materials and work provided by others and must meet Rubberbond specifications and appropriate grade elevations; and is the responsibility of the owner. Rubberecycle's Standard insurance does not include "additional insured", subrogation, or primary / noncontributing wording. In the event that a change in color, color percentage, thickness, or square footage is required, a revised proposal and/or purchase order will be submitted prior to installation.

GENERAL LABOR: All work and materials will be as specified. All labor will be performed in a workmanlike fashion. Any unforeseen/unknown sub surface utilities/substructures damaged during the work are not the company responsibility; and may incur additional costs, charges or fees. Owner will be responsible for maintenance and surfacing upkeep in strict accordance with the manufacturer's specifications. All changes to this contract shall be made in writing, and not valid until signed by the company.

Changes may be subject to additional fees. All schedules and agreements are subject to labor strikes, unusual weather, transportation availability and delays, manufacturing and supply and other delays beyond our control. Owner of project to carry fire, property, casualty, and other applicable insurance. Company workers are covered under statutory workman's compensation insurance.

APPLICABLE LAW: The validity, construction and interpretation of these terms and conditions shall be governed by and construed in accordance with the laws of the State of New Jersey, excluding that body of law applicable to choice of law. This agreement has been entered into in New Jersey and Buyer agrees that it is subject to the in personam jurisdiction of the State and Federal Courts of New Jersey. Venue is designated in Ocean County New Jersey or the Federal District court in Essex County, New Jersey. Parties agree to waive trial by Jury on all matters. Buyer hereby waives any and all rights to seek a change of venue based upon forum non conveniens or any other procedural theory. If any of these terms and conditions are declared either void, or unenforceable, such provision shall be severed from these terms and conditions and the remaining terms and conditions shall otherwise remain in full force and effect.

CONSEQUENTIAL DAMAGES WAIVER: Buyer agrees to indemnify, defend and hold Rubberecycle™ harmless of and free from any liability which may be asserted against Rubberecycle™ by virtue of any suit or claim of any kind, arising out of, connected with, or



Rubber Recycle
 1985 Rutgers University Boulevard
 Lakewood, NJ 08701
 p: 888.436.6846
 f: 732.370.4247

10/31/2022
 Quote #
 108525-02-05

CA Mendota City of Rojas-Pierce Park Inclusive RR Surfacing

resulting from the purchase, sale, use, installation or consumption of the goods by Buyer, or any subsequent user of the goods. Buyer shall reimburse Rubberecycle™ within ten (10) days after any judgments rendered against Rubberecycle™ as a result of the foregoing and shall pay all costs and expenses incurred by Rubberecycle™ in defending any action brought against Rubberecycle™ as a result thereof, including reasonable attorney fees, court costs, expert witness fees and expenses.

In no event will rubberecycle™ be responsible for any direct loss or damage, including without limitation cost and expenses, in excess of the amounts paid by buyer for the materials supplied. Rubberecycle™ will not be responsible or liable for any type of incidental, special, exemplary, punitive, indirect or consequential damages, including but not limited to, direct loss or damage, lost revenue or profits, replacement goods, loss or interruption of use, even if rubberecycle was advised of the possibility of such damages, and whether arising under a theory of contract, tort, strict liability or otherwise.

ACCEPTANCE OF PROPOSAL: The above pricing, schedule and payment, terms and conditions detailed in this quote are also agreed to and accepted. By signing this agreement below, you are authorizing us to do the specified work detailed in this quotation.

SIGNATURE: _____ DATE: _____ WITNESS: _____ DATE: _____

Sales Representative: Jenn Peterson

Acceptance of quotation: **(ALL INFORMATION REQUIRED)**

Accepted By (printed): _____

P.O. No: _____

Signature: _____

Date: _____

Title: _____

Phone: _____

Email: _____

Facsimilie: _____

Purchase Amount: \$72,063.66

Order Information: **(ALL INFORMATION REQUIRED)**

Bill To: _____

Ship To: _____

Bill To Contact: _____

Ship To Contact: _____

Bill To Email: _____

Ship To Email: _____

Bill To Phone: _____

Ship To Phone: (Office): _____

(Cell): _____

Bill to Address: _____

Ship To Address: _____

Bill To City, State, Zip: _____

Ship To City, State, Zip: _____

SALES TAX EXEMPTION CERTIFICATE #: _____

(PLEASE PROVIDE A COPY OF CERTIFICATE)

Play Area

Support Posts

7' Upright, Alum – 7, 8' Upright, Alum – 3, 9' Upright, Alum – 4, 10' Upright, Alum – 8, 11' Upright, Alum -1, 14' Upright, Alum – 3, 4' Upright, Galvanized Steel – 4, 8' Upright, Galvanized Steel – 1, 9' Upright, Galvanized Steel – 1, 10' Upright, Galvanized Steel – 7, 11' Upright, Galvanized Steel – 1, 15' Upright, Galvanized Steel

Slides

5' Single Rider Slide
3' Double Rider Slide
4' Double Rider Slide
8' Spiral Tube Slide, 30" Diameter

Decks

12" Slide Transfer – 2, with Handhold/Kick Plate
49" Square Punch Steel Deck - 2
49" Triangle Punch Steel - 2
Two Piece Hex Deck – 4

Ramps – 4 ADA Ramps with minimum 12' in length

Std Access Ramp Link Gr 2'-6" & 3' - 1
Std Access Ramp Link Gr 3'-6" & 4' - 1
Ramp Link (3D) 1'-6" & 2'-0" - 1
Sensory Wave Ramp – 1 Includes : Bells 12" 2 Sided, Color Wheel 20" 2 Sided

Elevated Play Components 1' Deck Height

Flower Yellow Petals – 1; With 3D Entryway
PS Sensory Wave Transfer - 1
Sensory Wave Entryway - 1
ADA Crow's Nest With Gizmos - 1: Answer Wheel, Echo Chamber
Sun Blossom 2 Color Gadget Panel – 1

Elevated Play Components 2' Deck Height

2' Schooner Climber – 1; With 3D Entryway
4' Wave Climber – 1; With 3d Entryway
Contoured Seat Panel - 1
Half Panel Molded Steering Wheel (3D) – 1; With Deck Curb - 1

Elevated Play Components 3' Deck Height

Connectscape Climber – 1; With 3D Entryway
Pod Climber – 1; With 3D Offset Entryway
ADA Crow's Nest With Thunderring - 1

Elevated Play Components 4' Deck Height

4' Small Conifer Climber – 1; With 3D Entryway
Counting Panel - 1
Ashiko & Djembe Panel – 1 with Deck Curb

Elevated Play Components 4'6" Deck Height

Scramble Up Climber – 1; With 3D Entryway

Elevated Play Components 5' Deck Height

Tree Climber – 1; With 3D Archway

Elevated Play Components 8' Deck Height

Vertical Wall Climber with Handholds – 1; With 3D Entryway

Links

4' Deck to 2' Deck Crawl-In Double Fun-L Up Crawl Tube - 1

8' Deck to 5' Deck 3'-0" Transfer System (3D) - 1

Ground Level Play Components

Seat And Table for Two

Hand Cycler

Gadget Frame with Frog Slide Puzzle

ADA Overhead

Therapeutic Rings

Counter Panel

Flower Talk Tube - 2

Linked/Connected Ground Level Play Components

Pod (1'-0") - 3

Pod (2'-0") – 2

Hang Out Wall

Twister

Horizontal Loop Lad Link 98"Lk - 2

Hanging Pod Link

Vessel

Stretched Trapezoid Overhead

Overhead Ladder Access Package - 2

4 Way X-Pod Step

Triangular Shroud - 7

Hex Topper - 6

Helix Tower w/ 8' Spiral Slide

Freestanding

Cantata Chimes

Concert Trio

Sensory Wave Seat

NDS Play On Sign Package

NDS Inclusive Play Sign Package

Inclusive Whirl - Playful

Swings

Expression Swing 3 1/2" X 8'

Ada Primetime Swing Frame, 3 1/2" Od

Ada Primetime Swing Aab, 3 1/2" Od

3 1/2" Zero-G Chair (5-12)-Stainless

3 1/2" Zero-G Chair (2-5)-Stainless

Belt Seat 3 1/2" /8' W/Clevis

Integrated Shade

15' Sunblox Umbrella Canopy – 2 (4' Deck Height and 1' Deck Height)

20' Sunblox Square Canopy for 8' Deck Height - 1

26' Sunblox Hex Canopy for 3' Deck Height- 1

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
A CONTRACT WITH MRC AND THE BIDS
RECEIVED FOR AN INCLUSIVE
PLAYGROUND, INCLUDING SURFACING,
AT ROJAS-PIERCE PARK AND
AUTHORIZING THE CITY MANAGER
OR THEIR DESIGNEE TO EXECUTE ALL
NECESSARY DOCUMENTS**

RESOLUTION NO. 22-71

WHEREAS, the City of Mendota (“City”) has approximately forty families that have children with disabilities, but there is currently no inclusive playground equipment within the City that caters to those children; and

WHEREAS, since 2019, the City has discussed and intended to install an inclusive playground at Rojas-Pierce Park to better serve its community; and

WHEREAS, the City applied for two rounds of project funding with the California Department of Parks and Recreation, but has not been successful; and

WHEREAS, the California Department of Parks and Recreation currently does not have any funding available for the City to apply for an inclusive park; and

WHEREAS, the City currently has sufficient funds available in its General Fund to move forward with construction on an inclusive playground project; and

WHEREAS, on November 12, 2019, the City approved Resolution No. 19-85 adopting a mitigated negative declaration covering proposed improvements and construction at Rojas-Pierce Park, which included, among other things, an inclusive playground as a planned improvement. Accordingly, all environmental reviews, approvals, and applicable requirements under the California Environmental Quality Act have been satisfied such that the City may proceed with construction of an inclusive playground at Rojas-Pierce Park upon approving an agreement with a suitable company for the design, supply, and installation of these proposed improvements; and

WHEREAS, City staff discovered that the City of Tulare has completed an inclusive playground project with MRC Recreation (“MRC”) following a request for proposals process; and

WHEREAS, throughout project research, City staff learned of a time-sensitive grant opportunity through OMNIA Partners which has partnered with MRC and

GameTime, an inclusive playground equipment manufacturer, to offer discounted equipment for projects of this type;

WHEREAS, Mendota Municipal Code section 2.48.110, subdivision (C), states, “In lieu of publishing and receiving its own bids, the purchasing agent may elect to utilize bids under a state, county or other city bid package”; and

WHEREAS, to expedite the bidding process and ensure the City’s eligibility for time-sensitive, substantial grant savings, the City intends to use the City of Tulare’s bid package to construct an inclusive playground in lieu of publishing and receiving its own bids; and

WHEREAS, the City of Tulare’s bid package received two responses, the lowest responsible bidder being MRC; and

WHEREAS, through MRC, the City has received reasonable quotes for the entire inclusive playground project that include a time-sensitive grant discount of \$153,150.50 (50% of the \$301,479.00 cost of the main play equipment); and

WHEREAS, the City wishes to proceed with construction of an inclusive playground project by granting a contract to MRC and accepting the three bids MRC procured comprising the entire project’s costs at \$398,423.26 including a \$153,150.50 time-sensitive grant discount.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the City approves a contract with MRC and the three bids submitted for an inclusive playground, including surfacing, at Rojas-Pierce Park in substantially the forms attached hereto, and authorizes the City Manager or his designee to execute all necessary documents to carry out the project.

Rolando Castro, Mayor

ATTEST:

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 8th day of November, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CELESTE CABRERA-GARCIA, CITY CLERK
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: APPOINTMENT OF MENDOTA RESIDENTS TO THE PLANNING AND RECREATION COMMISSIONS
DATE: NOVEMBER 8, 2022

ISSUE

Should the City Council appoint Mendota residents to the Planning and Recreation Commissions?

BACKGROUND

The Mendota Planning and Recreation Commissions have recently had unexpected vacancies. The Planning Commission currently has two (2) vacant positions (a regular position and the alternate position) and the terms of both positions run through January 31, 2023. The Recreation Commission currently has one (1) vacant position, and the term of the position runs through January 31, 2025.

A notice (attached to this report) was posted on October 6, 2022 notifying the public of the unscheduled vacancies, the terms of the available offices for appointment, the location of the application that is required to be completed, and the deadline (which was October 20, 2022 by 5pm) by which the application must be submitted to the office of the City Clerk.

ANALYSIS

A total of three (3) applications were received by the deadline for two (2) available positions on the Planning Commission (a regular position and an alternate position). The individuals who submitted applications are Josue Urias, Alex Garcia, and Kevin Romero and their applications are attached. Pursuant to Mendota Municipal Code (“MMC”) section 2.36.020, the Mayor selects individuals to appoint to the Planning Commission and the Council approves them.

Moreover, one (1) application was received by the deadline for the one (1) available position on the Recreation Commission. The application was submitted by Marcela Alonzo and her application is attached. Pursuant to MCC section 2.32.020, the City Council maintains the authority to appoint individuals to the Recreation Commission.

FISCAL IMPACT

None.

RECOMMENDATION

Staff recommends that the Council take two separate actions:

1. Mayor Castro appoints a resident to the one regular Planning Commissioner position and a resident to the one alternate Planning Commissioner position, with the approval of the City Council; and
2. The City Council appoint Marcela Alonzo to the available position to the Recreation Commission.

Attachment(s):

1. Notice of Commission Vacancy – Local Appointment List
2. Applications:
 - a. Planning Commission:
 - i. Josue Urias
 - ii. Alex Garcia
 - iii. Kevin Romero
 - b. Recreation Commission:
 - i. Marcela Alonzo



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291

APPLICATION FOR MEMBERSHIP ON A CITY OF MENDOTA
COMMITTEE

Name of Board or Committee: Planning Committee

Applicants' name: Josue Urias

Address: [REDACTED]

Telephone number: [REDACTED]

Present occupation: Restaurant Manager

Number of years as a Mendota resident: 15

Memberships:

Are you a member of any other community boards, commissions or committees? Yes No.

If yes please provide list: Recreation Committee

At the initial formation of the committee you have the option of a 2 year or 4 year term, please select which you would like to serve. 2 years 4years

Education:

Please state the highest year of school completed Highschool.

Please state any special areas of study, work experience or special area of interest that may be of value to this committee:

I believe my job has helped me gain decision making skills and social skill that may be of some value to this committee.

Please give a brief statement of your views related to the business of this committee and why you would like to be a member.

I believe this committee is very important for the growth of our community and I would love to be a part of that growth in any way possible.

Signature of Applicant:



Date: 10/19/2022

Accepted:

Signature of City Clerk:



Time:

12pm

Date:

10/19/2022





CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291



APPLICATION FOR MEMBERSHIP ON A CITY OF MENDOTA
BOARD, COMMISSION OR COMMITTEE

Name of Board or Committee: Mendota Planning Commission

Applicants' name: Alex Garcia

Address: [REDACTED]

Telephone number: [REDACTED]

Present occupation: Retail Manager

Number of years as a Mendota resident: Fourteen years

Memberships:

Are you a member of any other community boards, commissions or committees? Yes No.

If yes please provide list: _____

At the initial formation of the committee you have the option of a 2 year or 4 year term, please select which you would like to serve. 2 years 4years
(Not Applicable for the Planning Commission. Commissioners serve 4 year terms).

Education:

Please state the highest year of school completed High School. Currently in college.

Please state any special areas of study, work experience or special area of interest that may be of value to this committee:

While my line of work and areas of expertise do not immediately align with the typical role of a city's planning commission, I believe my lengthy residence in Mendota and knowledge of the social and economic stance of its residents and their various backgrounds as well as my exceptional communication skills in both English and Spanish can provide valuable insight into the overall future development of the city.

Please give a brief statement of your views related to the business of this committee and why you would like to be a member.

I will start by saying I have never served for any public or city organization, although it is something I have wanted to delve into for a long time, however, I would like to be a member because I believe I can be a valuable asset for our community's development, growth, and positive change. I believe there are numerous areas in which our community can improve, but only through careful guidance and the collective effort of commisioners and their input. I think after many years living here, I am ready to give back to the community and work together with council and the other governing bodies to help make Mendota better.

Signature of Applicant:  Date: 10-20-22

Accepted:

Signature of City Clerk:  Time: 1:14 PM

Date: 10/20/2022



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291

OCT 20 2022

APPLICATION FOR MEMBERSHIP ON A CITY OF MENDOTA
BOARD, COMMISSION OR COMMITTEE

Name of Board or Committee: Planning Commission

Applicants' name: Kevin Arias-Romero

Address: [REDACTED]

Telephone number: [REDACTED]

Present occupation: _____

Number of years as a Mendota resident: 27

Memberships:

Are you a member of any other community boards, commissions or committees? Yes No.

If yes please provide list: Rec Commission

At the initial formation of the committee you have the option of a 2 year or 4 year term, please select which you would like to serve. 2 years _____ 4years _____
(Not Applicable for the Planning Commission. Commissioners serve 4 year terms).

Education:

Please state the highest year of school completed 12th/H.S. - D: Pioma

Please state any special areas of study, work experience or special area of interest that may be of value to this committee:

Previous experience as a Past Member of Commission

Please give a brief statement of your views related to the business of this committee and why you would like to be a member.

I would like to once again serve on this commission as I believe we have many exciting and much needed projects going on citywide and would like to be a part of the continued expansion of the city to continue to bring businesses which results in more job opportunities for our residents

Signature of Applicant: Kevin Arias-Romero Date: 10/20/2022

Accepted:

Signature of City Clerk: [Signature] Time: 4:50 P.M.

Date: 10/20/2022





CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291

OCT 20 2022

APPLICATION FOR MEMBERSHIP ON A CITY OF MENDOTA
BOARD, COMMISSION OR COMMITTEE

Name of Board or Committee: Recreation Commission

Applicants' name: Marcela Alonzo

Address: [REDACTED]

Telephone number: [REDACTED]

Present occupation: Child Caregiver

Number of years as a Mendota resident: 30 years

Memberships:

Are you a member of any other community boards, commissions or committees? Yes No

If yes please provide list: _____

At the initial formation of the committee you have the option of a 2 year or 4 year term, please select which you would like to serve. 2 years _____ 4 years (Not Applicable for the Planning Commission. Commissioners serve 4 year terms).

Education:

Please state the highest year of school completed some college.

Please state any special areas of study, work experience or special area of interest that may be of value to this committee:

I am always eager to help. I have volunteered many times for the City of Mendota. Earth Day has always been my favorite event to dedicate my time to. I was able to plant trees at the Kojas Pierce Park to help beautify our parks. If given the chance, I am committed to work together as a team to continue to grow and upkeep our parks.

Please give a brief statement of your views related to the business of this committee and why you would like to be a member.

As a long time resident of Mendota, I know how important it is to have parks in this city. If I become a member of the Recreation Commission, I will be able to work with other members, in this commission, to help Mendota thrive to its full potential. By having input to fair usage of the parks, not only for residents, but various organizations within the city. I will be able to use my creative skills to help grow and maintain Mendota's vision and mission of our parks for our community members and hopeful visitors.

Signature of Applicant: [Signature] Date: 10/19/22

Accepted:

Signature of City Clerk: [Signature] Time: 3:44
Date: 10/20/2022



AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CRISTIAN GONZALEZ, CITY MANAGER

SUBJECT: RESOLUTION NO. 22-72 OF THE CITY COUNCIL OF THE CITY OF MENDOTA AUTHORIZING AND APPROVING THE ISSUANCE OF LEASE REVENUE BONDS, SERIES 2022, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,500,000; APPROVING THE EXECUTION AND DELIVERY OF A SITE AND FACILITY LEASE, A LEASE AGREEMENT, AND A PRIVATE PLACEMENT AGREEMENT; AUTHORIZING ACTIONS AND EXECUTION OF DOCUMENTS RELATED THERETO; AND APPROVING A NOTICE OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

DATE: NOVEMBER 8, 2022

ISSUE

Shall the City Council adopt Resolution No. 22-72, “Resolution of the City Council of the City of Mendota authorizing and approving the issuance of Lease Revenue Bonds, Series 2022, in the aggregate principal amount not to exceed \$3,500,000; approving the execution and delivery of a site and facility lease, a lease agreement, and a private placement agreement; authorizing actions and execution of documents related thereto; and approving a notice of exemption from the California Environmental Quality Act?”

BACKGROUND

The City has a pressing need for a new facility for the Police Department and City Council chambers (the “Project”). The City has enjoyed ongoing development and expansion, but existing facilities are insufficient to meet the needs of the City to properly serve residents for the decades to come. Additionally, new City Council chambers will create additional space for personnel at City Hall. Planning work on this Project has been ongoing for quite some time, with initial project affordability analysis being done in mid-2021. The Project was put on hold in November 2021 due to project bids received being significantly higher than anticipated. From winter 2021 through summer 2022, City staff worked with the Project developer and architect to re-frame the Project’s plans to reflect its current scope.

The total project cost is estimated to be \$8 million, but Project bids will not be received until the end of November. In total, the City has approximately \$5 million to use toward project costs. City staff plan to finance the remaining \$3 million of the project costs through the 2022 Lease Revenue Bonds (the “2022 Bonds”), which are expected to be privately placed with Umpqua Bank. To optimize the affordability of the annual amortization payments, the 2022 Bonds are being structured with a 30-year term with level annual payments through 20 years when there will be an interest rate re-set if the 2022 Bonds remain outstanding.

ANALYSIS

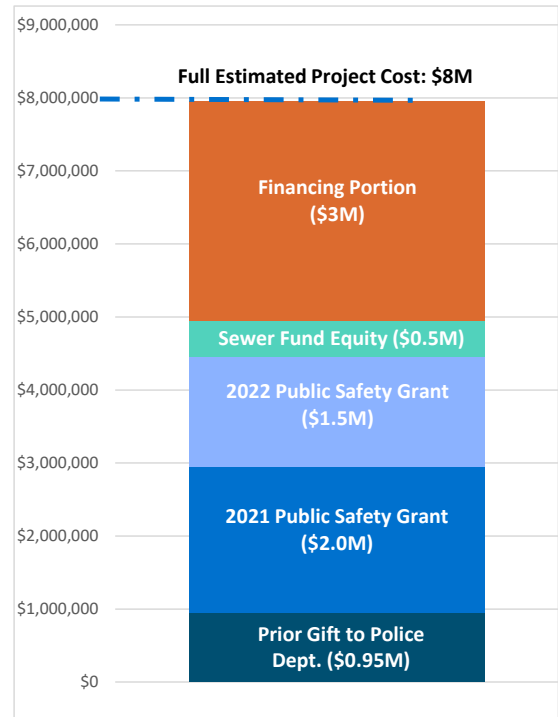
Project Cost Estimates – The Project is currently estimated to cost \$8 million, detailed in the table. Because project bids will not be received until the end of November, the \$8 million total is an estimate for purposes of appropriately sizing the financing. To the extent that the actual project cost comes in under the estimated amount, the City will be able to prepay a portion of the financing using unused funds. To the extent that the actual project cost comes in over the estimated amount, the City will need to contribute additional funding to cover the cost of the Project.

Project Cost Estimates	
New Construction	\$5,696,720
Equipment and Furnishings	\$237,026
Fees: Developer	\$426,000
Fees: Architectural/Engineering	\$541,578
Fees: Utility Hook-Up, Materials Testing & Inspection	\$110,000
Project Contingency	\$350,566
Subtotal: Base Project Cost Estimates (as of 8/12/22)	\$7,361,890
Optional Add-Ons: Photovoltaic Carports	\$213,070
Optional Add-Ons: Bullet-resistant panel and windows	\$107,501
Additional Contingency*	\$317,539
Total Project Cost Estimate	\$8,000,000

*Note: Because project cost will not be known until bids are received in late November, this table is an estimate. Our analysis assumes an additional 4% project contingency.

Total project cost subject to change based on bids received

Funding Sources - The City has identified \$5 million in available funds to use toward the Project. The City has received approximately \$4.5 million in one-time funds which will be used toward the project cost. These funds are comprised of a prior gift of \$950,000, a \$2.0 million 2021 public safety grant, and a \$1.5 million 2022 public safety grant. In addition to these funds the City has identified up to \$500,000 in Sewer Fund equity that can be applied toward the Sewer Fund’s portion of the project cost.



To provide funding up to the \$8 million estimated project cost, the City intends to secure financing from a bank for the remaining \$3 million in funding need.

Structure of 2022 Bonds - One of the key objectives identified for the financing of the \$3 million in funding for the Project is ensuring affordability of the annual amortization payments and a flexible prepayment option. Based on this direction, the 2022 Bonds have been structured with a 30-year term and level annual payments. This term is based on the maximum term available and the anticipated useful life of the Project. Additionally, the 2022 Bonds have a flexible prepayment provision (see below). Based on these key terms, the City’s municipal

advisor and placement agent solicited banks that are active in the government lease space to solicit proposals to provide the needed financing. Of those banks, only Umpqua Bank was able to meet the City's required terms.

The 2022 Bonds are structured with a 30-year level annual payment based on the tax-exempt interest rate at closing. With the current volatility and market uncertainty, banks are not offering fixed rate loans longer than 20 years. Umpqua Bank is offering the City a lease with a 30-year term that has an interest rate fixed at current levels from years 1 through 20 and then an interest rate reset that occurs after year 20 that applies to years 21-30. While the rate that applies to years 21-30 ("Reset Rate") will be fixed after year 20, it is based on an underlying index with a spread. There is risk that over the next 20 years the underlying index moves up, resulting in a higher Reset Rate than the tax-exempt interest rate at closing.

To mitigate that risk, the 2022 Bonds will have flexible prepayment option so that the City can pre-pay the lease anytime between closing and year 20. A pre-payment could be made through use of City reserves or cash or could be done through the issuance of refunding bonds at some point in the next 20 years. Umpqua Bank has offered a prepayment option for the 2022 Bonds that starts with the closing (no "lock-out" period) that has a 3% prepayment penalty from years 1 – 3, a 2% prepayment penalty in years 4-5, and a 1% prepayment penalty in years 6-7. After year 7, the City will have the option to prepay the loan in full without penalty. In addition, the City can prepay up to 20% of the outstanding principal in any year without penalty.

Finally, Umpqua has offered a draw provision wherein for the first 18 months, interest only accrues on the amount of the loan that is drawn. Accordingly, the City can prioritize the use of grant funds and other cash at the beginning of the construction period and draw from the financing once those funds are used. During that period, the interest on the loan only accrues on the amounts drawn.

The final par for the 2022 Bonds is expected to be higher than \$3 million due to the costs associated with issuing the bonds. As a result, the resolutions identify a not-to-exceed amount of \$3.5 million, though the actual expected amount is closer to \$3.225 million. It is standard for the not-to-exceed amounts to include a small (~10%) contingency to provide the City with flexibility in the event that costs for the Project come in higher than anticipated.

Summary of Legal Documents – The issuance of the 2022 Bonds will require the Board of Directors of the Mendota Joint Powers Financing Authority ("Authority" and its "Board") and the City Council to approve resolutions authorizing the Indenture, a Site and Facility Lease, a Lease Agreement, an Assignment Agreement, a Placement Agent Agreement, and Umpqua Bank's Term Sheet, which terms will be reflected in the forgoing documents prior to closing. Resolution No. 22-72 proposes the City Council approve the Site and Facility Lease, Lease Agreement, and Private Placement Agreement. Such legal and documents are briefly summarized below:

Authorizing Resolutions – the Authorizing Resolutions approve the form of the legal documents for the loan. Those resolutions also authorize City staff to execute those legal documents for the 2022 Bonds, provided the final results are within not-to-exceed

parameters identified therein. At the time of writing, the current interest rate on the 2022 Bonds is estimated to be 5.13%. The Authorizing resolutions reflect a not-to-exceed tax exempt interest rate of 6.0%. The not-to-exceed amount is higher than the current market estimate to provide City staff with the authorization to proceed with the financing if the market moves up slightly between now and when the interest rates are locked. Approving Resolution No. 22-72 empowers City staff to enter into the financing provided the final terms are within not-to-exceed parameters.

Umpqua Bank’s Term Sheet – this document summarizes the key terms offered by Umpqua Bank. Pending approval by the City Council and the Board, the terms in this document will be used to fill in many of the blanks in the other documents.

Indenture – the Indenture formalizes the relationship between the Mendota Joint Powers Financing Authority (issuing the 2022 Bonds) and The Bank of New York Mellon Trust Company, N.A. (“BNY Mellon”) as trustee for the 2022 Bonds. The Indenture describes the terms of the 2022 Bonds, including the payment terms and schedule, prepayment options, other covenants related to the 2022 Bonds, and other administrative items.

Site and Facility Lease and Lease Agreement – these documents formalize the agreement between the City of Mendota and the Mendota Joint Powers Financing Authority regarding how the leased assets are leased to the City in exchange for the annual rental payments equal to the principal and interest payments on the 2022 Bonds.

Assignment Agreement – this documents the agreement between the Mendota Joint Powers Financing Authority and BNY Mellon and details how the Financing Authority assigns its rights to receive annual rental payments from the City under the Facility Lease over to the Trustee of the 2022 Bonds.

Placement Agent Agreement – the Placement Agent Agreement between the City and Raymond James, which is acting as placement agent for the 2022 Bonds. This agreement defines Raymond James’ role in placing the 2022 Bonds with the Bank and identifies the amount to be paid to Raymond James for services provided in that role. This fee is contingent upon a successful closing of the 2022 Bonds.

FISCAL IMPACT

Based on the term sheet provided by Umpqua Bank and based on current market interest rates, the total annual debt service for the 2022 Bonds is estimated to be approximately \$211,000 per year. The total par of the bonds is estimated to be approximately \$3.2 million, raising \$3 million for project funds. The costs of issuance for the bonds will be paid out of the proceeds of the financing (resulting in no impact to the City’s 2022-23 Budget).

Based on the 6.0% not-to-exceed true interest cost identified in the Authorizing Resolutions and keeping all other terms provided by Umpqua Bank’s term sheet, the annual debt service payment will be approximately \$232,000 per year.

Additional detail regarding the fiscal impact of the 2022 Bonds is included in the “Good Faith Estimates” section below.

Good Faith Estimates – The following information was obtained from the Municipal Advisor with respect to the 2022 Bonds approved in the Resolution, and is provided in compliance with Senate Bill 450 (Chapter 625 of the 2017-2018 Session of the California Legislature) with respect to the 2022 Bonds:

True Interest Cost of the 2022 Bonds. Assuming an aggregate principal amount of \$3,225,000 of the 2022 Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the true interest cost of the 2022 Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the 2022 Bonds, is 5.13%.

Finance Charge of the 2022 Bonds. Assuming an aggregate principal amount of \$3,225,000 of the 2022 Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the finance charge of the 2022 Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the 2022 Bonds), is approximately \$175,000.

Amount of Proceeds to be Received. Assuming an aggregate principal amount of \$3,225,000 of the 2022 Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the amount of proceeds expected to be received by the Authority for sale of the 2022 Bonds less the finance charge of the 2022 Bonds described in 2 above and any reserves or capitalized interest paid or funded with proceeds of the 2022 Bonds, is \$3,050,000.

Total Payment Amount. Assuming an aggregate principal amount of \$3,225,000 of the 2022 Bonds are sold and based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the total payment amount, which means the sum total of all payments the Authority will make to pay debt service on the 2022 Bonds plus the finance charge of the Bonds described in paragraph 2 above not paid with the proceeds of the 2022 Bonds, calculated to the final maturity of the 2022 Bonds, is \$6,330,640.

The foregoing information constitutes good faith estimates only. The actual interest cost, finance charges, amount of proceeds and total payment amount may vary from the estimates above due to variations from these estimates in the timing of 2022 Bond sales, the amount of Bonds sold, the amortization of the 2022 Bonds sold and market interest rates at the time of each sale. The date of sale and the amount of 2022 Bonds sold will be determined by the Authority based on need for project funds and other factors. The actual interest rates at which the 2022 Bonds will be sold will depend on the bond market at the time of each sale. The actual amortization of the 2022 Bonds will also depend, in part, on market interest rates at the time of sale. Market interest rates are affected by economic and other factors beyond the City's and the Authority's control.

RECOMMENDATION

Following the public hearing noticed for this matter, staff recommends that the City Council adopt Resolution No. 22-72 “Resolution of the City Council of the City of Mendota authorizing and approving the issuance of Lease Revenue Bonds, Series 2022, in the aggregate principal amount not to exceed \$3,500,000; approving the execution and delivery of a site and facility lease, a lease agreement, and a private placement agreement; authorizing actions and execution of documents related thereto; and approving a notice of exemption from the California Environmental Quality Act.”

Attachments:

1. City Council Resolution No. 22-72
2. Mendota Joint Powers Financing Authority Resolution No. MJPFA 22-01
3. Term Sheet from Umpqua Bank
4. Site and Facility Lease
5. Lease Agreement
6. Assignment Agreement
7. Indenture
8. Private Placement Agreement

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA
AUTHORIZING AND APPROVING THE
ISSUANCE OF LEASE REVENUE BONDS,
SERIES 2022, IN THE AGGREGATE
PRINCIPAL AMOUNT NOT TO EXCEED
\$3,500,000; APPROVING THE EXECUTION
AND DELIVERY OF A SITE AND FACILITY
LEASE, A LEASE AGREEMENT, AND A
PRIVATE PLACEMENT AGREEMENT;
AUTHORIZING ACTIONS AND EXECUTION
OF DOCUMENTS RELATED THERETO; AND
APPROVING A NOTICE OF EXEMPTION
FROM THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT**

RESOLUTION NO. 22-72

WHEREAS, the Mendota Joint Powers Financing Authority (the “Authority”) has been formed pursuant to a Joint Exercise of Powers Agreement, dated as of April 11, 1989 (the “Agreement”), by and between the City of Mendota (the “City”) and the Successor Agency of the Mendota Redevelopment Agency, and is authorized under the Agreement and under the laws of the State of California (the “State”) to finance the acquisition, construction, and improvement of public capital improvements for any of its members; and

WHEREAS, the City desires to finance the construction and improvement of a new City Council chambers and police department to be located at 1759 7th Street, Mendota, CA 93640 (the “Project”); and

WHEREAS, it has been proposed that the Authority assist the City in providing funds to finance the Project by entering into an Indenture, dated as of December 1, 2022 (the “Indenture”), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee and providing for the issuance and delivery of the Authority’s Lease Revenue Bonds, Series 2022 (the “Bonds”); and

WHEREAS, the City has held a public hearing pursuant to Section 6586.5 of the Government Code in connection with the Project, notice of which was provided to the public on October 26, 2022.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Findings. The above recitals are true and correct.

Section 2. Approval of Bonds; Selection of Purchaser; Bank Qualification Authorized. The City Council hereby approves the financing of the Project by the

Authority and the issuance of the Mendota Joint Powers Financing Authority Lease Revenue Bonds, Series 2022, in the aggregate principal amount not to exceed \$3,500,000. The Mayor (or in their absence, the Mayor Pro Tempore), the City Manager, the Director of Administrative Services, the Finance Director, and any of their respective designees (each, a "Authorized Officer") is authorized to accept a proposal to purchase the Bonds from any Approved Buyer (as defined in the Indenture) with the advice of Raymond James & Associates, Inc. (the "Placement Agent") and Norton Rose Fulbright US LLP (as "Bond Counsel"); provided, that the initial tax-exempt true interest cost of the Bonds shall not exceed 6.0%. The Bonds may be issued on a bank qualified or non-bank qualified basis as determined by an Authorized Officer, with the advice of the Placement Agent and Bond Counsel.

Section 3. Finding of Significant Public Benefits. The City Council hereby finds that: (i) the public capital improvements constituting the Project are to be located within the boundaries of the City and (ii) there are significant public benefits arising from the Authority's issuance of the Bonds to finance such public capital improvements as contemplated by Section 6586 of the Government Code, including, but not limited to, a more efficient delivery of City governmental and police services to residential and commercial development.

Section 4. Approval of the Site and Facility Lease. The City Council hereby approves the Site and Facility Lease, dated as of December 1, 2022 (the "Site and Facility Lease"), by and between the City and the Authority in substantially the form on file with the City Clerk of the City and presented to the City Council at this meeting. Any Authorized Officer is hereby authorized to execute the Site and Facility Lease in substantially such form, with such revisions, amendments, and completions as shall be approved by an Authorized Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Approval of the Lease Agreement. The City Council hereby approves the Lease Agreement, dated as of December 1, 2022 (the "Lease"), by and between the Authority and the City in substantially the form on file with the City Clerk of the City and presented to the City Council at this meeting. Any Authorized Officer is hereby authorized to execute the Lease in substantially such form, with such revisions, amendments, and completions as shall be approved by an Authorized Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. Approval of the Private Placement Agreement. The City Council hereby approves the Private Placement Agreement, dated as of December 1, 2022 (the "Private Placement Agreement"), by and among the Authority, the City and the Placement Agent in substantially the form on file with the City Clerk of the City and presented to the City Council at this meeting. Any Authorized Officer is hereby authorized to execute the Private Placement Agreement by and among the Authority, the City and the Placement Agent, which agreement may provide for compensation to the Placement Agent, not to exceed \$15,000, in substantially such form, with such revisions, amendments, and completions as shall be approved by an Authorized Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. Official Actions. The Authorized Officers, the City Clerk, and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all other actions, including the publication of any notices necessary or desirable in connection with the Bonds, and execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants, and other documents, which they, or any of them, deem necessary or advisable to consummate the lawful issuance and sale of the Bonds to an Approved Buyer and the consummation of the transactions as described herein.

Section 8. Exemption from California Environmental Quality Act. The City Council hereby finds and determines that this Project and its approvals are not subject to environmental review under Public Resources Code section 21000 et seq., the California Environmental Quality Act ("CEQA"), because the Project is categorically exempt pursuant to CEQA Guidelines sections 15303 and 15332, as supported by the City's supporting documentation on file with the City Clerk. (Cal. Code Regs., tit. 14, §§ 15303, 15332.) Pursuant to CEQA Guidelines section 15303, the Project proposes to construct a 7,220 SF, single-story facility in an urbanized area for a police department and City Council chambers on a .5-acre lot. This building would be less than the 10,000 SF exemption limit detailed in Section 15303. (Cal. Code Regs., tit. 14, § 15303.) Pursuant to CEQA Guidelines section 15332, the Project site is designated General Commercial by the City's General Plan Update 2005-2025 and is zoned C-3, Central Business and Shopping. This combination of planned use and zoning allows the proposed use subject to issuance of a conditional use permit ("CUP"). The City's Planning Commission will consider approval of a CUP prior to the City carrying out the Project. The Project falls within Section 15332's in-fill exemption because: (a) it is consistent with the applicable general plan designation and all applicable general plan policies as well as the applicable zoning regulations; (b) it is on a .5-acre lot surrounded by urban development and uses within the City's limits such that it falls within Section 15332's exemption; (c) there are no critical habitats on the Project site and it would not provide habitat for endangered, rare, or threatened species; (d) it would not result in any significant effects related to traffic, noise, air quality, or water quality because construction noise, emergency sirens, and emergency generators are exempt from regulation, the Project will not generate emissions in excess of Air District standards, and the Project's construction and operation would not harm water quality; and (e) the Project site can be served by all required utilities and public services. (Cal. Code Regs., tit. 14, § 15332.) Accordingly, the City Clerk is hereby directed to file a Notice of Exemption.

Section 9. Ratification. All actions heretofore taken by the officers and employees of the City with respect to the issuance, sale, and delivery of the Bonds, or in connection with or related to any of the agreements or documents referenced herein, are approved, confirmed, and ratified.

Section 10. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

///

Rolando Castro, Mayor

ATTEST:

I, Celeste Cabrera-Garcia, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 8th day of November, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, City Clerk

**BEFORE THE BOARD
OF THE
MENDOTA JOINT POWERS FINANCING AUTHORITY**

**A RESOLUTION OF THE MENDOTA
JOINT POWERS FINANCING AUTHORITY
APPROVING THE ISSUANCE OF LEASE
REVENUE BONDS, SERIES 2022, IN THE
AGGREGATE PRINCIPAL AMOUNT NOT
TO EXCEED \$3,500,000; APPROVING THE
EXECUTION AND DELIVERY OF A
SITE AND FACILITY LEASE, A LEASE
AGREEMENT, AN ASSIGNMENT AGREEMENT,
AN INDENTURE, AND A PRIVATE PLACEMENT
AGREEMENT; AND AUTHORIZING ACTIONS
AND EXECUTION OF DOCUMENTS RELATED
THERE TO**

RESOLUTION NO. MJPFA 22-01

WHEREAS, the Mendota Joint Powers Financing Authority (the “Authority”) has been formed pursuant to a Joint Exercise of Powers Agreement, dated as of April 11, 1989 (the “Agreement”), by and between the City of Mendota (the “City”) and the Successor Agency of the Mendota Redevelopment Agency, and is authorized under the Agreement and under the laws of the State of California (the “State”) to finance the acquisition, construction, and improvement of public capital improvements for any of its members; and

WHEREAS, the City desires to finance the construction and improvement of a new City Council chambers and police department to be located at 1759 7th Street, Mendota, CA 93640 (the “Project”); and

WHEREAS, it has been proposed that the Authority assist the City in providing funds to finance the Project by entering into an Indenture, dated as of December 1, 2022 (the “Indenture”), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”) and providing for the issuance and delivery of the Authority’s Lease Revenue Bonds, Series 2022 (the “Bonds”); and

WHEREAS, the City, as one of the members of the Authority, has heretofore held a public hearing pursuant to Section 6586.5 of the Government Code and in connection therewith has approved the Authority’s financing of the Project and has found and determined that: (i) the Project is located within the boundaries of the City and (ii) there are significant public benefits (as defined in Section 6586 of the Government Code) arising from the Authority’s issuance of the Bonds to finance the Project, including, but not limited to, a more efficient delivery of City governmental and police services to residential and commercial development; and

WHEREAS, the Board of Directors (the “Board”) of the Authority has duly considered the issuance of the Bonds, has found such issuance to have significant public benefits, and wishes at this time to approve the issuance of the Bonds; and

WHEREAS, the City Council has approved the Site and Facility Lease, the Lease, and the Private Placement Agreement (all as defined herein).

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MENDOTA JOINT POWERS FINANCING AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Approval of Bonds; Selection of Purchaser; Bank Qualification. The Board hereby approves the issuance of the Bonds in the aggregate principal amount not to exceed \$3,500,000. The Chairperson, Executive Director, or the Vice-Chairman of the Authority, or their designees (each, a “Responsible Officer”) is authorized to accept a proposal to purchase the Bonds from any Approved Buyer (as defined in the Indenture) with the advice of Raymond James & Associates, Inc. (the “Placement Agent”) and Norton Rose Fulbright US LLP (as “Bond Counsel”); provided, that the initial tax-exempt true interest cost of the Bonds shall not exceed 6.0%. The Bonds may be issued on a bank qualified or non-bank qualified basis as determined by a Responsible Officer, with the advice of the Placement Agent and Bond Counsel.

Section 2. Approval of the Site and Facility Lease. The Board hereby approves the Site and Facility Lease, dated as of December 1, 2022 (the “Site and Facility Lease”), by and between the City and the Authority in substantially the form on file with the Secretary of the Authority and presented to the Board at this meeting. Any Responsible Officer is hereby authorized to execute the Site and Facility Lease in substantially such form, with such revisions, amendments, and completions as shall be approved by a Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Approval of the Lease Agreement. The Board hereby approves the Lease Agreement, dated as of December 1, 2022 (the “Lease”), by and between the Authority and the City in substantially the form on file with the Secretary of the Authority and presented to the Board at this meeting. Any Responsible Officer is hereby authorized to execute the Lease Agreement in substantially such form, with such revisions, amendments, and completions as shall be approved by a Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. Approval of the Assignment Agreement. The Board hereby approves the Assignment Agreement, dated as of December 1, 2022 (the “Assignment Agreement”), by and between the Authority and the Trustee in substantially the form on file with the Secretary of the Authority and presented to the Board at this meeting. Any Responsible Officer is hereby authorized to execute the Assignment Agreement in substantially such form, with such revisions, amendments, and completions as shall be approved by a Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Approval of the Indenture. The Board hereby approves the Indenture in substantially the form on file with the Secretary of the Authority and presented to the Board at this meeting. Any Responsible Officer is hereby authorized to execute the Indenture in substantially such form, with such revisions, amendments, and completions as shall be approved by a Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. Approval of the Private Placement Agreement. The Board hereby approves the Private Placement Agreement, dated as of December 1, 2022 (the "Private Placement Agreement"), by and among the Authority, the City, and the Placement Agent in substantially the form on file with the Secretary of the Authority and presented to the Board at this meeting. Any Responsible Officer is hereby authorized to execute the Private Placement Agreement, which agreement may provide for compensation to the Placement Agent, not to exceed \$15,000, in substantially such form, with such revisions, amendments, and completions as shall be approved by a Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. Official Actions. The Responsible Officers, the Secretary, and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including the publication of any notices necessary or desirable in connection with the issuance, sale, and delivery of the Bonds, and execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants, and other documents, which they, or any of them, deem necessary or advisable to consummate the lawful issuance and sale of the Bonds and the consummation of the transactions as described herein.

Section 8. Ratification of Actions. All actions heretofore taken by the officers and employees of the Authority with respect to the issuance, sale, and delivery of the Bonds, or in connection with or related to any of the agreements or documents referenced herein, are approved, confirmed, and ratified.

Section 9. Ratification of the Appointment of Professionals. The Authority ratifies the appointment of Norton Rose Fulbright US LLP, as Bond Counsel, Raymond James & Associates, Inc., as Placement Agent, and NHA Advisors, LCC, as Municipal Advisor, in connection with the Bonds.

Section 10. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

Rolando Castro, Chairperson

ATTEST:

I, Celeste Cabrera-Garcia, Secretary of the Mendota Joint Powers Financing Authority, do hereby certify that the foregoing resolution was duly adopted and passed by the Board at a regular meeting of said Board, held at the Mendota City Hall on the 8th day of November, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Celeste Cabrera-Garcia, Secretary

City of Mendota
2022 Lease Revenue Bond
Term Sheet 10.28.2022

Umpqua Bank (“Umpqua”) would like to express its interest in underwriting and obtaining credit approval for the following loan (the “Credit Facility”) for City of Mendota (the “City”) on the terms and conditions outlined below.

Preface: Umpqua’s expression of interest in underwriting and obtaining credit approval for the Credit Facility is for discussion purposes only and does not constitute a commitment from Umpqua. Any commitment to lend that we might make is subject to the fulfillment of a number of conditions that include, but are not limited to, our normal credit approval process, an in-depth investigation of the purpose of the loan, the City, and collateral the results of which are deemed satisfactory to Umpqua in our sole discretion.

Confidentiality: Except as required by law, neither this expression of interest nor its contents will be disclosed publicly or privately except to those individuals who are your officers, employees or advisors who have a need to know as a result of being involved in the proposed financing. The foregoing confidentiality provisions shall not apply to the disclosure of the federal income tax structure or treatment of the proposed financing.

Lease Revenue Bond

Loan Amount:	Approximately \$3,500,000
Structure/Security:	Lease Revenue Bond
	<u>Lease pledged assets consisting of:</u>
	✓ Corporate Yard (912 Marie Street)
	✓ City Hall (643 Quince Street)
Purpose:	Finance New Police Station
Term/Amortization:	20-year term, with a repricing option at year 20 allowing for another 10-year term/30-year amortization
Indicative Interest Rate:	5.13% Indicative Tax-exempt, Bank Qualified fixed rate.
	Pricing reset after 20 years to be determined based on 80% of Regular Straight-Line Amortizing FHLB + spread of 1.350% – (20-year FHLB ‘Federal Home Loan Bank’ 5.16% as of 10.28.2022 + 1.350% spread - Floor of 4%).
	<i>30/360 interest calculation</i>
Relationship Pricing:	It should be noted that Umpqua Bank does provide additional discounts reflected in the interest rate of the facility, should the City of Mendota wish to create a Public Deposit relationship at Umpqua.
Draw Terms:	Up to 18-months interest only draw period followed by semi-annual interest, and annual principal payments. (Interest accrued during draw period calculated on amount of loan drawn.) Full par-amount must be drawn at draw period expiration.

Vanessa Ryan

SVP/ Municipal Banking

Tel: 916.724-1214

Email: vanessaryan@umpquabank.com

Dean Stephens

SVP/ Municipal Banking Director

Tel: 916.774-3923

Email: deanstephens@umpquabank.com



UMPQUA
B · A · N · K

Reserve Requirement:	Not required.
Prepayment Provision:	3%, 3%, 3%, 2%, 2% 1%, 1% (7 years) and 0% after year 7. Loan can be prepaid in full at year 8 and thereafter. 20% of annual principal can be prepaid down each year without penalty.
Reporting:	<p>The City shall make its audited annual financial statements available on the City's website or sent to the Bank within 270 days after the end of each fiscal year.</p> <p>The City shall make each of its annual budgets, and all amendments thereto, available on the City's website or send to the Bank within 30 days after such budget is adopted or amended.</p>
Rate Lock:	No sooner than November 21 st , with the expectation the loan will be funded and closed by December 8 th .
Costs of Issuance:	Documents to be reviewed by Umpqua Bank's counsel Rudy Salo – Nixon Peabody, LLP, provided that the City's Bond Counsel shall prepare documents, which, if necessary, may include an indenture to document the repricing/put option if necessary. Legal fees and related fees for Nixon Peabody, LLP are \$20,000, at closing.

Vanessa Ryan
SVP/ Municipal Banking
Tel: 916.724-1214
Email: vanessaryan@umpquabank.com

Dean Stephens
SVP/ Municipal Banking Director
Tel: 916.774-3923
Email: deanstephens@umpquabank.com



Additional Conditions

Periodic financial and collateral reporting by the City, as well as representations and warranties of the City regarding its status and ability to repay and related matters, taxability gross-up, if allowable, and covenants and conditions that are appropriate for a Credit Facility of the scope and nature proposed herein will be determined as part of Umpqua Bank's normal underwriting and approval process. The proposed facility will be subject to a default rate equal to the proposed interest rate + 3.0, if allowable.

PDFs of all executed and other documents listed on the Closing Index shall be provided to the Bank no later than 24 hours before the time of the requested wire; provided, that if any documents can only be signed after receipt of the wire those documents shall be provided immediately after receipt of the wire.

Sincerely,

A handwritten signature in cursive script that reads "Vanessa Ryan".

Vanessa Ryan
SVP, Corporate Relationship Manager
Municipal Banking Division

Please pursue underwriting and approval of a commitment for the described Credit Facility.

Borrower

By: _____

Printed Name: _____

Title: _____

NRF DRAFT
11/1/22

AFTER RECORDATION PLEASE RETURN TO:
Norton Rose Fulbright US LLP
555 South Flower Street, Suite 4100
Los Angeles, California 90071
Attention: Russell C. Trice, Esq.

SITE AND FACILITY LEASE

Dated as of December 1, 2022

by and between

CITY OF MENDOTA

and

MENDOTA JOINT POWERS FINANCING AUTHORITY

Relating to

[\$Par Amount]
Mendota Joint Powers Financing Authority
Lease Revenue Bonds, Series 2022

**THIS IS A FINANCING DOCUMENT.
NO DOCUMENTARY TRANSFER TAX IS DUE PURSUANT
TO REVENUE AND TAXATION CODE SECTION 11922
AND THIS DOCUMENT IS EXEMPT FROM RECORDING FEES
PURSUANT TO GOVERNMENT CODE SECTION 27383**

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SITE AND FACILITY LEASE

This SITE AND FACILITY LEASE, dated as of December 1, 2022 (this “Site Lease”), is made by and between the CITY OF MENDOTA, a city duly organized and existing under the laws of the State of California (the “City”), as lessor, and the MENDOTA JOINT POWERS FINANCING AUTHORITY, a joint exercise of powers authority, duly organized and existing under the laws of the State of California (the “Authority”), as lessee.

RECITALS:

WHEREAS, the City is leasing the property more particularly described in Exhibit A attached hereto (the “Leased Property”) to the Authority; and

WHEREAS, the Authority intends to issue Authority issue its Lease Revenue Bonds, Series 2022 (the “Series 2022 Bonds”) pursuant to an Indenture, dated as of December 1, 2022 (the “Indenture”), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”); and

WHEREAS, the Authority, concurrently with the execution of this Site Lease, will lease the Leased Property to the City pursuant to a Lease Agreement, dated as of December 1, 2022 (the “Lease”), by and between the City and the Authority, in consideration for base rental payments equal to the principal of and interest on the Series 2022 Bonds; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Site Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Site Lease;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

SECTION 1. DEFINITIONS.

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture or the Lease, as applicable.

SECTION 2. SITE LEASE.

The City hereby leases the Leased Property to the Authority and the Authority hereby leases the Leased Property from the City, on the terms and conditions hereinafter set forth.

SECTION 3. TERM.

The term of this Site Lease shall commence on December ____, 2022. The term of this Site Lease shall expire on the later of (i) the Expiration Date; (ii) the date the last Base Rental Payment is made under the provisions of the Lease; or (iii) the date of discharge of the Indenture pursuant to Section 9.03 thereof. Notwithstanding the foregoing, the term of this Site Lease shall automatically be extended for a period of ten (10) years, if, on the Expiration Date, the Indenture has not been fully discharged, and shall terminate on the date when the Indenture has been fully discharged.

SECTION 4. RENTAL.

The Authority agrees to pay to the Trustee, on the Closing Date, the proceeds of the Series 2022 Bonds, as advance rental for the use and right to possession of the Leased Property for the term of this Site Lease. The rental shall be applied by the Trustee as provided in the Indenture.

SECTION 5. TITLE.

Throughout the term of this Site Lease, title to the Leased Property shall remain in the City.

SECTION 6. DEFAULT.

If the Authority shall fail to keep, observe or perform any term, covenant or condition contained herein to be kept or performed by the Authority, or if (a) the Authority's interest in this Site Lease or any part thereof is assigned or transferred without the written consent of the City, either voluntarily or by operation of law or otherwise, except as provided in Section 11 hereof, or (b) any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency or similar law or any law providing for the appointment of a receiver, liquidator, trustee or similar official of the Authority or of all or substantially all of its assets is instituted by or with the consent of the Authority, or is instituted without its consent and is not permanently stayed or dismissed within sixty (60) days, or if the Authority offers to the Authority's creditors to effect a composition or extension of time to pay the Authority's debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for readjustment of the Authority's debts, or if the Authority shall make a general assignment or any assignment for the benefit of the Authority's creditors, then the Authority shall be deemed to be in default hereunder and it shall be lawful for the City to exercise any and all rights and remedies available pursuant to law; provided however, that: (i) no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof; and (ii) so long as any Bonds remain outstanding, the City shall have no power to terminate this Site Lease by reason of any default on the part of the Authority if such termination would prejudice the exercise of the remedies provided in Section 10 (captioned "DEFAULT") of the Lease.

Neither the City nor the Authority shall in any event be in default in the performance of any of its obligations hereunder or imposed by law unless and until the City or the Authority (as the case may be) shall have failed to perform such obligations within sixty (60)

days after notice by the Authority or the City to the nonperforming party properly specifying wherein such party has failed to perform any such obligation.

SECTION 7. EMINENT DOMAIN.

If the whole or any part of the Leased Property shall be taken under the power of eminent domain, the interest of the Authority shall be recognized and is hereby determined to be the amount of the unpaid principal components of Base Rental Payments due under the Lease, and all accrued interest thereon, and the amount of the unpaid Additional Rental Payments due under the Lease, and the balance of the award, if any, shall be paid to the City.

SECTION 8. RIGHT OF ENTRY.

The City and its assignees shall have the right to enter the Leased Property during reasonable business hours (and in emergencies at all times) (a) to inspect the same, (b) for any purpose connected with the City's or the Authority's rights or obligations under this Site Lease and (c) for all other lawful purposes.

SECTION 9. TERMINATION.

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

SECTION 10. QUIET ENJOYMENT BY THE AUTHORITY.

The Authority shall at all times during the term of this Site Lease peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the City, subject to the Authority's compliance with the terms and provisions hereof and of the Lease.

SECTION 11. ASSIGNMENTS AND SUBLEASES.

The Authority shall not assign, mortgage, hypothecate or otherwise encumber this Site Lease or any rights hereunder or the leasehold created hereby by trust agreement, indenture or deed of trust or otherwise or sublet the Leased Property without the prior written consent of the City and the Owner, which prior written consent shall not be unreasonably withheld, except as provided by the Lease and as security for the Series 2022 Bonds.

SECTION 12. WAIVER OF PERSONAL LIABILITY.

All liabilities hereunder on the part of the Authority shall be solely liabilities of the Authority as a separate legal entity, and no member, officer or employee of the Authority shall at any time or under any circumstances be individually or personally liable hereunder for anything done or omitted to be done by the Authority hereunder.

SECTION 13. TAXES.

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

SECTION 14. LAW GOVERNING.

This Site Lease shall be governed exclusively by and construed in accordance with the laws of the State of California.

SECTION 15. NOTICES.

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage pre-paid, and addressed --

If to the City:

City of Mendota
643 Quince Street
Mendota, California 93640
Attention: City Manager
Telephone: (559) 655-4298

If to the Authority:

Mendota Joint Powers Financing Authority
c/of City of Mendota
643 Quince Street
Mendota, California 93640
Attention: Executive Director
Telephone: (559) 655-4298

or to such other addresses as the respective parties may from time to time designate by notice in writing.

SECTION 16. VALIDITY AND SEVERABILITY.

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

If for any reason this Site Lease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the City or by the Authority, or if for any reason it is held by such a court that any of the covenants and conditions of the Authority hereunder is unenforceable for the full term hereof, then and in such event this Site Lease is and shall be deemed to be a lease from year to year and all of the rental and other terms, provisions and conditions of this Site Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

SECTION 17. PURPOSE OF THE LEASED PROPERTY.

The Authority covenants that during the term of this Site Lease, it shall use the Leased Property for the purposes described in the Lease and for such other purposes as may be incidental thereto.

SECTION 18. WAIVER OF DEFAULT.

Failure of the City to take advantage of any default on the part of the Authority shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this Site Lease be construed to waive or to lessen the right of the City to insist upon performance by the Authority of any term, covenant or condition hereof, or to exercise any rights given the City on account of such default. A waiver of a particular default shall not be deemed to be a waiver of the same or any subsequent default. The acceptance of rent hereunder shall not be, nor be construed to be, a waiver of any term, covenant or condition of this Site Lease.

SECTION 19. SECTION HEADINGS.

All section headings contained are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

SECTION 20. AMENDMENTS.

This Site Lease may be amended in writing as may be mutually agreed upon by the Authority and the City; provided, that the prior written consent of the Original Purchaser has been obtained, which prior consent shall not be unreasonably withheld.

SECTION 21. EXECUTION.

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

[Remainder of page intentionally left blank.]

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

MENDOTA JOINT POWERS FINANCING
AUTHORITY

ATTEST:

By _____
Executive Director

By _____
Secretary

CITY OF MENDOTA

By _____
City Manager

ATTEST:

By _____
City Clerk

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)
) ss:
COUNTY OF FRESNO)

On _____ before me, _____ (insert name of the officer), 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.

_____ [Seal]

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)
) ss:
COUNTY OF FRESNO)

On _____ before me, _____ (insert name of the officer), 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.

_____ [Seal]

EXHIBIT A
DESCRIPTION OF THE LEASED PROPERTY

(See attached.)

NRF DRAFT
11/1/22

AFTER RECORDATION PLEASE RETURN TO:
Norton Rose Fulbright US LLP
555 South Flower Street, Suite 4100
Los Angeles, California 90071
Attention: Russell C. Trice, Esq.

LEASE AGREEMENT

Dated as of December 1, 2022

by and between

MENDOTA JOINT POWERS FINANCING AUTHORITY

and

CITY OF MENDOTA

Relating to

[\$Par Amount]

Mendota Joint Powers Financing Authority
Lease Revenue Bonds, Series 2022

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LEASE AGREEMENT

This Lease Agreement, dated as of December 1, 2022 (this “Lease”), is made by and between the MENDOTA JOINT POWERS FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the “Authority”), as lessor, and the CITY OF MENDOTA, a city duly organized and existing under the laws of the State of California (the “City”), as lessee.

RECITALS:

WHEREAS, the City and the Mendota Redevelopment Agency, heretofore entered into that certain Joint Exercise of Powers Agreement, dated as of dated as of April 11, 1989 (the “Joint Exercise of Powers Agreement”), establishing the Authority for the purpose, among other things, of issuing its bonds to be used to provide financing and refinancing for public capital improvements of the City; and

WHEREAS, the City desires to finance a new City Council chambers and police department to be located at 1759 7th Street, Mendota, CA 93640; and

WHEREAS, the City has requested that the Authority issue lease revenue bonds for the purpose of funding such capital project; and

WHEREAS, the Authority intends to issue Authority issue its Lease Revenue Bonds, Series 2022 (the “Series 2022 Bonds”) for such purpose; and

WHEREAS, the Bonds are to be issued pursuant to an Indenture (the “Indenture”), dated as of December 1, 2022, by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee thereunder (the “Trustee”), and pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (the “Act”), constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California; and

WHEREAS, the Authority, pursuant to this Lease, will sublease the Leased Property described in Exhibit A to the City, in consideration for base rental payments to be made by the City pursuant to this Lease, in accordance with the base rental payment schedule attached hereto as Exhibit B, that corresponds in amounts to the principal of and interest on the Series 2022 Bonds; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Lease;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

Terms used herein and not otherwise defined herein but defined in the Indenture shall have the meanings ascribed to them in the Indenture. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified, the following definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined:

“Additional Rental Payments” means Additional Rental Payments due under Section 3(b) hereof.

“Base Rental Payments” means base rental payments to be made by the City hereunder in accordance with the base rental payment schedule attached hereto as Exhibit B in connection with the Series 2022A Bonds.

“Default Rate” means the interest rate of ___%, plus [3.0]% (calculated on the basis of a 365-day year and actual days elapsed); provided, that such rate shall not result in a base rental payment in excess of _____.

“Expiration Date” means _____, 20__.

“Insurance Consultant” means an individual or firm retained by the City as an independent insurance consultant, experienced in the field of risk management.

“Interest Component” means the interest component of any Base Rental Payments as set forth in the exhibit to this Lease relating to such Base Rental Payments.

“Lease” means this Lease.

“Leased Property” means (i) City Hall 643 Quince Street, Mendota, CA 93640; APN 013-185-11 and (ii) Public Works Corporation Yard 912 Marie Street; APN 013-152-22S, all as more particularly described in Exhibit A.

“Net Proceeds” means proceeds of any casualty or title insurance or condemnation awards, paid with respect to the Leased Property remaining after payment therefrom of all expenses in the collection thereof.

“Permitted Encumbrances” means, with respect to the Leased Property, as of any particular time, (i) the Site Lease; (ii) this Lease, (iii) the Indenture, the Assignment Agreement and the Trustee’s and the Authority’s interests in the Leased Property, (iv) liens for taxes and assessments not then delinquent, (v) utility, access and other easements and rights of way, restrictions and exceptions that as certified in a Certificate of the City will not interfere with or impair the use intended to be made of the Leased Property; (vi) encumbrances upon any additions and improvements to the Leased Property as permitted in this Lease and which do not materially impair the use intended to be made of the portions of the Leased Property other than such additions and improvements; (vii) any sublease or use permitted by this Lease, (viii) covenants, conditions or restrictions or liens of record relating to the Leased Property and existing on the Closing Date; (ix) such minor defects, irregularities, encumbrances and clouds on title as normally exist with

respect to property similar in character to the Leased Property and as do not materially impair the use intended to be made of property affected thereby; and (x) any encumbrances listed in the preliminary title reports for the Leased Property prepared by First American Title Company on file with the City.

“Principal Component” means the principal component of any Base Rental Payments as set forth in an exhibit to this Lease relating to such Base Rental Payments.

SECTION 2. TERM

The Authority hereby leases to the City and the City hereby leases from the Authority, on the terms and conditions hereinafter set forth, the Leased Property. The term of this Lease shall commence on _____, 20___. The term of the leasehold interest created hereby shall expire on the later of (i) the Expiration Date; (ii) the date the last Base Rental Payment is made under the provisions hereof; or (iii) the date of discharge of all of the Bonds pursuant to Section 9.03 of the Indenture. Notwithstanding the foregoing, the term of this Lease shall automatically be extended for a period of ten (10) years, if, on the Expiration Date the Bonds have not been fully paid and discharged, and shall terminate on the date when the Bonds have been fully paid or discharged.

SECTION 3. RENTAL

Subject to the provisions of Sections 11 and 16 hereof, the City agrees to pay to the Authority, its successors or assigns, as rental for the use and possession of the Leased Property, the following amounts at the following times:

(a) Base Rental Payments; Overdue Payments. The City shall pay the Base Rental Payments to the Trustee, as assignee of the Authority, as hereinafter provided, in accordance with the Base Rental Payment Schedule attached hereto as Exhibit B, less any amounts credited against the applicable Base Rental Payments pursuant to Section 4.02 of the Indenture. The City shall pay to the Trustee the Base Rental Payments coming due fifteen (15) Business Days prior to the next succeeding May 1 and November 1, respectively, as set forth in Exhibit B such payments shall constitute payment in arrears in consideration for the City’s use and possession of the Leased Property for the six-month period preceding the due date of such Base Rental Payments.

If the City should fail to make any of the payments required in this Section, the payments in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid, and the Lessee agrees to pay the same with interest at the Default Rate, to the extent permitted by law, from the date such amount was originally payable.

(b) Additional Rental Payments. The City shall also pay, as “Additional Rental Payments” hereunder, in addition to the Base Rental Payments, to the Trustee, as assignee of the Authority, as hereinafter provided, such amounts in each year as shall be required for the payment of all costs and expenses (not otherwise paid for or provided for out of the proceeds of sale of the Bonds) incurred by the Authority or the Trustee in connection with the execution, performance or enforcement of this Lease or the assignment hereof, the Indenture, or the Authority’s or the Trustee’s interest in the Leased Property, including, but not limited to, all fees, costs and expenses, all administrative costs of the Authority relating to the Leased Property (including, without

limiting the generality of the foregoing, salaries and wages of employees, overhead, insurance premiums, taxes and assessments (if any), expenses, compensation and indemnification of the Trustee payable by the Authority under the Indenture), fees of auditors, accountants, attorneys or engineers, all other reasonable and necessary administrative costs of the Authority or charges required to be paid by it to comply with the terms of the Bonds or of the Indenture. Such Additional Rental Payments shall be billed to the City by the Authority or the Trustee from time to time. Amounts so billed shall be paid by the City within sixty (60) days after receipt of the bill by the City.

(c) Fair Rental Value. Payments of Base Rental Payments and Additional Rental Payments for each rental payment period shall constitute the total rental for such rental payment period, and shall be paid by the City in each rental payment period for and in consideration of the right of the use and possession of, and the continued quiet use and enjoyment of, the Leased Property during each such period for which said rental is to be paid. The City represents and covenants that the useful life of the Leased Property is not shorter than the final maturity of the Bonds. The parties to this Lease specifically acknowledge that the annual fair rental value of the Leased Property is in excess of the maximum annual Base Rental Payments and any Additional Rental Payments. In making such determination, consideration has been given to other obligations of the parties under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public. The determination of fair rental value of the Leased Property pursuant to this paragraph shall not be deemed to be controlling in connection with a determination of fair value of the Leased Property by the parties hereto for any other purpose.

(d) Payment of Base Rental Payments. Each installment of Base Rental Payments and Additional Rental Payments payable hereunder shall be paid in lawful money of the United States of America to the order of the Trustee at the corporate trust office of the Trustee, or such other place as the Trustee shall designate. All Base Rental Payments shall be made on a *pari passu* basis with each other. Notwithstanding any dispute between the City and the Authority, the City shall make all Base Rental Payments and Additional Rental Payments when due, without deduction or offset of any kind, and shall not withhold any Base Rental Payments pending the final resolution of any such dispute. In the event of a determination that the City was not liable for such Base Rental Payments or any portion thereof, said Base Rental Payments or excess of payments, as the case may be, shall, at the option of the City, be credited against subsequent Base Rental Payments due hereunder or be refunded at the time of such determination.

(e) Increases in Aggregate Base Rental Payments. The City covenants that it shall not permit an increase in the aggregate Base Rental Payments without first obtaining an opinion of Bond Counsel to the effect that the incurring of such increased Base Rental Payments will not (i) impair the validity and enforceability of this Lease and (ii) in and of itself impair the exclusion of interest on the Bonds from the gross income of the owners thereof for federal income tax purposes.

(f) Covenant to Budget and Appropriate; Deposit. The City covenants to take such action as may be necessary to include all Base Rental Payments and Additional Rental Payments due hereunder in its annual budget and to make the necessary annual appropriations for all such Base Rental Payments and Additional Rental Payments, subject only to abatement as

provided in Section 16 hereof, from any legally available sources. The City is not obligated to make such transfer if Base Rental Payments or Additional Rental are subject to abatement or otherwise are not required under the Lease to be paid in such fiscal year. The obligation of the City to make Base Rental Payments and Additional Rental Payments is solely from the City's General Fund.

The City will furnish to the Authority and the Trustee annually, on or before September 1, a certificate stating that it has complied with the covenants set forth in this paragraph. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

The obligation of the City to make Base Rental Payments or Additional Rental Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Bonds nor the obligation of the City to make Base Rental Payments or Additional Rental Payments constitutes an indebtedness of the City, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

SECTION 4. USE OF PROCEEDS

The parties hereto agree that the proceeds of the Bonds will be used to fund certain capital projects of the City and pay the costs of issuance for the Bonds, as more fully set forth in the Indenture.

SECTION 5. MAINTENANCE, UTILITIES, TAXES AND ASSESSMENTS

During such time as the City or any assignee or sublessee thereof is in possession of the Leased Property, all maintenance and repair, ordinary or extraordinary, of the Leased Property shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of (a) all utility services supplied to the Leased Property, (b) the cost of operation of the Leased Property, and (c) the costs of maintenance of and repair to the Leased Property resulting from ordinary wear and tear or want of care on the part of the City. The City shall at the City's sole cost and expense keep and maintain the Leased Property clean and in a safe and good condition and repair. The Authority shall have no obligation to alter, remodel, improve, repair, decorate, or paint the Leased Property or any part thereof, and the parties hereto affirm that the Authority has made no representations or warranties to the City respecting the condition of the Leased Property.

The City shall comply with all statutes, ordinances, regulations, and other requirements of all governmental entities that pertain to the occupancy or use of the Leased Property. The Authority has no responsibility or obligation whatsoever to construct any improvements, modifications or alterations to the Leased Property.

The City waives the right to make repairs at the Authority's expense under Subsection 1 of Section 1932 and Section 1942 of the California Civil Code, or any other such law, statute, or ordinance now or hereafter in effect.

The parties hereto contemplate that the Leased Property will be used for public purposes by the City and, therefore, that the Leased Property will be exempt from all taxes presently assessed and levied with respect to real and personal property, respectively. In the event that the use, possession or acquisition by the Authority or the City of the Leased Property is found to be subject to taxation in any form, the City will pay during the term hereof, as the same respectively become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Leased Property and any other property acquired by the City in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Leased Property; provided, that with respect to any governmental charges or taxes that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are accrued during such time as this Lease is in effect.

SECTION 6. CHANGES TO THE LEASED PROPERTY

The City shall have the right during the term of this Lease to acquire and construct improvements or to attach fixtures, structures or signs to the Leased Property if such improvements, fixtures, structures or signs are necessary or beneficial for the use of the Leased Property by the City; provided, however, that no such acquisition or construction shall result in a material reduction in the value of the Leased Property, reduce the fair rental value thereof or substantially alter the nature of the Leased Property.

Upon termination of this Lease, the City may remove any fixture, structure or sign added by the City, but such removal shall be accomplished so as to leave the Leased Property, except for ordinary wear and tear and damage by casualty, in substantially the same condition as it was in before the fixture, structure or sign was attached.

SECTION 7. SUBSTITUTION AND RELEASE OF PROPERTY

The parties to this Lease specifically acknowledge that the annual fair rental value of the Leased Property is in excess of the maximum annual Base Rental Payments. With the prior written consent of the Owner, which consent shall not be unreasonably withheld, the City shall have, so long as this Lease is in effect, and is hereby granted, the option at any time and from time to time, to substitute other real property (the "Substitute Property") for any portion of the Leased Property (the "Former Property") or release any identifiable real property and/or improvements currently constituting the Leased Property (in such case, Substitute Property shall mean the Former Property less any portion released pursuant to this Section); provided, that the City shall satisfy all of the following requirements, which are conditions precedent to such substitution:

(a) No default under Section 10 hereof or Event of Default shall have occurred and be continuing;

(b) The City shall file with the Authority, the Owner and the Trustee, and cause to be recorded in the office of the County Recorder, sufficient memorialization of amendments to

this Lease and the Site Lease which replaces Exhibit A hereto and Exhibit A to the Site Lease with a description of such Substitute Property which deletes therefrom the description of the Former Property;

(c) The City shall obtain an extended California Land Title Association (“CLTA”) policy of title insurance insuring the City’s fee or leasehold estate in such Substitute Property, the City’s leasehold estate hereunder, and the Authority’s leasehold estate under the Site Lease in such Substitute Property, subject only to Permitted Encumbrances, in an amount not less than the aggregate principal amount of the Outstanding Bonds; provided, however, that this requirement shall not apply to Substitute Property that consists only of Former Property less any released portion;

(d) The City shall provide a Certificate of the City to the Authority, the Owner and the Trustee stating that such Substitute Property constitutes property which the City is permitted to lease under the laws of the State of California; provided, however, that this requirement shall not apply to Substitute Property that consists only of Former Property less any released portion;

(e) The substitution of the Substitute Property shall not cause the City to violate any of its covenants, representations and warranties made herein;

(f) The City shall file with the Authority, the Owner and the Trustee a Certificate of the City or other evidence which establishes that the annual fair rental value of the Substitute Property after substitution or release will be at least equal to 100% of the maximum amount of the Base Rental Payments becoming due in the then current fiscal year or in any subsequent fiscal year and the useful economic life of the Substitute Property shall be at least equal to the maximum remaining term of this Lease; and

(g) The City shall furnish to the Trustee an opinion of Bond Counsel addressed to the Trustee, the Owner, the City and the Authority to the effect that the substitution or release is permitted under this Lease and will not in and of itself (i) impair the validity and enforceability of this Lease or (ii) impair the exclusion of interest on the Series 2022A Bonds from the gross income of the owners thereof for federal income tax purposes.

Upon the satisfaction of all such conditions precedent, and upon the City delivering to the Authority, the Owner and the Trustee a Certificate of the City certifying that the conditions set forth in subsections (a), (c) and (e) of this Section have been satisfied, the Term of this Lease shall thereupon end as to the Leased Property and shall thereupon commence as to the Substitute Property, and all references to the Leased Property shall apply with full force and effect to the Substitute Property. The City shall not be entitled to any reduction, diminution, extension or other modification of the Base Rental Payments whatsoever as a result of any substitution or removal hereunder.

SECTION 8. INSURANCE

(a) The City shall secure and maintain or cause to be secured and maintained at all times with insurers of recognized responsibility or through a program of self-insurance, to the extent such self-insurance is specifically permitted in this Section 8, all coverage on the Leased

Property required by this Section 8. Provided that such insurance shall be issued by an insurance provider rated at least “A” by S&P Global Ratings, unless waived by the Owner, and shall be otherwise approved by the Owner.

Such insurance shall consist of:

(1) Comprehensive general liability coverage against claims for damages including death, personal injury, bodily injury or property damage arising from operations involving the Leased Property. Such insurance shall afford protection with a combined single limit of not less than \$1,000,000 per occurrence with respect to bodily injury, death or property damage liability, or such greater amount as may from time to time be recommended by the City’s risk management officer or an independent insurance consultant retained by the City for that purpose, subject to a deductible clause of not to exceed \$400,000. The City’s obligations under this clause (1) may be satisfied by self-insurance;

(2) Casualty insurance against loss or damage to any or all of the Leased Property by fire and lightning, with extended coverage and vandalism and malicious mischief insurance, and against loss of Leased Property by theft. Such extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. The insurance required by this paragraph shall be in an amount equal to the lesser of the replacement cost (subject to deductible clauses not in excess of \$400,000 for any one loss) of improvements located or to be located on the Leased Property and the principal amount of the Bonds then Outstanding;

(3) Workers’ compensation insurance issued by a responsible carrier authorized under the laws of the State to insure employers against liability for compensation under the Labor Code of the State, or any act enacted as an amendment or supplement thereto or in lieu thereof, such workers’ compensation insurance to cover all persons employed by the City in connection with the Leased Property and to cover full liability for compensation under any such act; provided, however, that the City’s obligations under this clause (3) may be satisfied by self-insurance; and

(4) Rental interruption insurance in an amount not less than the maximum remaining scheduled Base Rental Payments in any twenty-four (24) month period, by an insurance provider rated at least “A” by A.M. Best & Company, to insure against loss of use of the Leased Property caused by perils covered by the insurance required in Section 8(a)(1). Such insurance may be maintained as part of or in conjunction with any other rental interruption insurance carried by the City and must list the Authority and the Trustee as an additional insured party. Such insurance shall be in place as of the Closing Date. The Net Proceeds of such insurance shall be paid to the Trustee and deposited in the applicable Lease Revenue Fund, and shall be credited toward the payment of the Base Rental Payments in the order in which such Base Rental Payments come due and payable.

(5) The City shall, on or before the Closing Date, deliver a CLTA title insurance policy insuring the leasehold interests in the Leased Property of the City and the Authority, in an amount not less than the aggregate principal amount of the Outstanding Bonds.

All policies or certificates issued by the respective insurers for insurance, with the exception of workers' compensation insurance, shall provide that such policies or certificates shall not be canceled or materially changed without at least 30 days' prior written notice to the Authority and the Trustee. Certificates of comprehensive general liability and workers' compensation insurance shall be furnished by applicable insurers to the City, and, at least ten days prior to the expiration dates of such policies, if any, evidence of renewals shall be deposited with the Trustee. Notwithstanding anything to the contrary herein, the City shall not be required to maintain or cause to be maintained more insurance than is specifically referred to herein or any policies of insurance other than standard policies of insurance with standard deductibles offered by reputable insurers at a reasonable cost on the open market.

If the City elects to provide self-insurance pursuant to clauses (1) and/or (3) above, the City shall annually cause to be delivered to the Trustee a certificate of an Insurance Consultant certifying to the adequacy of the City's reserves for such insurance.

All policies or certificates of insurance provided for herein shall name the City as a named insured and the Trustee as an additional insured. All proceeds of insurance maintained under clauses (1) and (3) shall be deposited with the City and under clause (2), (4) or (5) shall be deposited with the Trustee.

(b) Form of Policies. The City shall deliver to the Trustee on or before the Closing Date and each anniversary of the Closing Date a Certificate of the City that all insurance required under this Lease is in full force and effect. In the event that the City obtains insurance through a pooled insurance program of governmental entities, an annual statement or memorandum of coverage delivered to the Authority and the Trustee will satisfy the requirements of this subsection. The Trustee and the Authority shall not be responsible for the sufficiency of any insurance herein required or payment of premium and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the City.

(c) Advances. If the City shall fail to perform any of its obligations under this Section, then the Authority or the Trustee may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money on behalf of the City, and the City shall be obligated to repay all such advances as soon as possible.

SECTION 9. DAMAGE, DESTRUCTION AND CONDEMNATION; APPLICATION OF NET PROCEEDS

If prior to the termination of the term hereof (a) the Leased Property is destroyed (in whole or in part) or is damaged by fire or other casualty, or (b) title to, or the temporary use of, any portion of the Leased Property or the estate of the Authority or the City in the Leased Property or any portion shall be taken under the exercise of the power of eminent domain by any

governmental body or by any person or firm or corporation acting under governmental authority, then the City and the Authority shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair or replacement thereof, unless the City elects not to repair or replace the Leased Property or portion thereof, in accordance with the provisions of this Section 9. If Net Proceeds are insufficient to repair or replace the Leased Property or portion thereof, the City shall, to the extent permitted by law, use its best efforts to fund any deficiency from any legally available funds.

If there is an abatement of rental payments pursuant to Section 16 hereof as a result of such casualty or event, and the City elects pursuant to Section 11(a) hereof to apply such insurance proceeds and such other sums as are deposited by the City pursuant to such Section to the prepayment of Base Rental Payments rather than replacing or repairing the destroyed or damaged portion of the Leased Property, then this Lease shall terminate with respect to the destroyed or damaged portion of the Leased Property as of the later of the date of such election by the City or the date the amount required by Section 11(a) hereof is received by the Trustee.

The provisions of Section 1932, Subdivision 2, and Section 1933, Subdivision 4, of the California Civil Code, including any amendments thereto and any other law which may hereinafter be in force during the term of this Lease which authorizes the termination of this Lease upon the partial or complete destruction of the Leased Property, are hereby waived by the City.

The City hereby covenants and agrees, to the extent it may lawfully do so, that so long as any of the Bonds remain outstanding and unpaid, the City will not exercise the power of condemnation with respect to the Leased Property. The City further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the City should fail or refuse to abide by such covenant and condemns the Leased Property, the value of the Leased Property shall not be less than the greater of (i) if Outstanding Bonds are then subject to redemption, the principal and interest due on the Outstanding Bonds through the date of their redemption, or (ii) if such Outstanding Bonds are not then subject to redemption, the amount necessary to defease such Outstanding Bonds to the first available redemption date in accordance with the Indenture.

The City shall deposit any proceeds received from insurance and condemnation awards with respect to the destruction or partial destruction of Leased Property with the Trustee for deposit into the: (a) Insurance and Condemnation Fund if the City elects to repair the Leased Property or (b) the applicable Lease Revenue Fund if the City elects to redeem the Outstanding Bonds. The City shall have 45 days from the date of any such destruction or partial destruction to determine whether to repair the Leased Property or use insurance and condemnation award proceeds received to redeem such bonds. To the extent that the City determines not to repair the Leased Property and cannot use insurance and condemnation award proceeds to redeem such bonds, the City shall and hereby covenants to substitute property for such Leased Property of equivalent or greater value in accordance with the provisions of Section 7 hereof. If the City determines to repair the Leased Property, disbursements by the Trustee shall only be made upon presentation of a requisition in a form substantially similar to Exhibit C of the Indenture. If the City determines to cause the redemption of less than the full amount of the Outstanding Bonds, such redemption shall only be made to the extent the remaining fair rental value of the Leased

Property is sufficient to support the remaining Base Rental Payments supporting debt service on the Outstanding Bonds.

SECTION 10. DEFAULT

(a) Each of the following events constitutes an Event of Default hereunder:

(1) Failure by the City to pay any Base Rental Payment or other payment (including Additional Rental Payments) required to be paid hereunder at the time specified herein.

(2) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding subsection (1), for a period of 60 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority or the Insurer. However, if the City notifies the Authority that in its reasonable opinion the failure stated in the notice can be corrected, but not within such 60 day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such 60 day period and thereafter diligently and in good faith cures such failure in a reasonable period of time; provided, that such cure period shall not extend, unless otherwise consented to by the Owner.

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

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

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

(1) *Enforcement of Payments Without Termination.* If the Authority does not elect to terminate this Lease in the manner hereinafter provided for in subsection (b)(2) of this Section, the City agrees to remain liable for the payment of all Base Rental Payments and the performance of all conditions herein contained, and the

Authority may take whatever action at law or in equity may appear necessary or desirable, to collect each Base Rental Payment as it becomes due hereunder. The City will reimburse the Authority for any deficiency arising out of the re-leasing or sale of the Leased Property or portion thereof, or, if the Authority is unable to re-lease or sell the Leased Property, then for the full amount of all Base Rental Payments to the end of the term of this Lease, but said Base Rental Payments and/or deficiency will be payable only at the same time and in the same manner as hereinabove provided for the payment of Base Rental Payments hereunder, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Property or portion thereof or the exercise of any other remedy by the Authority.

The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City and shall allow the Trustee to enter upon and re-lease the Leased Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place such property in storage or other suitable place in the State of California for the account of and at the expense of the City, and the City hereby agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Authority to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-leasing constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease will vest in the Authority to be effected in the sole and exclusive manner hereinafter provided for in subsection (2) of this Section. The City agrees to surrender and quit possession of the Leased Property upon demand of the Authority for the purpose of enabling the Leased Property to be re-let under this paragraph. Any rental obtained by the Authority in excess of the unpaid Base Rental Payments will be applied as a credit against future Base Rental Payments.

(2) *Termination of Lease.* If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease and re-lease all or any portion of the Leased Property. If the Authority terminates this Lease at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any re-entry upon the Leased Property by the Authority in any manner whatsoever or the re-leasing of the Leased Property), the City nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Base Rental Payments. Any surplus received by the Authority from such re-leasing will be applied as a credit against future Base Rental Payments. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Authority will of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City will be or become effective by

operation of law, or otherwise, unless and until the Authority has given written notice to the City of the election on the part of the Authority to terminate this Lease. The City agrees that no surrender of the Leased Property, or of the remainder of the term hereof or any termination of this Lease will be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

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

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

SECTION 11. PREPAYMENT AND CREDITS

(a) Prepayment From Net Proceeds.

The City may prepay, from Net Proceeds of insurance or a condemnation award received by it pursuant to Section 9, the Principal Component of Base Rental Payments then unpaid (and corresponding Interest Component), in whole or in part on any date, pursuant to Section 9 hereof, at a prepayment price equal to the sum of the Principal Component prepaid plus accrued interest thereon to the date of prepayment. Prepayments made pursuant to this subsection (a) shall be allocated *pro rata* among the Principal Components of Base Rental Payments relating to the Bonds.

(b) Optional Prepayment.

The City may at its option prepay from any source of available moneys for redemption of Bonds pursuant to Section 2.03 of the Indenture, all or any part (in an integral multiple of \$100,000) of the Principal Component of Base Rental Payments (and corresponding Interest Component), so that the aggregate annual amounts of Principal Component of Base Rental Payments which shall be payable after such prepayment shall each be an integral multiple of \$100,000. Any prepayment in part shall reduce the Principal Components of the latest year first.

Before making any prepayment pursuant to this Section, the City shall give written notice to the Trustee specifying the date on which the prepayment will be made, which date shall be not less than forty-five (45) days from the date such notice is given unless the Trustee agrees to a shorter period.

The Authority and the City hereby agree that any prepayment in part under this Section and the redemption of any Bonds by the Authority pursuant to Section 2.03 of the Indenture shall be credited towards the City's obligations hereunder at the option of the City in any manner determined in writing delivered to the Trustee by the City. A prepayment made pursuant to this Section shall not cause a defeasance of any Bonds unless the requirements of Section 9.03 of the Indenture are satisfied.

In the event of prepayment in full of the Principal Component of all Base Rental Payments, such that this Lease shall be terminated by its terms as provided in Section 2, all amounts then on deposit under the Indenture which are to be credited to the City's obligations to make Base Rental Payments shall be credited towards the amounts then required to be so prepaid. In the event of the prepayment of some but not all of the Principal Components of the Base Rental Payments, the City shall replace the applicable Base Rental Schedule with a revised Base Rental Payment Schedule reflecting such prepayment of the Principal Components of such Base Rental Payments.

SECTION 12. MECHANICS' LIENS

If the City shall at any time during the term of this Lease cause any improvements or other work to be done or performed or materials to be supplied, in or upon the Leased Property, the City shall pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the City in, upon or about the Leased Property and which may be secured by any mechanics', materialmen's or other liens against the Leased Property or the Authority's interest therein, and will cause any such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that, if the City desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the City shall forthwith pay and discharge said judgment.

SECTION 13. QUIET ENJOYMENT

The parties hereto mutually covenant that the City, so long as it keeps and performs the covenants and agreements herein contained, shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Authority.

SECTION 14. INDEMNIFICATION

The City shall, to the full extent then permitted by law, indemnify, defend, protect and hold harmless the Authority, the Trustee and their members, officers, directors, agents and employees from and against any and all liabilities, obligations, losses, claims and damages whatsoever, regardless of the cause thereof (except for claims arising out of willful misconduct or negligence on the part of the Authority or the Trustee or their respective members, officers, directors or employees), and expenses in connection therewith, including, without limitation, reasonable counsel fees and expenses, penalties and interest arising out of or as the result of the entering into of this Lease and the Indenture, the payment of the costs of acquiring the Leased Property or any accident in connection with the operation, use, condition or possession of the Leased Property or any portion thereof resulting in damage to property or injury to or death to any person. The indemnification arising under this section shall continue in full force and effect notwithstanding the full payment of all rent obligations hereunder, the removal or resignation of the Trustee or the termination hereof for any reason. The City agrees not to withhold or abate any portion of the payments required pursuant hereto by reason of any defects, malfunctions,

breakdowns or infirmities of the Leased Property. The Authority and the City mutually agree to promptly give notice to each other of any claim or liability hereby indemnified against following either party's learning thereof.

SECTION 15. ASSIGNMENT

The parties understand that this Lease and the rights of the Authority hereunder, with certain exceptions, will be assigned to the Trustee as provided in the Indenture and the Assignment Agreement, to which assignments the City hereby consents.

Neither this Lease nor any interest of the City hereunder shall be mortgaged, pledged, assigned or transferred by the City by voluntary act or by operation of law or otherwise; provided, subject to the provisions of Section 17 hereof, that the Leased Property may be subleased in whole or in part by the City, but only subject to the following conditions, which are hereby made conditions precedent to any such sublease:

(a) This Lease and the obligation of the City to make all Base Rental Payments and Additional Rental Payments hereunder shall remain the primary obligation of the City;

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

(c) No such sublease by the City shall cause the Leased Property to be used for a primary purpose other than a governmental or proprietary function authorized under the provisions of the Constitution and laws of the State of California, as evidenced by a Certificate of the City that is delivered to the Trustee;

(d) Any sublease of the Leased Property by the City shall explicitly provide that such sublease is subject to all rights of the Authority under this Lease; and

(e) The City shall have filed or caused to be filed with the Authority and the Trustee an opinion of Bond Counsel to the effect that such sublease will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income tax purposes.

To the extent that this Lease confers upon or gives or grants the Trustee any right, remedy or claim under or by reason of this Lease, the Trustee is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

SECTION 16. ABATEMENT OF RENTAL

The obligation of the City to pay Base Rental Payments and Additional Rental Payments shall be abated during any period in which by reason of any damage, destruction, condemnation or title defect there is substantial interference with the use by the City of the Leased Property or any portion thereof. Such abatement shall be in an amount such that the resulting Base Rental Payments in any year during which such interference continues does not exceed the fair rental value of the portions of the Leased Property as to which such damage, destruction, taking

or title defect does not substantially interfere with the City's use and right of possession, as evidenced by a Certificate of the City. Such abatement shall continue for the period commencing with the date of interference resulting from such damage, destruction, condemnation or title defect and, with respect to damage to or destruction of the Leased Property, and ending with the substantial completion of the work of repair or replacement of the Leased Property, or the portion thereof so damaged or destroyed, and the term of this Lease shall be extended as provided in Section 2 hereof. Notwithstanding the foregoing, to the extent that moneys are available for the payment of Base Rental Payments in any of the funds and accounts established under the Indenture, such Base Rental Payments shall not be abated but shall be payable by the City as a special obligation payable solely from such funds and accounts.

SECTION 17. COVENANTS OF THE CITY

(a) Special Definitions. When used in this Section, the following terms have the following meanings:

“Code” means the Internal Revenue Code of 1986, as amended.

“Computation Date” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Gross Proceeds” means any proceeds as defined in section 1.148-1(b) of the Tax Regulations (referring to sales, investment and transferred proceeds), and any replacement proceeds as defined in section 1.148-1(c) of the Tax Regulations, of the Bonds.

“Investment” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Nonpurpose Investment” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and that is not acquired to carry out the governmental purposes of that Series of Bonds.

“Rebate Amount” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Tax Regulations” means the United States Treasury Regulations promulgated pursuant to sections 103 and 141 through 150 of the Code, or section 103 of the 1954 Code, as applicable.

“Yield” of any Investment has the meaning set forth in section 1.148-5 of the Tax Regulations; and of any issue of governmental obligations has the meaning set forth in section 1.148-4 of the Tax Regulations.

(b) Not to Cause Interest to Become Taxable. The City covenants that it shall not use, and shall not permit the use of, and shall not omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner that if made or omitted, respectively, could cause the interest on any Bond to fail to be excluded pursuant to Section 103(a) of the Code from

the gross income of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Trustee receives a written opinion of Bond Counsel to the effect that failure to comply with such covenant will not adversely affect such exclusion of the interest on any Bond from the gross income of the owner thereof for federal income tax purposes, the City shall comply with each of the specific covenants in this Section.

(c) Private Use or Private Payments. Except as would not cause any Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations, the City shall take all actions necessary to assure that the City at all times prior to the final cancellation of the last of the Bonds to be retired:

(1) exclusively owns, operates and possesses all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds and not use or permit the use of such Gross Proceeds (including through any contractual arrangement with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) does not directly or indirectly impose or accept any charge or other payment by any person or entity (other than a state or local government) who is treated as using any Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds.

(d) No Private Loan. Except as would not cause any Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, the City shall not use or permit the use of Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (i) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction that creates a debt for federal income tax purposes; (ii) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (iii) indirect benefits of such Gross Proceeds, or burdens and benefits of ownership of any property acquired, constructed or improved with such Gross Proceeds, are otherwise transferred in a transaction that is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except as would not cause the Bonds to become “arbitrage bonds” within the meaning of section 148 of the Code and the Tax Regulations and rulings thereunder, the City shall not (and shall not permit any person to), at any time prior to the final cancellation of the last Bond to be retired, directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, would materially exceed the Yield of the Bonds within the meaning of said section 148.

(f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Tax Regulations and rulings thereunder, the City shall take or omit to take (and shall not permit any person to take or omit to take) any action that would cause any Bond to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Tax Regulations and rulings thereunder.

(g) Information Report. The City shall timely file any information required by section 149(e) of the Code with respect to Bonds with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Tax Regulations:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of Bonds with its other monies, provided that it separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate, the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Tax Regulations and rulings thereunder. The City shall maintain a copy of the calculation with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date. The Trustee may rely conclusively upon the City’s determinations, calculations and certifications. The Trustee shall have no responsibility to independently make any calculation or determination or to review the City’s calculations hereunder.

(3) In order to assure the excludability pursuant to section 103(a) of the Code of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of the Final Computation Date as defined in section 1.148-3(e)(2) of the Tax Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, such rebate payments shall be made by the City at the times and in the amounts as are or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder, and shall be accompanied by Form 8038-T prepared by the City or such other forms and information as is or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder for execution and filing by the City.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of

the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148 3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Tax Regulations and rulings thereunder, the City shall not and shall not permit any person to, at any time prior to the final cancellation of the last of the Bonds to be retired, enter into any transaction that reduces the amount required to be paid to the United States pursuant to paragraph (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yields on the Bonds not been relevant to either party.

(j) Bonds Not Hedge Bonds. The City represents that none of the Bonds is or will become a "hedge bond" within the meaning of section 149(g) of the Code. As of the date of issuance of the Bonds the City reasonably expects that at least 85% of the spendable proceeds of the Bonds will be expended within the three-year period commencing on such date of issuance, and (B) no more than 50% of the proceeds of the Bonds will be invested in Nonpurpose Investments having a substantially guaranteed yield for a period of four years or more.

(k) Elections. The City hereby directs and authorizes any City Representative to make elections permitted or required pursuant to the provisions of the Code or the Tax Regulations, as such Representative (after consultation with Bond Counsel) deems necessary or appropriate in connection with the Bonds, in the Tax Certificate or similar or other appropriate certificate, form or document.

(l) Closing Certificate. The City agrees to execute and deliver in connection with the issuance of the Bonds a Tax Certificate, or similar document containing additional representations and covenants pertaining to the exclusion of interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, which representations and covenants are incorporated as though expressly set forth herein.

The City shall at all times do and perform all acts and things permitted by law and this Lease which are necessary or desirable in order to assure that interest paid on the Bonds (or any of them) will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being so excluded. Without limiting the generality of the foregoing, the City agrees to comply with the provisions of the Tax Certificate. This covenant shall survive payment in full or defeasance of the Bonds.

SECTION 18. RESERVED

SECTION 19. WAIVER

Failure of the Authority to take advantage of any default on the part of the City shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may be established between the parties in the course of administering this Lease be construed to waive or to lessen the right of the Authority to insist upon performance by the City of any term, covenant or condition hereof, or to exercise any rights given the Authority on account of such default. A waiver of a particular default shall not be deemed to be a waiver of the same or any subsequent

default. The acceptance of rent hereunder shall not be, nor be construed to be, a waiver of any term, covenant or condition of this Lease.

SECTION 20. NET LEASE

Subject to the provisions of Section 16 (“Abatement of Rental”), this Lease shall be deemed and construed to be a “Triple-Net-Lease” and the City hereby agrees that rental provided for herein shall be an absolute net return to the Authority, free and clear of any expenses, taxes, fees, insurance premiums, rebate payments, Leased Property costs, reserve deposits, charges or setoffs whatsoever.

SECTION 21. AMENDMENTS.

This Lease may be amended in writing as may be mutually agreed by the Authority and the City, subject to the prior written consent of the Owner; *provided*, that no such amendment which materially adversely affects the rights of the Owners shall be effective unless it shall have been consented to by the Owners of more than a majority in aggregate principal amount of the affected Bonds then Outstanding, and *provided further*, that no such amendment shall (a) extend the payment date of any Base Rental Payment, without the prior written consent of the Owner of each Bond so affected, or (b) reduce the percentage of the Outstanding Bonds the consent of the Owners of which is required for the execution of any amendment hereof.

This Lease and the rights and obligations of the Authority and the City hereunder may also be amended or supplemented at any time by an amendment hereof or supplement hereto which shall become binding upon execution by the Authority and the City without the written consents of any Owners, but only with the prior written consent of the Owner and only to the extent permitted by law and only for any one or more of the following purposes:

(a) to add to the agreements, conditions, covenants and terms required by the Authority or the City to be observed or performed herein and other agreements, conditions, covenants and terms thereafter to be observed or performed by the Authority or the City, or to surrender any right or power reserved herein to or conferred herein on the Authority or the City, and which in either case shall not materially adversely affect the interests of the Owners;

(b) to make such provisions for the purpose of curing any ambiguity or correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Authority or the City may deem desirable or necessary and not inconsistent herewith, and which shall not materially adversely affect the interests of the Owners;

(c) to effect a substitution or release of the Leased Property;

(d) to increase the amount of Base Rental Payment payable hereunder for the purpose of allowing the Authority to add any real property to be acquired and leased hereunder; or

(e) for any other purpose which shall not materially adversely affect the interests of the Owners.

SECTION 22. ESSENTIALITY

The City covenants and agrees that the Leased Property is essential to the City's exercise of its governmental functions.

SECTION 23. GOVERNING LAW; JUDICIAL REFERENCE

(a) This Lease shall be governed exclusively by and construed in accordance with the laws of the State of California.

(b) The Lessee hereby agrees as follows:

(1) each proceeding or hearing based upon or arising out of, directly or indirectly, this Lease or any document related thereto, any dealings of the Lessee related to the subject matter of this Lease or any related transactions (hereinafter, a "Claim") shall be determined by a consensual general judicial reference (the "Reference") pursuant to the provisions of section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time;

(2) upon a written request, or upon an appropriate motion by the Lessee, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The Lessee agrees that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee;

(3) the Lessee shall promptly and diligently cooperate with the Referee and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this section;

(4) the Lessee may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee's report and have judgment entered thereon. If the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; and

(5) the Lessee will have such rights to assert such objections as are set forth in section 638 et seq. of the California Code of Civil Procedure.

The parties to the Reference proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State, or a federal court judge, in each case, with at least 10 years of judicial experience in civil matters. The Referee shall be appointed in accordance with section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within 10 days after the request or motion for the Reference, the parties to the Reference proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Kings County Superior Court

or the other similar federal court. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this section.

No provision of this section shall limit the right of the Lessee to (i) exercise such self-help remedies as might otherwise be available under applicable law; or (ii) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Reference. The exercise of, or opposition to, any such remedy does not waive the right of the Lessee to the Reference pursuant to this section.

Promptly following the selection of the Referee, the parties to such Reference proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Reference proceeding in such manner as the Referee deems just.

SECTION 24. NOTICES

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be made as provided in the Indenture.

SECTION 25. VALIDITY AND SEVERABILITY

If for any reason this Lease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Authority or by the City, or if for any reason it is held by such a court that any of the covenants of the City hereunder, including the covenant to pay rentals hereunder, is unenforceable for the full term hereof, then and in such event this Lease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the City semi-annually in consideration of the right of the City to possess, occupy and use the Leased Property, and all of the rental and other terms, provisions and conditions of this Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

SECTION 26. SECTION HEADINGS

All section headings contained are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

SECTION 27. NO MERGER

If both the Authority's and the City's estate under this or any other lease relating to the Leased Property or any portion thereof shall at any time or for any reason become vested in one owner, this Lease and the estate created hereby shall not be destroyed or terminated by the doctrine of merger unless the City so elects as evidenced by recording a written declaration so stating, and unless and until the City so elects, the City shall continue to have and enjoy all of its rights and privileges as to the separate estates.

SECTION 28. ADDITIONAL REQUIREMENTS

(a) Inasmuch as this Lease represents a negotiated transaction, each of the Lessor and the Lessee understands, and hereby confirms, that the Owner is not acting as a fiduciary of the Lessor or the Lessee, but rather is acting solely in its capacity as purchaser of the Lease, for its own account. Each of Lessor and the Lessee acknowledges and agrees that: (i) the transaction that is contemplated herein is an arm's length commercial transaction among the Lessor, the Lessee and the Owner and its affiliates; (ii) in connection with such transaction, the Owner and its affiliates are acting solely as principals and not as advisors including, without limitation, "Municipal Advisors" as such term is defined in Section 15B of the Securities and Exchange Act of 1934, as amended, and the related final rules (the "Municipal Advisor Rules"); (iii) the Owner and its affiliates are relying on the bank exemption in the Municipal Advisor Rules; (iv) the Owner and its affiliates have not provided any advice or assumed any advisory or fiduciary responsibility in favor of the Lessor or the Lessee with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (whether or not the Owner, or any affiliate thereof, has provided other services or advised, or is currently providing other services or advising the Lessor or the Lessee on other matters); (v) the Owner and its affiliates have financial and other interests that differ from those of the Lessor and the Lessee; and (vi) each of the Lessor and the Lessee has consulted with its own financial, legal, accounting, tax and other advisors, as applicable, to the extent that it deemed appropriate.

(b) The Lessee covenants and agrees to perform all obligations and duties imposed upon the Lessee hereunder. The Lessor represents, covenants and agrees to perform all obligations and duties imposed upon the Lessor under this Lease. The Lessee will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission or refraining from action, would or might be a ground for cancellation or termination of this Lease by the Lessor hereunder. The Lessor and the Lessee, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting its estate in the Leased Property, which may or can in any manner affect such estate of the Lessee, will deliver the same, or a copy thereof, to the Owner.

(c) The Lessee will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by it, including its right to exist and carry on business as a general law city, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

(d) The Lessee shall promptly, and also upon request of the Owner (it having no obligation to make such request) from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Leased Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Owner harmless from all loss, cost, damage and expense, including attorneys' fees and expenses, which it may incur by reason of any such defect, cloud, suit, action or proceeding.

(e) The Lessee shall no later than 270 days after the close of each Fiscal Year, submit to the Lessor (only upon the Lessor's written request) and to the Owner or through Electronic Municipal Market Access system, audited financial statements with respect to the Lessee for such fiscal year. In addition, the Lessee shall submit its annual budget, and all amendments thereto, each year in a timely manner to the Owner or on the City's website, but no later than 30 days following its adoption by the City Council of the City.

(f) The Lessor and the Lessee will make, execute and deliver any and all such further resolutions, instruments and assurances as reasonably necessary or proper to carry out the intention or to facilitate the performance of this Lease, and for the better assuring and confirming to the Owner of the rights and benefits provided herein.

SECTION 29. EXECUTION

It is agreed that separate counterparts of this Lease may separately be executed by the Authority and the City, all with the same force and effect as though the same counterpart had been executed by both the Authority and the City.

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

MENDOTA JOINT POWERS FINANCING
AUTHORITY

ATTEST:

By _____
Executive Director

By _____
Secretary

CITY OF MENDOTA

By _____
City Manager

ATTEST:

By _____
City Clerk

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)
) ss:
COUNTY OF FRESNO)

On _____ before me, _____ (insert name of the officer), 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.

_____ [Seal]

EXHIBIT A
DESCRIPTION OF THE LEASED PROPERTY

(See attached.)

EXHIBIT B

BASE RENTAL PAYMENT SCHEDULE

Interest Payment <u>Date</u>⁽¹⁾	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
---	-------------------------	------------------------	---------------------

Total:

⁽¹⁾ Base Rental Payments are made fifteen (15) Business Days prior to each Interest Payment Date.

NRF DRAFT
11/1/22

AFTER RECORDATION PLEASE RETURN TO:

Norton Rose Fulbright US LLP
555 South Flower Street, Suite 4100
Los Angeles, California 90071
Attention: Russell C. Trice, Esq.

ASSIGNMENT AGREEMENT

Dated as of December 1, 2022

by and between

MENDOTA JOINT POWERS FINANCING AUTHORITY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

Relating to

[\$Par Amount]
Mendota Joint Powers Financing Authority
Lease Revenue Bonds, Series 2022

THIS IS A FINANCING DOCUMENT.
NO DOCUMENTARY TRANSFER TAX IS DUE PURSUANT
TO REVENUE AND TAXATION CODE SECTION 11922
AND THIS DOCUMENT IS EXEMPT FROM RECORDING FEES
PURSUANT TO GOVERNMENT CODE SECTION 27383

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ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT, dated as of December 1, 2022 (this “Assignment Agreement”), by and between the MENDOTA JOINT POWERS FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the “Authority”) and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America and authorized to accept assignments of the nature herein set forth, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, the Authority has entered into a Site and Facility Lease, dated as of December 1, 2022 (the “Site Lease”), with the City of Mendota (the “City”), whereby the Authority has agreed to lease certain real property located within the City, as described in Exhibit A attached hereto (the “Leased Property”), from the City; and

WHEREAS, the Authority has entered into a Lease Agreement, dated as of December 1, 2022 (the “Lease”), with the City, whereby the Authority has agreed to lease the Leased Property to the City; and

WHEREAS, under and pursuant to the Lease, the City is obligated to make base rental payments, including the Base Rental Payments, to the Authority for the lease of the Leased Property; and

WHEREAS, the Base Rental Payments have been pledged by the Authority as security for the payment of principal of and interest on its Lease Revenue Bonds, Series 2022 (the “Series 2022 Bonds”), authorized and issued pursuant to an Indenture, dated as of December 1, 2022 (the “Indenture”), by and between the Authority and the Trustee; and

WHEREAS, the Authority desires to assign to the Trustee without recourse certain of its rights under the Lease and the Site Lease, including all of its rights to receive the Base Rental Payments scheduled to be paid by the City under and pursuant to the Lease;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Definitions. All capitalized terms used herein without definition shall have the meanings given to such terms in the Indenture or the Lease, as appropriate.

Section 2. Assignment. The Authority does hereby assign and transfer to the Trustee all of the Authority’s rights, title and interest in and to (but none of its obligations under) the Lease and the Site Lease (excepting only (i) the Authority’s rights to give approvals and consents thereunder, including, without limitation, to amendments, and the Authority’s rights to the payment of Additional Rental Payments pursuant to Section 3(b) of the Lease and to indemnification pursuant to Section 14 of the Lease, and (ii) the Authority’s rights to receive lease payments other than the Base Rental Payments), including the Authority’s rights to receive the

Base Rental Payments, as well as its rights to enforce payment of such Base Rental Payments when due or otherwise to protect its interests in the event of a default by the City under the Lease, in accordance with the terms thereof, in trust nonetheless and provided that should the Authority well and truly perform all of its obligations under the Indenture, this Assignment Agreement shall terminate and all interest in the Lease and the Site Lease shall revert to the Authority. The Base Rental Payments shall be applied, and the rights of the Authority assigned hereunder shall be exercised by the Trustee, as provided in the Indenture.

Section 3. Acceptance of Assignment. The Trustee hereby accepts the assignment and transfer of such of the Authority's rights, title and interest in and to the Lease and the Site Lease as are assigned and transferred pursuant to the terms of this Assignment Agreement.

Section 4. No Additional Rights or Duties. Excepting only the assignment and transfer of rights to the Trustee pursuant to Section 2 hereof, this Assignment Agreement shall not confer any rights nor impose any duties, obligations or responsibilities upon the Trustee beyond those expressly provided in the Lease, the Site Lease and the Indenture. The Trustee does not warrant the accuracy of any of the recitals hereto. This Assignment Agreement shall not impose any duties, obligations or responsibilities upon the Authority or the City beyond those expressly provided in the Lease, the Site Lease and the Indenture or as otherwise set forth herein.

Section 5. Further Assurances. The Trustee will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Assignment Agreement, and for the better assuring and confirming to the Trustee the rights and obligations intended to be conveyed pursuant hereto.

Section 6. Counterparts. This Assignment Agreement may be executed in any number of counterparts, each of which shall be deemed to an original, but all together shall constitute but one and the same Assignment Agreement.

Section 7. Law Governing. This Assignment Agreement shall be governed exclusively by and construed in accordance with the laws of the State of California.

Section 8. Notices. All notices under this Assignment Agreement shall be made in accordance with Section 9.13 of the Indenture.

Section 9. Binding Effect; Successors. This Assignment Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Whenever in this Assignment Agreement any party is named or referred to, such reference shall be deemed to include such party's successors and assigns and all covenants and agreements contained in this Assignment Agreement by or on behalf of any party hereto shall bind and inure to the benefit of such party's successors and assigns whether so expressed or not.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment Agreement as of the date first above written.

MENDOTA JOINT POWERS FINANCING
AUTHORITY

By _____
Executive Director

ATTEST:

Secretary

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as Trustee

By _____
Authorized Officer

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)
) ss:
COUNTY OF FRESNO)

On _____ before me, _____ (insert name of the officer), 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.

_____ [Seal]

EXHIBIT A
DESCRIPTION OF THE LEASED PROPERTY

(See attached.)

INDENTURE

by and between

MENDOTA JOINT POWERS FINANCING AUTHORITY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

Dated as of December 1, 2022

Relating to

[\$[Par Amount]
Mendota Joint Powers Financing Authority
Lease Revenue Bonds, Series 2022

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EXHIBIT A – FORM OF BOND

EXHIBIT B – FORM OF COSTS OF ISSUANCE REQUISITION

EXHIBIT C – FORM OF PROJECT FUND REQUISITION

EXHIBIT D – FORM OF NET PROCEEDS REQUISITION

EXHIBIT E – FORM OF PURCHASER LETTER OF REPRESENTATIONS

INDENTURE

This INDENTURE is dated as of December 1, 2022 (this “Indenture”), by and between the MENDOTA JOINT POWERS FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the “Authority”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national association duly organized and existing under the laws of the United States of America and qualified to accept and administer the trusts hereby created, as trustee (the “Trustee”).

RECITALS:

WHEREAS, the City of Mendota, California (the “City”) and the Mendota Redevelopment Agency have heretofore entered into that certain Joint Exercise of Powers Agreement, dated as of April 11, 1989, establishing the Authority for the purpose, among other things, of issuing its bonds to be used to provide financing and refinancing for public capital improvements of the City; and

WHEREAS, the City desires to finance a Project within the City, as described herein, and has requested that the Authority issue its Lease Revenue Bonds, Series 2022 (the “Bonds”) for such purpose; and

WHEREAS, the Authority intends to issue the Bonds for such purpose to assist the City; and

WHEREAS, in connection with the issuance of the Bonds, the City and the Authority have entered into a Site and Facility Lease, dated as of December 1, 2022 (the “Site Lease”), whereby the Authority has agreed to lease certain property consisting of the (i) City Hall located at 643 Quince Street, Mendota, CA 93640; APN 013-185-11 and (ii) Public Works Corporation Yard located at 912 Marie Street; APN 013-152-22S (together the “Leased Property”); and

WHEREAS, the Authority and the City have entered into a Lease Agreement, dated as of December 1, 2022 (the “Lease”), whereby the Authority has agreed to lease the Leased Property to the City; and

WHEREAS, under and pursuant to the Lease, the City is obligated to make Base Rental Payments (as defined herein) to the Authority for the sublease of the Leased Property; and

WHEREAS, as security for its obligations hereunder, the Authority has assigned to the Trustee all its rights to receive the Base Rental Payments scheduled to be paid by the City under and pursuant to the Lease and certain other rights to the Trustee pursuant to this Indenture; and

WHEREAS, the City has determined that the issuance of the Bonds will result in significant public benefits including demonstrable financing cost savings and more efficient delivery of services to the community; and

WHEREAS, to provide for the authentication and delivery of the Bonds to establish and declare the terms and conditions upon which the Bonds are to be issued and to secure the payment of the principal thereof, premium, if any, and interest thereon, the Authority has authorized the execution and delivery of this Indenture; and

WHEREAS, the Authority has determined that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of the Indenture have been in all respects duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of the principal of and the interest and premium (if any) on all Bonds of a Series at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

**ARTICLE I
DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS;
EQUAL SECURITY**

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Indenture and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, request or other document herein mentioned have the meanings herein specified.

“Act” means Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State, as in existence on the Closing Date or as thereafter amended from time to time.

“Additional Rental Payments” means the additional rental payable by the City under and pursuant to Section 3(b) of the Lease.

“Annual Debt Service” means, for each Bond Year with respect to each of the Bonds, the sum of (a) the interest payable on the Outstanding Bonds in such Bond Year, and (b) the principal amount of the Outstanding Bonds scheduled to be paid in such Bond Year.

“Approved Buyer” means [(a) an affiliate of the Original Purchaser or (b) one or more banks, insurance companies or entities controlled by banks].

“Assignment Agreement” means that certain Assignment Agreement, dated as of December 1, 2022, by and between the Authority and the Trustee.

“Authority” means the Mendota Joint Powers Financing Authority, a joint powers authority duly organized and existing under the Joint Exercise of Powers Agreement and the laws of the State.

“Authority Board” means the governing board of the Authority.

“Authorized Denominations” means denominations of \$[100,000] and whole dollar multiples of \$1,000 in excess thereof.

“Base Rental Payments” means the base rental payments made under the Lease.

“Bond Counsel” means (a) Norton Rose Fulbright US LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority of nationally recognized experience in the area of municipal finance.

“Bond Law” means the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act, as in existence on the Closing Date or as thereafter amended from time to time.

“Bond Year” means each twelve-month period extending from November 2 in one calendar year to November 1 of the succeeding calendar year, both dates inclusive, except that the first Bond Year shall begin on the Closing Date and shall end on November 1, 2023.

“Bonds” means the Mendota Joint Powers Financing Authority Lease Revenue Bonds, Series 2022.

“Business Day” means a day other than (i) a Saturday or Sunday, (ii) a day on which commercial banks in the city in which the Trustee maintains its Trust Office are authorized or required by law or executive order to close or (iii) a day on which the New York Stock Exchange is closed.

“Certificate of the Authority” means a certificate in writing signed by the Chairperson, the Vice-Chairperson, the Executive Director, the Treasurer, the Controller, the Director of Administrative Services or the Secretary of the Authority, or their designees, or any other officer of the Authority duly authorized by the Authority to act on behalf of the Authority.

“Certificate of the City” means a certificate in writing signed by the Mayor or the City Manager, or their designees, or by any other officer of the City duly authorized by the City Council to act on behalf of the City.

“City” means the City of Mendota, California.

“Closing Date” means December ____, 2022, being the date of delivery of the Bonds to the Original Purchaser thereof.

“Code” means the Internal Revenue Code of 1986.

“Costs of Issuance” means all expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds, including but not limited to all compensation, fees and

expenses (including but not limited to fees and expenses for legal counsel) of the Authority and the Trustee, compensation to any financial consultants, other legal fees and expenses (including fees and expenses of the Municipal Advisor, Bond Counsel, Placement Agent and Original Purchaser's counsel), title insurance, filing and recording costs, CDIAAC fees, costs of preparation and reproduction of documents.

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.03.

“Default Rate” has the meaning ascribed to such term in the Lease.

“Defeasance Securities” means, subject to the provisions of Section 9.06(h) of this Indenture:

(1) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series — “SLGS”)

(2) Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities.

(3) Resolution Funding Corp. (REFCORP) Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.

(4) Pre-refunded municipal bonds rated “Aaa” by Moody’s and “AA+” by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or “AA+” rated pre-refunded municipals to satisfy this condition.

(5) Obligations issued by the following agencies which are backed by the full faith and credit of the U.S.:

(a) U.S. Export-Import Bank (Eximbank)

(i) Direct obligations or fully guaranteed certificates of beneficial ownership

(b) Farmers Home Administration (FmHA)

(i) Certificates of beneficial ownership

(c) Federal Financing Bank

(d) General Services Administration

(i) Participation certificates

(e) U.S. Maritime Administration

- (i) Guaranteed Title XI financing
- (f) U.S. Department of Housing and Urban Development (HUD)
 - (i) Project Notes
 - (ii) Local Authority Bonds
 - (iii) New Communities Debentures – U.S. government guaranteed debentures
 - (iv) U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds

“Depository” means DTC and its successors and assigns or if (a) the then Depository resigns from its functions as securities depository of the Bonds, or (b) the Authority discontinues use of the Depository pursuant to Section 2.13 hereof, any other securities depository which agrees to follow the procedures requested to be followed by a securities depository in connection with the Bonds and which is selected by the Authority.

“Depository Participant” means a member of, or participant in, the Depository.

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Event of Default” means any of the events described in Section 8.01.

“Fair Market Value” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “fair market value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit the value of which is determined in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) the value of which is determined in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security-State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is the Local Agency Investment Fund of the State of California, but only if at all times during which the investment is held its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States.

“Fiscal Year” means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority as its official fiscal year period.

“Indenture” means this Indenture, dated as of December 1, 2022, as originally executed or as it may from time to time be amended or supplemented in accordance herewith.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants appointed and paid by the Authority, and who, or each of whom:

- (a) is in fact independent and not under domination of the Authority or the City;
 - (b) does not have any substantial interest, direct or indirect, in the Authority or the City;
- and
- (c) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

“Information Services” means the Electronic Municipal Market Access System (referred to as “EMMA”), a facility of the Municipal Securities Rulemaking Board, at <http://emma.msrb.org>; provided, however, in accordance with then current guidelines of the Securities and Exchange Commission, Information Services shall mean such other organizations providing information with respect to called Bonds as the Authority may designate in writing to the Trustee.

“Insurance and Condemnation Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.05.

“Interest Payment Date” means May 1 and November 1 of each year, commencing May 1, 2023.

“Joint Exercise of Powers Agreement” means that certain Joint Exercise of Powers Agreement, dated as of April 11, 1989, entered into under the Act by the City of Mendota and the Mendota Redevelopment Agency, together with any amendments thereof and supplements thereto.

“Lease” means that certain Lease Agreement, dated as of December 1, 2022, by and between the Authority as lessor and the City as lessee, as it may be further amended or modified.

“Lease Revenue Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.02.

“Leased Property” means, collectively, those certain parcels of real property, together with the improvements thereon, leased by the Authority to the City pursuant to the Lease, as more fully described in Exhibit A to the Lease, as such Exhibit A may be revised and amended from time to time pursuant to the terms hereof and of the Lease.

“Maximum Annual Debt Service” in respect of any Bond Year means the largest of the sums obtained for that or any succeeding Bond Year after totaling the following for each such Bond Year:

1. The principal amount of all Outstanding Bonds maturing or required to be redeemed by mandatory sinking account redemption in such Bond Year; and
2. The interest that would be due during such Bond Year on the aggregate principal amount of Bonds which would be Outstanding in such Bond Year if the Bonds Outstanding on the date of such computation were to mature or be redeemed in accordance with the applicable maturity or mandatory sinking account redemption schedule. At the time and for the purpose of making such computation, the amount of Bonds already retired in advance of the above mentioned schedule or schedules shall be deducted pro rata from the remaining amounts thereon.

“Moody’s” means Moody’s Investors Service, and its successors and assigns.

“Nominee” means the nominee of the Original Purchaser and thereafter the nominee of an Approved Buyer or the Depository, as determined from time to time pursuant hereto.

“Original Purchaser” means Umpqua Bank.

“Outstanding,” when used as of any particular time with reference to Bonds means (subject to the provisions of Section 9.07) all Bonds theretofore executed, issued and delivered by the Authority under this Indenture except:

1. Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;
2. Bonds paid or deemed to have been paid within the meaning of Section 9.03; and
3. Bonds in lieu of which or in substitution for which other Bonds shall have been executed, issued and delivered pursuant to this Indenture or any Supplemental Indenture.

“Owner” when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Registration Books.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein (the Trustee is entitled to conclusively rely on a Request of the Authority directing investment in such Permitted Investment as a certification by the Authority to the Trustee that such Permitted Investment is a legal investment under the laws of the State), but only to the extent that the same are acquired at Fair Market Value:

(a) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the timely payment of the principal of and interest on which are fully guaranteed by the United States of America, including instruments evidencing a direct ownership interest in securities described in this clause such as Stripped Treasury Coupons at the time of

purchase rated or assessed in the highest rating category by S&P and Moody's and held by a custodian for safekeeping on behalf of holders of such securities.

(b) Bonds or notes which are exempt from federal income taxes and for the payment of which cash or obligations described in clause (a) of this definition in an amount sufficient to pay the principal of, premium, if any, and interest on when due have been irrevocably deposited with a trustee or other fiscal depository and which at the time of purchase are rated the same rating as direct obligations of the United States of America by S&P and Moody's.

(c) Obligations, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following: Federal Home Loan Bank System, Government National Mortgage Association, Farmer's Home Administration, Federal Home Loan Mortgage Corporation or Federal Housing Administration; provided that with respect to the funds and accounts established under this Indenture, such obligations shall at no time exceed an amount equal to ten percent (10%) of the aggregate principal amount of the Bonds Outstanding.

(d) Deposit accounts, certificates of deposit or savings accounts (i) fully insured by the Federal Deposit Insurance Corporation or (ii) with banks whose short term obligations are at the time of purchase rated no lower than A-1 by S&P and P-1 by Moody's including those of the Trustee and its affiliates.

(e) Federal funds or banker's acceptances with a maximum term of one year of any bank that at the time of purchase has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" by Moody's and "A-1" or "A" or better by S&P (including the Trustee).

(f) Repurchase obligations with a term not exceeding 30 days pursuant to a written agreement between the Trustee and either a primary dealer on the Federal Reserve reporting dealer list which falls under the jurisdiction of the SIPC or a federally chartered commercial bank whose long-term debt obligations at the time of purchase are rated A or better by S&P and Moody's, with respect to any security described in clause (1); provided that the securities which are the subject of such repurchase obligation (i) must be free and clear of all liens, (ii) in the case of a SIPC dealer, were not acquired pursuant to a repurchase or reverse repurchase agreement, (iii) must be deposited with the Trustee and maintained through weekly market valuations in an amount equal to 104% of the invested funds plus accrued interest; and further provided that the Trustee must have a valid first perfected security interest in such securities.

(g) Taxable government money market portfolios that at the time of purchase have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's, subject to a maximum permissible limit equal to six months of principal and interest on the Bonds including portfolios of the Trustee and its affiliates.

(h) Tax-exempt government money market portfolios that at the time of purchase have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's consisting of securities which are rated in the highest Rating Categories of S&P and Moody's subject to a maximum permissible limit equal to six months of principal and interest on the Bonds.

(i) Money market funds registered under the Investment Company Act of 1940, the shares in which are registered under the Securities Act of 1933 and that at the time of purchase have a rating by S&P of AAAM-G or AAAM and rated in one of the two highest Rating Categories of Moody's, including those managed or advised by the Trustee or its affiliates.

(j) The Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

(k) Investment agreements, including guaranteed investment contracts ("GICs") forward purchase agreements and reserve fund put agreements with banks or other financial institutions rated, or guaranteed by institutions rated, or with senior unsecured debt rated, at the time of entrance into such agreement by S&P or Moody's, in one of the three highest rating categories assigned by such agencies.

(l) Any other investments which meet the criteria established by applicable published investment guidelines issued by each rating agency then rating the Bonds.

"Principal Fund" means the account by that name established and held by the Trustee pursuant to Section 4.02.

"Project" means the new City Council chambers and police department to be located at 1759 7th Street, Mendota, CA 93640.

"Project Costs" means all costs which are paid from moneys on deposit in the Project Fund, including but not limited to:

(a) all costs required to be paid to any person under the terms of any agreement for or relating to the Project;

(b) obligations incurred for labor and materials in connection with the Project;

(c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the Project;

(d) all costs of engineering and architectural services, including the actual out-of-pocket costs for test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees, sales commissions, and for supervising construction, as well as for the performance of all other duties required by or consequent to the Project;

(e) any sums required to reimburse the Authority or the City for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the Project; and

(f) all financing costs incurred in connection with the Project, including but not limited to Costs of Issuance and other costs incurred in connection herewith and the financing of the Project.

“Project Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.02.

“Rebate Fund” means the fund by that name established and held by the Trustee pursuant to Section 5.08.

“Record Date” means, with respect to any Interest Payment Date, the fifteenth calendar day of the month immediately preceding such Interest Payment Date, whether or not such day is a Business Day.

“Registration Books” means the records maintained by the Trustee pursuant to Section 2.09 for the registration and transfer of ownership of the Bonds.

“Rental Payments” means the Base Rental Payments and any Additional Rental Payments.

“Request of the Authority” means a request in writing signed by the Chairperson, the Vice-Chairperson, the Executive Director, the Treasurer, the Controller, the Director of Administrative Services or the Secretary of the Authority, or their designees, or any other officer of the Authority duly authorized by the Authority to act on behalf of the Authority.

“Request of the City” means a request in writing signed by the Mayor or the City Manager or their designees, or any other officer of the City duly authorized by the City Council to act on behalf of the City.

“Responsible Officer” means any member of the Authority Board or any other person authorized by resolution of the Authority Board to act on behalf of the Authority under or with respect to the Lease or this Indenture.

“Revenues” means (i) all Base Rental Payments payable by the City pursuant to the Lease (including prepayments), (ii) any proceeds of Bonds originally deposited with the Trustee and all moneys on deposit in the funds and accounts (other than the Rebate Fund) established hereunder for the Bonds, (iii) investment income with respect to such moneys held by the Trustee and (iv) any insurance proceeds or condemnation awards received by or payable to the Trustee relating to the Base Rental Payments.

“S&P” means S&P Global Ratings, and its successors and assigns.

“Securities Depositories” means The Depository Trust Company, New York, New York and its successors and assigns or if (i) the then Securities Depository resigns from its functions as depository of the Bonds or (ii) the Authority discontinues use of the then Securities Depository pursuant to Section 2.13, any other securities depository which agrees to follow the procedures required to be followed by a securities depository in connection with the Bonds and which is selected by the Authority.

“Series” whenever used in this Indenture with respect to the Bonds, means all of the Bonds designated as being of the same series, including any subseries, authenticated and delivered in a simultaneous transaction, regardless of variations in maturity, interest rate, redemption and other

provisions, and any Bonds thereafter authenticated and delivered upon transfer or exchange of or in lieu of or in substitution for (but not to refund) such Bonds as provided herein.

“Site Lease” means that certain Site and Facility Lease, dated as of December 1, 2022, by and between the City and the Authority, pursuant to which the Authority leases the Leased Property from the City.

“State” means the State of California.

“Supplemental Indenture” means any agreement supplemental to or amendatory of this Indenture entered into in accordance with the provisions of Article VII.

“Tax Certificate” means the Tax Certificate dated the date of the original delivery of the Bonds relating to the requirements of certain provisions of the Code, as such certificate may from time to time be modified or supplemented in accordance with the terms thereof.

“Trust Office” means the corporate trust office of the Trustee or such other offices as may be specified to the Authority by the Trustee in writing.

“Trustee” means The Bank of New York Mellon Trust Company, N.A., and its successors and assigns, and any other banking corporation or association that may at any time be substituted in its place as provided in Article VI hereof.

“Written Request of the Authority” means a request in writing signed by a Responsible Officer.

SECTION 1.02. Rules of Construction. All references in this Indenture to “Articles,” “Sections,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 1.03. Authorization and Purpose of Bonds. The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines that all things, conditions, and acts required by law to exist, to happen and to be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now authorized under the Joint Exercise of Powers Agreement and the Bond Law and each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture. Accordingly, the Authority hereby authorizes the issuance of the Bonds pursuant to the Bond Law and this Indenture for the purpose described in the recitals hereof.

SECTION 1.04. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract between the Authority and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all Owners without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date

thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

**ARTICLE II
ISSUANCE OF BONDS**

SECTION 2.01. Designation. The Bonds are authorized to be issued by the Authority to the Original Purchaser under and subject to the Bond Law and the terms of this Indenture and shall be designated, respectively, as the “Mendota Joint Powers Financing Authority Lease Revenue Bonds, Series 2022.” The Bonds shall be issued in the original aggregate principal amount of \$[Par Amount].

SECTION 2.02. Terms of the Bonds. The Bonds shall be dated the Closing Date and mature on _____, 20__, with sinking fund payments set forth in the following table unless the Bonds are subject to redemption in whole or in part as provided herein. [The Bonds shall bear interest at the rate of __% per annum (the “Initial Rate”) through November 1, 20[42], calculated on the basis of a 360-day year of twelve 30-day months, and thereafter fixed through the final maturity of the Bonds at the [_____ Rate determined by _____] on the Record Date immediately preceding November 1, 20[42], or such other similar rate identified by the Owner and agreed to by the Authority, plus __% per annum (the “Fixed Rate”); provided, that such new interest rate shall not be less than __%. Notwithstanding the forgoing, the Fixed Rate shall not exceed __% unless additional property is added to the Leased Property and Bond Counsel receives a certificate of the City that the annual fair rental value of the Leased Property is in excess of the maximum annual Base Rental Payments and any Additional Rental Payments.]

<u>Maturity Date</u> (November 1)	<u>Sinking Fund</u> <u>Payment</u>	<u>Interest</u> <u>Rate</u>
2023		Initial Rate
2024		Initial Rate
2025		Initial Rate
2026		Initial Rate
2027		Initial Rate
2028		Initial Rate
2029		Initial Rate
2030		Initial Rate
2031		Initial Rate
2032		Initial Rate
2033		Initial Rate
2034		Initial Rate
2035		Initial Rate
2036		Initial Rate
2037		Initial Rate
2038		Initial Rate
2039		Initial Rate
2040		Initial Rate

<u>Maturity Date</u> <u>(November 1)</u>	<u>Sinking Fund</u> <u>Payment</u>	<u>Interest</u> <u>Rate</u>
2041		Initial Rate
2042		Initial Rate
2043		Fixed Rate
2044		Fixed Rate
2045		Fixed Rate
2046		Fixed Rate
2047		Fixed Rate
2048		Fixed Rate
2049		Fixed Rate
2050		Fixed Rate
2051		Fixed Rate
2052*		Fixed Rate

* Maturity.

The Bonds shall be delivered in fully registered form, numbered from one upwards in consecutive numerical order (with such alphabetical prefix as the Trustee shall determine). The Bonds shall be executed and delivered in their respective Authorized Denominations.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (i) it is executed during the period from the day after the Record Date for an Interest Payment Date to and including such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (ii) it is authenticated on or prior to the Record Date for the first Interest Payment Date, in which event it shall bear interest from the Closing Date; provided, however, that if, at the time of authentication of any Bond interest with respect to such Bond is in default, such Bond shall bear interest from the Interest Payment Date to which interest has been paid or made available for payment with respect to such Bond.

Interest with respect to any Bond shall be payable in lawful money of the United States of America on each Interest Payment Date to the Owner thereof as of the close of business on the Record Date, such interest to be paid by check of the Trustee, mailed by first class mail no later than the Interest Payment Date to the Owner at his address as it appears, on such Record Date, on the Registration Books maintained by the Trustee; *provided, however*, that at the written request of the Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Bonds filed with the Trustee prior to any Record Date, interest on such Bonds shall be paid to such Owner on each succeeding Interest Payment Date (unless such request has been revoked in writing) by wire transfer of immediately available funds to an account in the United States designated in such written request. Payments of defaulted interest with respect to the Bonds shall be paid by check or draft to the registered Owners of the Bonds as of a special record date to be fixed by the Trustee, notice of which special record date shall be given to the registered Owners of the Bonds not less than ten days prior thereto. The principal of and premium, if any, on the Bonds are payable by check when due upon surrender thereof at the Trust Office in lawful money of the United States of America.

SECTION 2.03. Redemption of Bonds.

(a) Bonds Extraordinary Redemption. Subject to Section 9.06(e), the Bonds are subject to redemption prior to their respective maturity dates, upon written notice from the Authority to the Trustee at least forty-five (45) days (or such lesser number of days acceptable to the Trustee, in the sole discretion of the Trustee) prior to the date fixed for redemption, as a whole or in part on any date, from prepayments of the applicable Base Rental Payments made by the City on a *pro rata* basis pursuant to the Lease from funds received by the City due to a taking of the Leased Property or any portion thereof under the power of eminent domain or from insurance proceeds received by the City due to damage to or destruction of the Leased Property or any portion thereof, under the circumstances and upon the conditions and terms prescribed herein and in the Lease. Redemption of Bonds pursuant to this subparagraph (a) shall be made at a redemption price equal to the sum of the principal of the Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium.

(b) Bonds Optional Redemption from Prepayments of Base Rental Payments. The Bonds maturing shall be subject to optional redemption prior to their respective maturity dates, upon written notice from Authority to the Trustee at least thirty (30) days (or such lesser number of days acceptable to the Trustee, in the sole discretion of the Trustee) prior to the date fixed for redemption, as a whole or in part on any Interest Payment Date in such maturities as the Authority shall designate (and by lot within any maturity), from prepayments of Base Rental Payments made at the option of the City pursuant to Section 11 of the Lease, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued but unpaid interest to the date fixed for redemption according to the following schedule:

[optional redemption schedule to come from Original Purchaser]

(c) Mandatory Sinking Account Redemption. The Bonds are subject to mandatory redemption, in part by lot, from sinking account payments set forth in the schedule provided in Section 2.02 at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

If some but not all of the Bonds have been redeemed pursuant to extraordinary or optional redemptions, the total amount of sinking account payments to be made subsequent to such redemption shall be reduced in an amount equal to the principal amount of the Bonds so redeemed by reducing each such future sinking account payment on a *pro rata* basis (as nearly as practicable) in integral multiples of \$1,000, as shall be designated pursuant to written notice filed by Authority with the Trustee. In the event of any reductions in the amount of sinking account payments due as a result of some but not all of the Bonds being redeemed pursuant to extraordinary or optional redemptions, the Authority shall provide the Trustee with a revised schedule reflecting such reductions.

(d) Notice of Redemption. The Trustee on behalf and at the expense of the Authority shall mail (by first class mail) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, to the Securities Depositories and to one or more Information Services, at least 20 but not more than 60 days prior to the date fixed for redemption; *provided, however*, that neither failure to receive

any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, if any, the Bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date. Such notice shall further state, if so determined by the Authority, that such notice may be rescinded at any time prior to the redemption date. Neither the Authority nor the Trustee shall have any responsibility for any defect in any CUSIP number that appears on any Bond or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Authority nor the Trustee shall be liable for any inaccuracy in such numbers.

Any notice given pursuant to the preceding paragraph may be rescinded by written notice given to the Trustee by the Authority and the Trustee shall provide notice of such rescission as soon thereafter as practicable in the same manner, and to the same recipients, as notice of such redemption was given pursuant to this Section. The Authority and the Trustee shall have no liability to the Owners or any other party related to or arising from such rescission of redemption.

(e) Selection of Bonds for Redemption. Whenever provision is made in the Indenture for the redemption of less than all of the Bonds, the Trustee shall select the Bonds of such Series to be redeemed from all Bonds not previously called for redemption, in such maturities as the Authority shall designate (and by lot within any maturity). For purposes of such selection, all Bonds shall be deemed to be comprised of separate \$1,000 portions and such portions shall be treated as separate Bonds, which may be separately redeemed.

(f) Partial Redemption of Bonds. If only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds, interest rate and maturity date, in aggregate principal amount equal to the unredeemed portion of the Bond being redeemed.

(g) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, premium, if any, and interest on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date. All Bonds redeemed pursuant to this Section 2.03 shall be canceled by the Trustee. All moneys held by or on behalf of the Trustee for the payment of principal of or interest or premium on Bonds, whether at redemption or maturity, shall be held in trust for the account of the Owners thereof and the Trustee shall not be required to pay Owners any interest on, or be liable to Owners for any interest earned on, moneys so held.

SECTION 2.04. Form of Bonds. The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the form set

forth in Exhibit A, attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

SECTION 2.05. Execution of Bonds. The Bonds shall be signed in the name and on behalf of the Authority with the manual or facsimile signature of its Chairperson or Executive Director, and attested with the manual signature of its Secretary or any assistant or deputy Secretary, and shall be delivered to the Trustee for authentication by it by manual or electronic means. In case any officer of the Authority who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the Authority, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though the individual who signed the same had continued to be such officer of the Authority. Also, any Bond may be signed on behalf of the Authority by any individual who on the actual date of the execution of such Bond shall be the proper officer although on the nominal date of such Bond such individual shall not have been such officer. Only such of the Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, manually executed on behalf of the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.06. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by his duly authorized attorney, upon presentation and surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond shall be surrendered for transfer, the Authority shall execute and the Trustee shall thereupon authenticate and deliver to the transferee a new Bond or Bonds of like tenor, interest rate, maturity and aggregate principal amount in Authorized Denominations. The cost of printing any Bonds and any services rendered or expenses incurred by the Trustee in connection with any such transfer shall be paid by the Authority, except that the Trustee shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. The Trustee shall not be required to transfer, pursuant to this Section, (a) any Bond during the period established by the Trustee for the selection of Bonds for redemption or (b) any Bond selected for redemption pursuant to Section 2.03(e).

Notwithstanding any other provision hereof, the Bonds may not be registered in the name of, or transferred to, any person except an Approved Buyer who has executed and delivered a Purchaser Letter of Representations in the form set forth in Exhibit E hereto to the Trustee and the Authority; provided, however, that Bonds registered in the name of the Depository or the Nominee shall be deemed to comply with this Section 2.06 so long as each beneficial owner of the Bonds is an Approved Buyer.

SECTION 2.07. Exchange of Bonds. Bonds may be exchanged at the Trust Office of the Trustee for the same aggregate principal amount of Bonds of the same tenor, interest rate and maturity and of other Authorized Denominations. The cost of any services rendered or expenses incurred by the Trustee in connection with any such exchange shall be paid by the Authority, except that the Trustee shall require the payment by the Owner requesting such exchange of any

tax or other governmental charge required to be paid with respect to such exchange. The Trustee shall not be required to exchange, pursuant to this Section, (a) any Bond during the period established by the Trustee for the selection of Bonds for redemption or (b) any Bond selected for redemption pursuant to Section 2.03(e).

SECTION 2.08. Temporary Bonds. The Bonds may be issued initially in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Authority and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Authority and be registered and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange therefor at the Trust Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds definitive Bonds of like tenor, maturity and aggregate principal amount in Authorized Denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

SECTION 2.09. Registration Books. The Trustee will keep or cause to be kept at its Trust Office sufficient records for the registration and transfer of the Bonds, which shall at all times during regular business hours be open to inspection by the Authority with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer, or cause to be registered or transferred, on such records, Bonds as herein provided.

SECTION 2.10. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Authority, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor, maturity and aggregate principal amount in an Authorized Denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence shall be satisfactory to it and indemnity satisfactory to it shall be given, the Authority, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like series and tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee). The Authority may require payment of a reasonable fee for each new Bond issued under this Section and of the expenses that may be incurred by the Authority and the Trustee. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original contractual obligation on the part of the Authority whether or not the Bond alleged to be lost, destroyed or stolen shall be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

SECTION 2.11. Book-Entry System; Limited Obligation. The Bonds shall be initially executed, authenticated and delivered in the form of a separate single fully registered Bond (which may be in electronic form). Upon initial execution, authentication and delivery, the ownership of the Bonds shall be registered in the Bond Register in the name of the Original Purchaser and shall thereafter be assigned to and registered in the name of such other Approved Buyer or in the name of the Nominee as nominee of the Depository, if applicable. Except as provided in Section 2.13 hereof, all of the Outstanding Bonds shall be registered in the Bond Register kept by the Trustee in the name of the Nominee and the Bonds may be transferred, in whole but not in part, only to the another nominee of an Approved Buyer or of the Depository or of a successor Depository, if a depository is desired by such subsequent Approved Buyer and acceptable to the Trustee.

With respect to any Bonds registered in the Bond Register in the name of the Nominee, the Authority and the Trustee shall have no responsibility or obligation to any Depository Participant or to any person on behalf of which such a Depository Participant holds a beneficial interest in the Bonds. Without limiting the immediately preceding sentence, the Authority and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of the Depository, the Nominee or any Depository Participant with respect to any beneficial ownership interest in the Bonds, (b) the delivery to any Depository Participant, beneficial owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any Redemption Notice, (c) the selection by the Depository and the Depository Participants of the beneficial interests in the Bonds to be redeemed in part, or (d) the payment to any Depository Participant, beneficial owner or any other person, other than the Depository, of any amount with respect to principal of, interest on, or premium, if any, of the Bonds. The Authority and the Trustee may treat and consider the person in whose name each Bond is registered in the Bond Register as the holder and absolute Owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on, the Bond, for the purpose of giving Redemption Notices with respect to the Bonds and other notices with respect to the Bonds, and for all other purposes whatsoever, including, without limitation, registering transfers with respect to the Bonds.

The Trustee shall pay all principal of, premium, if any, and interest on, the Bonds only to or upon the order of the respective Owners, as shown in the Bond Register kept by the Trustee, or their respective attorneys duly authorized in writing, and all such payments shall be valid hereunder with respect to payment of principal of, premium, if any, and interest on, the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Bond Register, shall receive a Bond evidencing the obligation to make payments of principal of, premium, if any, and interest on, such Bond pursuant to this Indenture. Upon delivery by the Depository to the Trustee and the Authority of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word Nominee in this Indenture shall refer to such new nominee of the Depository.

SECTION 2.12. Representation Letter. To qualify the Bonds for the Depository's book-entry system, the Authority is authorized to execute, countersign and deliver to such Depository a letter from the Authority representing such matters as shall be necessary to so qualify the Bonds (the "Representation Letter"). The execution and delivery of the Representation Letter shall not in any way limit the provisions of Section 2.11 hereof or in any other way impose upon the Authority or the City any obligation whatsoever with respect to persons having beneficial

interests in the Bonds other than the Owners, as shown in the Bond Register kept by the Trustee. In the written acceptance by the Trustee of the Representation Letter, the Trustee shall agree, and hereby agrees, to take all actions necessary for all representations of the Trustee in the Representation Letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of the Representation Letter, the Authority Representative and all other officers of the Authority, and their respective deputies and designees, each is hereby authorized to take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

SECTION 2.13. Transfers Outside Book-Entry System. If at any time the Depository in being used in connection with the Bonds and the Depository notifies the Authority that it is unwilling or unable to continue as Depository with respect to the Bonds or if at any time the Depository shall no longer be registered or in good standing under the Securities Exchange Act or other applicable statute or regulation and a successor Depository is not appointed by the Authority within 90 days after the Authority receives notice or becomes aware of such condition, as the case may be, Section 2.11 hereof shall no longer be applicable and the Authority shall execute and the Trustee shall authenticate and deliver Bonds as provided below. In addition, the Authority may determine at any time that the Bonds shall no longer be represented by global bonds and that the provisions of Section 2.11 hereof shall no longer apply to the Bonds. In any such event the Authority shall execute and the Trustee shall authenticate and deliver bonds representing the Bonds as provided below. Bonds executed, authenticated and delivered in exchange for global bonds pursuant to this Section 2.13 shall be registered in such names and delivered in such Authorized Denominations as the Depository, pursuant to instructions from the Depository Participants or otherwise, shall instruct the Authority and the Trustee. The Trustee shall deliver such bonds representing the Bonds to the persons in whose names such Bonds are so registered.

If the Authority determines to replace the Depository with another qualified securities depository, the Authority shall prepare or cause to be prepared a new fully-registered global bond for each of the maturities of the Bonds, registered in the name of such successor or substitute securities depository or its nominee, or make such other arrangements as are acceptable to the Authority, the Trustee and such securities depository and not inconsistent with the terms of this Indenture.

SECTION 2.14. Payments. All payments to the Original Purchaser shall be made by wire or other form of electronic payment in accordance with written instructions provided by the Original Purchaser or, with the Original Purchaser's consent, by such other commercially reasonable method of payment. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond shall subsequently be registered in the name of the Nominee, all payments of principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Representation Letter or as otherwise instructed by the Depository.

ARTICLE III
DEPOSIT AND APPLICATION OF PROCEEDS

SECTION 3.01. Issuance of Bonds. Upon the execution and delivery of this Indenture, the Authority shall execute and deliver the Bonds to the Trustee for authentication, issuance and delivery to the original purchaser thereof upon the Request of the Authority.

SECTION 3.02. Application of Proceeds of Sale of Bonds. Upon the receipt of payment for the Bonds on the Closing Date in the amount of \$_____, the Trustee shall deposit such proceeds as follows:

- (1) into the Costs of Issuance Fund the amount of \$_____; and
- (2) into the Project Fund the amount of \$_____.

The Trustee may establish such temporary funds, accounts and subaccounts as may be necessary or desirable to accomplish such deposits.

SECTION 3.03. Costs of Issuance Fund. There is hereby established a fund to be held by the Trustee known as the “Costs of Issuance Fund,” into which shall be deposited a portion of the proceeds of the sale of the Bonds pursuant to Section 3.02. The moneys in the Costs of Issuance Fund shall be used to pay Costs of Issuance related to the Bonds from time to time and shall be disbursed by the Trustee upon delivery to the Trustee of a requisition, substantially in the form attached hereto as Exhibit B, executed by an officer of the Authority. On the date that is 180 days following the Closing Date, or upon the earlier receipt by the Trustee of a Request of the Authority certifying that all Costs of Issuance related to the Bonds have been paid or provided for, the Trustee shall transfer any remaining amounts in the Costs of Issuance Fund to the Project Fund and the Trustee shall then close the Costs of Issuance Fund.

SECTION 3.04. Project Fund. The Trustee shall establish, maintain and hold in trust a separate fund to be known as the “Project Fund.” Except as otherwise provided herein, moneys in the Project Fund shall be used solely for the payment of Project Costs. Before any payment from the Project Fund shall be made, the City shall file or cause to be filed with the Trustee, a Requisition of the City which shall be substantially in the form attached hereto as Exhibit C. The Trustee shall be entitled to rely on the representations of the City contained in such Requisition and shall not be required to independently verify the contents of such Requisition.

Within three (3) Business Days following receipt of each such Requisition, the Trustee shall pay the amount set forth in such Requisition as directed by the terms thereof out of the Project Fund. Upon the Written Request of the City accompanied by a Written Certificate of the City stating that all Project Costs have been paid or provision made for their payment, any unexpended moneys in the Project Fund may be used to pay the costs associated with any other improvements of the City; *provided*, that in the opinion of Bond Counsel such use of the proceeds of the Bonds shall not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof.

Any unexpended moneys in the Project Fund subsequent to the payment of all Project Costs which are not used to pay the cost of other improvements of the City shall be transferred to the

applicable Lease Revenue Fund upon receipt by the Trustee of a Written Request of the City accompanied by a Written Certificate of the City stating that all Project Costs have been paid or provision made for their payment.

SECTION 3.05. Insurance and Condemnation Fund. The Trustee shall establish and maintain a separate fund to be known as the “Insurance and Condemnation Fund,” into which shall be deposited Net Proceeds required to be deposited therein pursuant to Section 9 of the Lease. The Trustee shall disburse or transfer all amounts in the Insurance and Condemnation Fund, as stated in a Request of the City (as described below) for the payment of the cost of the reconstruction of the Leased Property (including reimbursement to the City for any such costs paid by it). Before any payment of money is made from the Insurance and Condemnation Fund, the Authority shall file or shall cause the City to file with the Trustee a requisition in substantially the form set forth as Exhibit D hereto.

SECTION 3.06. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be affected in any way by any proceedings taken with respect to the application of the proceeds of the Bonds, and the recital contained in the Bonds that the same are issued pursuant to the Bond Law shall be conclusive evidence of their validity and of the regularity of their issuance.

ARTICLE IV REVENUES; FLOW OF FUNDS

SECTION 4.01. Pledge; Assignment of Rights. Subject to the provisions of Section 6.03, the Bonds shall be secured by a first lien on and pledge (which shall be effected in the manner and to the extent hereinafter provided) of all of the Revenues, and all of the moneys in the Interest Fund, the Principal Fund, and all amounts derived from the investment of such moneys in such accounts. The Bonds shall be equally secured by a pledge, charge and lien upon the Revenues and such moneys without priority for number, date of the Bonds, date of execution or date of delivery; and the payment of the interest on and principal of the Bonds and any premiums upon the redemption of any portion thereof shall be and are secured by an exclusive pledge, charge and lien upon the Revenues and such moneys. So long as any of the Bonds are Outstanding, the Revenues and such moneys shall not be used for any other purpose; except that out of the Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by Section 4.02.

The Authority hereby transfers in trust and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, all of the Revenues and all of the right, title and interest of the Authority in the Lease with respect to the Revenues, including its rights to receive the Base Rental Payments scheduled to be paid by the City under and pursuant to the Lease and any and all of the other rights of the Authority under the Lease as may be necessary to enforce payment of such Base Rental Payments when due or otherwise to protect the interest of the Owners of the Bonds, including its leasehold title to the Leased Property leased to the City pursuant to the Lease with respect to the Base Rental Payments. The Trustee accepts such assignments. The Trustee shall be entitled to and shall receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee.

SECTION 4.02. Lease Revenue Fund; Receipt, Deposit and Application of Revenues.

All Revenues shall be deposited by the Trustee in a special fund designated as the “Lease Revenue Fund,” which the Trustee shall establish, maintain and hold in trust hereunder.

On or before each Interest Payment Date, the Trustee shall transfer from the Lease Revenue Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Lease Revenue Fund), the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of 2022 Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(a) ***Interest Fund.*** The Trustee shall establish and maintain a separate account to be known as the “Interest Fund.” On or before each Interest Payment Date, the Trustee shall deposit in the Interest Fund an amount required to cause the aggregate amount on deposit in the Interest Fund to equal the amount of interest becoming due and payable on such Interest Payment Date on all respective Outstanding Bonds. No deposit shall be made into the Interest Fund if the amount contained therein is at least equal to the interest becoming due and payable on all respective Outstanding Bonds on each succeeding Interest Payment Date within the then current Bond Year. All moneys in the Interest Fund shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds redeemed prior to maturity).

(b) ***Principal Fund.*** The Trustee shall establish and maintain a separate account to be known as the “Principal Fund.” On or before each Interest Payment Date, the Trustee shall deposit in the Principal Fund an amount required to cause the aggregate amount on deposit in the Principal Fund to equal the principal amount of the Bonds maturing on such Interest Payment Date pursuant to Section 2.02 or Section 2.03 or pursuant to a Supplemental Indenture, as the case may be. No deposit shall be made into the Series 2022 Principal Account if the amount contained therein is at least equal to the principal becoming due and payable on all respective Outstanding Bonds on each succeeding Interest Payment Date, as applicable, within the then current Bond Year. All moneys in the Principal Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Bonds.

(c) ***Series 2022 Surplus.*** On November 1 of each year the Trustee shall determine the amount, if any, remaining in the Lease Revenue Fund after making the deposits required by paragraphs (a) and (b) above, and the transfers of investment earnings pursuant to Section 4.04, and shall apply such amount as a credit against the next following Base Rental Payment. Notwithstanding the foregoing, if directed in a Request of the City, the Trustee shall, with respect to all or any portion of such amount, pay, or set aside an amount for the payment of, any Rebate Requirement (as defined in the Tax Certificate) in accordance with a computation made by the City.

SECTION 4.03. Investments. All moneys in any of the funds or accounts established with the Trustee pursuant to this Indenture shall be invested by the Trustee solely in Permitted Investments pursuant to the written direction of the Authority given to the Trustee not less than two Business Days in advance of the making of such investments. In the absence of any such

direction from the Authority, the Trustee shall invest any such moneys in money market funds described in subsection (i) of the definition of Permitted Investments, initially the _____ and any successor money market fund thereto.

The Trustee shall transfer all investment earnings on amounts in a Principal Account, an Interest Account to the applicable Lease Revenue Fund. All investment earnings on amounts in the Insurance and Condemnation Fund shall be retained therein. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee may act as principal or agent in the acquisition of any investment and may impose its customary charges therefor. The Trustee may act as manager, sponsor, advisor or depository with respect to any Permitted Investment. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section. The Authority acknowledges that regulations of the Comptroller of the Currency grant the Authority the right to receive brokerage confirmations of security transactions to be effected by the Trustee hereunder as they occur. The Authority specifically waives the right to receive such confirmation to the extent permitted by applicable law and agrees that it will instead receive periodic cash transaction statements which shall include detail for the investment transactions effected by the Trustee hereunder; provided, however, that the Authority retains its right to receive brokerage confirmation on any investment transaction requested by the Authority.

SECTION 4.04. Valuation and Disposition of Investments. For the purpose of determining the amount in any fund or account, Permitted Investments credited to such fund or account shall be valued at least semiannually on or before each Interest Payment Date at cost (excluding any brokerage commissions and excluding any accrued interest) by the Trustee.

ARTICLE V COVENANTS OF THE AUTHORITY

SECTION 5.01. Punctual Payment. The Authority shall punctually pay or cause to be paid the principal, interest and premium (if any) to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of applicable Revenues and other assets pledged for such payment as provided in this Indenture.

SECTION 5.02. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section shall be deemed to limit the right of the Authority to issue bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of the Bonds.

SECTION 5.03. Against Encumbrances. The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the applicable Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture and Supplemental Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, including other programs under the Bond Law, and reserves the right to issue other obligations for such purposes.

SECTION 5.04. Power to Issue Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues, the Lease and other assets purported to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee (subject to the provisions of Section 6.02 hereof) shall at all times, to the extent permitted by law, defend, preserve and protect such pledge and assignment of Revenues and other assets and all the rights of the Owners under this Indenture against all claims and demands of all persons whomsoever.

SECTION 5.05. Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions by the Trustee relating to the proceeds of Bonds, the Revenues, the Lease and all funds and accounts established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Authority and the City during regular business hours with reasonable prior notice.

SECTION 5.06. No Additional Obligations Payable from Revenues. The Authority covenants that no additional bonds, notes or indebtedness shall be issued or incurred that are payable out of the Revenues in whole or in part.

SECTION 5.07. Lease. The Trustee, as assignee of the Authority's rights under the Lease with respect to the Revenues pursuant to Section 4.01 hereof and the Assignment Agreement(s), shall receive amounts due from the City pursuant to the Lease with respect to the Revenues. The Authority will faithfully comply with, keep, observe and perform all the agreements, conditions, covenants and terms contained in the Lease required to be complied with, kept, observed and performed by it and, together with the Trustee, will enforce the Lease against the City in accordance with its terms. So long as any Bond remains Outstanding, the Authority will not alter, amend or modify the Lease without the prior written consent of the Trustee, which consent shall be given only (i) if the Trustee receives an opinion of counsel selected by the Authority that such alteration, amendment or modification will not result in any material impairment of the covenants made or the security given or intended to be given for the payment of the applicable Base Rental Payments under the Lease, or (ii) if the Trustee first obtains the written consents of the Owners of at least a majority in aggregate principal amount of the Outstanding Bonds to such alteration, amendment or modification.

Prior to any amendment or modification of the Lease pursuant to this Section, the Authority shall deliver to the Trustee an opinion of nationally recognized bond counsel to the effect that such amendment or modification has been adopted in accordance with the requirements of this Indenture and will not, in and of itself, cause interest on the Bonds, as applicable, to be included in the gross income of the Owners of such Bonds.

SECTION 5.08. Tax Covenants.

(a) When used in this Section, the following terms have the following meanings with respect to the Bonds:

Special Definitions. When used in this Section, the following terms have the following meanings:

“Code” means the Internal Revenue Code of 1986, as amended.

“Computation Date” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Gross Proceeds” means any proceeds as defined in section 1.148-1(b) of the Tax Regulations (referring to sales, investment and transferred proceeds), and any replacement proceeds as defined in section 1.148-1(c) of the Tax Regulations, of the Bonds.

“Investment” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Nonpurpose Investment” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and that is not acquired to carry out the governmental purposes of the Bonds.

“Rebate Amount,” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Tax Regulations” means the United States Treasury Regulations promulgated pursuant to sections 103 and 141 through 150 of the Code, or section 103 of the 1954 Code, as applicable.

“Yield” of any Investment has the meaning set forth in section 1.148-5 of the Tax Regulations; and of any issue of governmental obligations has the meaning set forth in section 1.148-4 of the Tax Regulations.

(a) Not to Cause Interest to Become Taxable. The Authority covenants that it shall not use, and shall not permit the use of, and shall not omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner that if made or omitted, respectively, could cause the interest on any Bond to fail to be excluded pursuant to Section 103(a) of the Code from the gross income of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Trustee receives a written opinion of Bond Counsel to the effect that failure to comply with such covenant will not adversely affect such exclusion of the interest on any Bond from the gross income of the owner thereof for federal income tax purposes, the Authority shall comply with each of the specific covenants in this Section.

(b) Private Use and Private Payments. Except as would not cause any Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations, the Authority shall take all actions necessary to assure that the Authority at all times prior to the final cancellation of the last of the Bonds to be retired:

(1) exclusively owns, operates and possesses all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds and not use or permit the use of such Gross Proceeds (including through any contractual arrangement with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) does not directly or indirectly impose or accept any charge or other payment by any person or entity (other than a state or local government) who is treated as using any Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds.

(c) No Private Loan. Except as would not cause any Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, the Authority shall not use or permit the use of Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (i) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction that creates a debt for federal income tax purposes; (ii) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (iii) indirect benefits of such Gross Proceeds, or burdens and benefits of ownership of any property acquired, constructed or improved with such Gross Proceeds, are otherwise transferred in a transaction that is the economic equivalent of a loan.

(d) Not to Invest at Higher Yield. Except as would not cause the Bonds to become “arbitrage bonds” within the meaning of section 148 of the Code and the Tax Regulations and rulings thereunder, the Authority shall not (and shall not permit any person to), at any time prior to the final cancellation of the last Bond to be retired, directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, would materially exceed the Yield of the Bonds within the meaning of said section 148.

(e) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Tax Regulations and rulings thereunder, the Authority shall take or omit to take (and shall not permit any person to take or omit to take) any action that would cause any Bond to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Tax Regulations and rulings thereunder.

(f) Information Report. The Authority shall timely file any information required by section 149(e) of the Code with respect to Bonds with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(g) Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Tax Regulations:

(1) The Authority shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Bond is discharged. However, to the extent permitted by law, the Authority may commingle Gross Proceeds of Bonds with its other monies, provided that it separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the Authority shall calculate, the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Tax Regulations and rulings thereunder. The Authority shall maintain a copy of the calculation with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date. The Trustee may rely conclusively upon the Authority's determinations, calculations and certifications. The Trustee shall have no responsibility to independently make any calculation or determination or to review the Authority's calculations hereunder.

(3) In order to assure the excludability pursuant to section 103(a) of the Code of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, the Authority shall pay to the United States the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of the Final Computation Date as defined in section 1.148-3(e)(2) of the Tax Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, such rebate payments shall be made by the Authority at the times and in the amounts as are or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder, and shall be accompanied by Form 8038-T prepared by the Authority or such other forms and information as is or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder for execution and filing by the Authority.

(4) The Authority shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148 3(h) of the Regulations.

(h) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Tax Regulations and rulings thereunder, the Authority shall not and shall not permit any person to, at any time prior to the final cancellation of the last of the Bonds to be retired, enter into any transaction that reduces the amount required to be paid to the United States pursuant to paragraph (g) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yields on the Bonds not been relevant to either party.

(i) Bonds Not Hedge Bonds.

(1) The Authority represents that none of the Bonds is or will become a "hedge bond" within the meaning of section 149(g) of the Code.

(2) As of the date of issuance of the Bonds the Authority reasonably expects that at least 85% of the spendable proceeds of the Bonds will be expended within the three-year period commencing on such date of issuance, and (B) no more than 50% of the proceeds of the Bonds will be invested in Nonpurpose Investments having a substantially guaranteed yield for a period of four years or more.

(j) Elections. The Authority hereby directs and authorizes any Authority Representative to make elections permitted or required pursuant to the provisions of the Code or the Tax Regulations, as such Representative (after consultation with Bond Counsel) deems necessary or appropriate in connection with the Bonds, in the Tax Certificate or similar or other appropriate certificate, form or document.

(k) Closing Certificate. The Authority agrees to execute and deliver in connection with the issuance of the Bonds a Tax Certificate, or similar document containing additional representations and covenants pertaining to the exclusion of interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, which representations and covenants are incorporated as though expressly set forth herein.

The Authority shall at all times do and perform all acts and things permitted by law and this Indenture which are necessary or desirable in order to assure that interest paid on the Bonds (or any of them) will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being so excluded. Without limiting the generality of the foregoing, the Authority agrees to comply with the provisions of the Tax Certificate. This covenant shall survive payment in full or defeasance of the Bonds.

SECTION 5.09. Further Assurances. The Authority will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.

ARTICLE VI THE TRUSTEE

SECTION 6.01. Appointment of Trustee. The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority agrees that it will maintain a Trustee which has (or which is a wholly-owned subsidiary of a corporation which has) a combined capital and surplus of at least \$75,000,000, and which is subject to supervision or examination by Federal or State authority, so long as any Bonds are Outstanding. If such bank, national banking association or trust company or such parent corporation publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section 6.01 the combined capital and surplus of such bank, national banking association or trust company or such parent corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Trustee is hereby authorized to pay the principal of and interest and redemption premium (if any) on the Bonds when duly presented for payment at maturity, or on redemption prior to maturity, and to cancel all Bonds upon payment thereof. The Trustee shall keep accurate records of all funds and accounts administered by it and of all Bonds paid and discharged.

SECTION 6.02. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(b) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Certificate of the Authority.

(c) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by Article VIII of this Indenture or at the request or direction of any of the Owners pursuant to this Indenture, unless such Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(d) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond or other paper or document.

(e) The Trustee, prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred, undertakes to perform such duties and

only such duties as are specifically set forth in this Indenture and no covenants of or against the Trustee shall be implied in this Indenture. In case an Event of Default hereunder or under the Lease has occurred (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it by this Indenture and by the Lease, and shall use the same degree of care and skill in the exercise of such rights and powers as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(f) The Trustee may execute any of the trusts or powers hereunder and perform the duties required of it hereunder either directly or by or through attorneys, receivers or agents, shall not be liable for the acts or omissions of such attorneys, receivers or agents appointed with due care, and shall be entitled to advice of counsel concerning all matters of trust and its duties hereunder. The Trustee may conclusively rely on an opinion of counsel as full and complete authorization and protection for any action taken, suffered or omitted by it hereunder.

(g) The Trustee shall not be responsible for any recital herein, in the Lease, or in the Bonds, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby and makes no representation as to the validity or sufficiency of the Bonds, this Indenture or the Lease. The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority hereunder or on the part of the Authority or the City under the Lease. The Trustee shall not be responsible for the application by the Authority or the City of the proceeds of the Bonds.

(h) The Trustee may become the Owner or pledgee of Bonds secured hereby with the same rights it would have if not the Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the Authority with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority in aggregate principal amount of the Bonds then Outstanding.

(i) The Trustee may rely and shall be protected in acting or refraining from acting, in good faith and without negligence, upon any notice, resolution, opinion, report, direction, request, requisition, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and to have been signed or presented by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith and without negligence pursuant to this Indenture or the Lease upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Bond or to take any action at his request unless the ownership of such Bond by such person shall be reflected on the Registration Books.

(j) The permissive right of the Trustee to do things enumerated in this Indenture or in the Lease shall not be construed as a duty and it shall not be answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees and agents.

(k) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder or under the Lease except failure by the Authority or the City to make any of the payments to the Trustee required to be made by the Authority pursuant hereto or thereto or failure by the Authority or the City to file with the Trustee any document required by this Indenture or the Lease to be so filed subsequent to the issuance of the Bonds, unless the Trustee shall be specifically notified in writing of such default by the Authority or by the Owners of at least 25% in aggregate principal amount of the Bonds then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, to be effective, be delivered at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default hereunder except as aforesaid.

(l) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right but shall not be required to inspect all books, papers and records of the Authority pertaining to the Bonds, and to make copies of any of such books, papers and records which are not privileged by statute or by law.

(m) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises hereof.

(n) Notwithstanding anything elsewhere in this Indenture with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, as may be deemed desirable for the purpose of establishing the right of the Authority to the execution of any Bonds, the withdrawal of any cash or the taking of any other action by the Trustee.

(o) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law.

(p) Whether or not expressly provided therein, every provision of this Indenture and the Lease relating to the conduct or affecting the liability of the Trustee shall be subject to the provisions of this Section.

(q) The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(r) The Trustee is authorized and directed to enter into the Assignment Agreement in its capacity as Trustee.

SECTION 6.03. Fees, Charges and Expenses of Trustee. The Trustee shall be paid and reimbursed by the Authority for reasonable fees for its services rendered hereunder and all advances (with interest on such advances at the maximum rate allowed by law), counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Upon the occurrence of an Event of Default hereunder, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior

to payment of any Bond upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it.

SECTION 6.04. Notice to Owners of Default. If an Event of Default hereunder or under the Lease occurs with respect to any Bonds of which the Trustee has been given or is deemed to have notice, as provided in Section 6.02(k) hereof, then the Trustee shall, within 30 days of the receipt of such notice, give written notice thereof by first class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice; *provided, however,* that unless such Event of Default consists of the failure by the Authority to make any payment when due, the Trustee may elect not to give such notice if and so long as the Trustee in good faith determines that it is in the best interests of the Owners not to give such notice.

SECTION 6.05. Intervention by Trustee. In any judicial proceeding to which the Authority or the City is a party that, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of any of the Bonds, the Trustee may intervene on behalf of such Owners, and subject to Section 6.02(c), shall do so if requested in writing by the Owners of at least 25% in aggregate principal amount of such Bonds then Outstanding.

SECTION 6.06. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds. The Authority may also remove the Trustee at any time upon 30 days' notice, except during the existence of an Event of Default. The Trustee may be removed at any time for any breach of the Trustee's duties set forth herein.

SECTION 6.07. Resignation by Trustee. The Trustee and any successor Trustee may at any time give written notice of its intention to resign as Trustee hereunder, such notice to be given to the Authority and the City by registered or certified mail. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the Authority shall cause notice thereof to be given by first class mail, postage prepaid, to the Bond Owners at their respective addresses set forth on the Registration Books.

SECTION 6.08. Appointment of Successor Trustee. In the event of the removal or resignation of the Trustee pursuant to Sections 6.06 or 6.07, respectively, the Authority shall promptly appoint a successor Trustee. In the event the Authority shall for any reason whatsoever fail to appoint a successor Trustee within 60 days following the delivery to the Trustee of the instrument described in Section 6.06 or within 60 days following the receipt of notice by the Authority pursuant to Section 6.07, the Trustee may, at the expense of the Authority, apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 6.01. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the Authority purporting to appoint a successor Trustee following the expiration of such 60-day period.

SECTION 6.09. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any

merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall meet the requirements set forth in Section 6.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

SECTION 6.10. Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the Request of the Authority, or of the Trustee's successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

SECTION 6.11. Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action that may be desirable or necessary in connection therewith, it may be necessary that the Trustee or the Authority appoint an additional individual or institution as a separate trustee or co-trustee. The following provisions of this Section are adopted to these ends.

If the Trustee or the Authority appoints an additional individual or institution as a separate trustee or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate trustee or co-trustee but only to the extent necessary to enable such separate trustee or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate trustee or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, shall resign

or shall be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

SECTION 6.12. Indemnification; Limited Liability of Trustee. The Authority further covenants and agrees, to the extent permitted by law, to indemnify and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense and liabilities arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability and fees and expenses of its attorneys, but excluding any and all losses, expenses and liabilities that are due to the negligence or willful misconduct of the Trustee, its officers, directors or employees. No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder. The Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the direction of the Owners of at least 25% in aggregate principal amount of Bonds Outstanding relating to the time, method and place of conducting any proceeding or remedy available to the Trustee under this Indenture or exercising any power conferred upon the Trustee under this Indenture. The obligations of the Authority under this Section shall survive the resignation or removal of the Trustee and the termination of this Indenture.

SECTION 6.13. Acceptance of Instructions. The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions (“Instructions”) given pursuant to this Indenture and delivered using Electronic Means (“Electronic Means” means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the Authority shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions (“Authorized Officers”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority, whenever a person is to be added or deleted from the listing. If the Authority elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. The Authority understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Authority shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Authority and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority; (iii) that the security

procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

SECTION 6.14. Force Majeure. The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; quarantine restrictions, riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

ARTICLE VII MODIFICATION AND AMENDMENT OF THE INDENTURE

SECTION 7.01. Amendment Hereof. This Indenture and the rights and obligations of the Authority and of the Owners of Bonds of a Series may be modified or amended at any time by a Supplemental Indenture, which shall become binding upon adoption, without consent of any Owner, to the extent permitted by law, but only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the Authority in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or powers herein reserved to or conferred upon the Authority so long as such limitation or surrender of such rights or powers shall not materially adversely affect the applicable Owners;

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Authority may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not materially adversely affect the interests of the applicable Owners in the reasonable judgment of the Authority;

(c) to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes under the Code, if applicable; or

(d) for any other purpose that does not materially adversely affect the interests of the Owners.

Except as set forth in the preceding paragraph of this Section, this Indenture and the rights and obligations of the Authority and of the Owners may only be modified or amended at any time by a Supplemental Indenture, which shall become binding when the written consent of the Owners of a majority in aggregate principal amount of the Bonds of the applicable Series then Outstanding are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to

pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the applicable Owner, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) modify any of the rights or obligations of the Trustee without its written consent thereto.

SECTION 7.02. Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all applicable Owners of Outstanding Bonds, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Prior to entering into any Supplemental Indenture pursuant to this Section, the Authority shall deliver to the Trustee an opinion of Bond Counsel to the effect that such Supplemental Indenture has been adopted in accordance with the requirements of this Indenture and does not, in and of itself, cause the interest on the Bonds, as applicable, to be included in the gross income of the Owners of such Bonds.

SECTION 7.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any action taken as hereinabove provided, the Authority may determine that the Bonds shall bear a notation, by endorsement in form approved by the Authority, as to such action, and in that case upon demand of the Owner at such effective date and presentation of such Bond for that purpose at the Trust Office of the Trustee, a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to such Owners' action shall be prepared and executed, and in that case upon demand of the Owner at such effective date such new Bonds shall be exchanged at the Trust Office of the Trustee, without cost to each Owner, for Bonds then Outstanding, upon surrender of such Outstanding Bonds.

ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES OF OWNERS

SECTION 8.01. Events of Default. The following events shall be Events of Default hereunder:

(a) Default in the due and punctual payment of the principal of or premium on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, or by proceedings for redemption.

(b) Default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable.

(c) Any Default (as defined in the Lease) shall have occurred and be continuing.

(d) Failure by the Authority to observe and perform any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, other than as referred to in the preceding clauses (a) and (b), for a period of 30 days after written notice, specifying such failure and requesting that it be remedied has been given to the Authority by the Trustee, or to the Authority and the Trustee by the Owners of not less than 50% in aggregate principal amount of the Outstanding Bonds; *provided, however*, that if in the reasonable opinion of the Authority the failure stated in such notice can be corrected, but not within such 60-day period, the Trustee and such Owners shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Authority within such 60-day period and diligently pursued until such failure is corrected.

(e) The filing by the Authority of a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the Federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

SECTION 8.02. Remedies; No Acceleration. Upon the occurrence of an Event of Default the Trustee shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the Authority or any member, officer or employee thereof, to compel the Authority or any such member, officer or employee to perform and carry out its or his or her duties under law and the agreements and covenants required to be performed by it or him contained herein or in the Lease;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Trustee; or

(c) by suit in equity upon the happening of an Event of Default to require the Authority and its members, officers and employees to account as the trustee of an express trust.

If an Event of Default shall have occurred and be continuing and if requested so to do by the Owners of a majority in aggregate principal amount of Outstanding Bonds of the applicable Series and the Trustee is indemnified as provided in Section 6.02(c), the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article VIII, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the applicable Owners.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or the Owners hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver or any such Event of

Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

THE TRUSTEE SHALL HAVE NO RIGHT TO DECLARE THE PRINCIPAL OF OR INTEREST ON THE BONDS TO BE DUE AND PAYABLE IMMEDIATELY.

SECTION 8.03. Application of Revenues and Other Funds After Default. All amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of this Indenture shall be applied by the Trustee in the following order upon presentation of the Bonds, and the stamping thereon of the amount of the payment if only partially paid, or upon the surrender thereof if fully paid: and

First, to the payment of the fees, costs and expenses of the Trustee, including reasonable compensation to its agents, attorneys and counsel; and

Second, to the payment of the whole amount of interest on and principal of the Bonds of the applicable Series then due and unpaid, with interest on overdue installments of principal and interest to the extent permitted by law at the lesser of 12% per annum or the maximum rate permitted by law; *provided, however*, that in the event such amounts shall be insufficient to pay in full the full amount of such interest and principal, then such amounts shall be applied to the payment of such principal and interest without preference or priority of principal over interest, or interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

SECTION 8.04. Power of Trustee to Control Proceedings. If the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds of the applicable Series, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; *provided, however*, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation and if the Trustee is indemnified as provided in Section 6.02(c). Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners issued hereunder by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact.

SECTION 8.05. Appointment of Receivers. Upon the occurrence of an Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce

the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and other amounts pledged hereunder, pending such proceedings, with such powers as the court making such appointment shall confer.

SECTION 8.06. Non-Waiver. A waiver of any default or breach of duty or contract by the Trustee or any Owners shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission of the Trustee or any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy conferred upon the Trustee or Owners by the Bond Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owners, as the case may be.

SECTION 8.07. Rights of Owners. No Owner shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) the Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners.

The right of any Owner to receive payment of the principal of and interest and premium (if any) on such Bond as herein provided or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

SECTION 8.08. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Authority, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**ARTICLE IX
MISCELLANEOUS**

SECTION 9.01. Limited Liability of Authority. Notwithstanding anything in this Indenture contained, the Authority shall not be required to advance any moneys derived from any source of income other than the Revenues for the payment of the principal of or interest on the Bonds, or any premiums upon the redemption thereof, or for the performance of any covenants herein contained (except to the extent any such covenants are expressly payable hereunder from the Revenues or otherwise from amounts payable under the Lease). The Authority may, however advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring indebtedness.

The Bonds shall be revenue bonds, payable exclusively from the Revenues and other funds as in this Indenture provided. The full faith and credit of the Authority are not pledged for the payment of the principal of or interest or premium (if any) on the Bonds. The Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other moneys and securities as provided in this Indenture. The Owners shall never have the right to compel the forfeiture of any property of the Authority except the applicable Revenues and other funds pledged to the payment of the Bonds of a Series as provided in this Indenture. The principal of and interest on the Bonds, and any premiums upon the redemption of any thereof, shall not be a legal or equitable pledge, charge, lien or encumbrance upon any property of the Authority or upon any of its income, receipts or revenues except the applicable Revenues and other funds (other than amounts on deposit in the Rebate Fund with respect to the Bonds created pursuant to Section 5.08) pledged to the payment thereof as provided in this Indenture.

SECTION 9.02. Benefits of Indenture Limited to Parties. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Authority, the Trustee, the City and the Owners, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Trustee, the City and the Owners.

SECTION 9.03. Defeasance; Discharge of Indenture. If the Authority shall pay and discharge any or all of the Outstanding Bonds of a Series in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and premiums (if any) on such Bonds of a Series, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture, is fully sufficient to pay such Bonds of a Series, including all principal, interest and redemption premiums (if any); or

(c) by irrevocably depositing with the Trustee or an escrow agent, in trust pursuant to an escrow deposit agreement, Defeasance Securities in such amount as an Independent Certified

Public Accountant shall determine in a written report acceptable to the Authority in form and substance, and addressed, to the Authority and the Trustee, filed with the Trustee (upon which report the Trustee may conclusively rely) will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates;

and delivering an opinion of Bond Counsel acceptable to the Authority in form and substance, and addressed, to the Authority and the Trustee to the effect that the Bonds of a Series are no longer Outstanding under the Indenture, and if such Bonds of a Series are to be redeemed prior to the maturity thereof notice of such redemption shall have been mailed pursuant to Section 2.03 or provision satisfactory to the Trustee shall have been made for the mailing of such notice, then, at the Request of the Authority, and notwithstanding that any of such Bonds of a Series shall not have been surrendered for payment, the pledge of the applicable Revenues to such Bonds of a Series and other funds provided for in this Indenture with respect to the such Bonds of a Series, and all other pecuniary obligations of the Authority under this Indenture with respect to all such Bonds of a Series, shall cease and terminate, except only the obligation of the Authority to pay or cause to be paid to the applicable Owners not so surrendered and paid all sums due thereon from amounts set aside for such purpose as aforesaid, and all amounts due the Trustee. Any funds held by the Trustee following any payment or discharge of the Outstanding Bonds of a Series pursuant to this Section, which are not required for such purposes, shall after payment of amounts due the Trustee hereunder be paid over to the Authority for use by the Authority for any lawful purpose.

SECTION 9.04. Successor is Deemed Included in All References to Predecessor.

Whenever in this Indenture or any Supplemental Indenture the Authority is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions, with respect to the management, administration and control of the affairs of the Authority, that are presently vested in the Authority, and all the covenants, agreements and provisions contained in this Indenture by or on behalf of the Authority shall bind and inure to the benefit of its successors whether so expressed or not.

SECTION 9.05. Content of Certificates and Opinions. Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture except the certificate of destruction pursuant to Section 9.10 shall include (a) a statement that the person or persons making or giving such certificate or opinion have read such covenant or conditions and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate made or given by an officer of the Authority may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters

upon which his certificate may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion or representation made or given by counsel may be based, insofar as it relates to factual matters, on information with respect to which is in the possession of the Authority, or upon the certificate or opinion of or representations by an officer or officers of the Authority, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his certificate, opinion or representation may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

SECTION 9.06. Reserved.

SECTION 9.07. Reserved.

SECTION 9.08. Execution of Documents by Owners. Any request, consent or other instrument required by this Indenture to be signed and executed by Owners may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by such Owners in person or by their agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Authority if made in the manner provided in this Section.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof.

The ownership of Bonds shall be proved by the Registration Books. Any request, consent or vote of the Owner shall bind every future Owner with respect to the same Bond and the Owner with respect to any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in pursuance of such request, consent or vote. In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting of the Owners upon such notice and in accordance with such rules and obligations as the Trustee considers fair and reasonable for the purpose of obtaining any such action.

SECTION 9.09. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, unless all Bonds are then so owned, Bonds that are owned or held by or for the account of the City or the Authority (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination; *provided, however*, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned or held shall be disregarded.

SECTION 9.10. Waiver of Personal Liability. No official, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the interest on or

principal of the Bonds; but nothing herein contained shall relieve any such official, officer, agent or employee from the performance of any official duty provided by law.

SECTION 9.11. Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Indenture on the part of the Authority (or of the Trustee) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Indenture or of the Bonds; but the Owners shall retain all rights and benefits accorded to them under the Bond Law or any other applicable provisions of law.

SECTION 9.12. Destruction of Canceled Bonds. Whenever in this Indenture provision is made for the surrender of any Bonds which have been paid or canceled pursuant to the provisions of this Indenture, the Trustee shall cancel and destroy such Bonds and upon Request of the Authority furnish to the Authority a certificate of such destruction.

SECTION 9.13. Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Authority or the Trustee may be established and maintained in the accounting records of the Authority or the Trustee, as the case may be, either as a fund or an account, and may, for the purpose of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account. All such records with respect to all such funds and accounts held by the Authority shall at all times be maintained in accordance with generally accepted accounting principles and all such records with respect to all such funds and accounts held by the Trustee shall be at all times maintained in accordance with corporate trust industry practices; in each case with due regard for the protection of the security of the Bonds and the rights of every Owner thereof.

SECTION 9.14. Payment on Business Days. Whenever in this Indenture any amount is required to be paid on a day that is not a Business Day, such payment shall be required to be made, without accruing additional interest thereby, on the Business Day immediately following such day.

SECTION 9.15. Notices. Any notice, request, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or upon receipt if mailed by first class mail, postage prepaid, or sent by facsimile transmission, addressed as follows:

If to the City: City of Mendota
 13831 Mendota Avenue
 Mendota, California 94806
 Attention: City Manager
 Telephone: (510) 215-3000

If to the Authority: Mendota Joint Powers Financing Authority
c/of City of Mendota
13831 Mendota Avenue
Mendota, California 94806
Attention: Executive Director
Telephone: (510) 215-3000

If to the Trustee: The Bank of New York Mellon Trust Company, N.A.
50 Fremont Street, Suite 3900
San Francisco, California 94105
Attention: Corporate Trust
Telephone: _____

The Authority and the Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 9.16. Unclaimed Moneys. Anything in this Indenture to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds that remain unclaimed for two years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee at such date, or for two years after the date of deposit of such moneys if deposited with the Trustee after said date when such Bonds become due and payable, shall be repaid by the Trustee to the Authority, as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the Authority for the payment of such Bonds; *provided, however*, that before being required to make any such payment to the Authority, the Trustee shall, at the written request and expense of the Authority, cause to be mailed to the Owners, at their respective addresses appearing on the Registration Books, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall not be less than 30 days after the date of mailing of such notice, the balance of such moneys then unclaimed will be returned to the Authority.

SECTION 9.17. Governing Law.

(a) This Indenture shall be governed by and construed in accordance with the laws of the State of California.

(b) The Authority hereby agrees as follows:

(1) each proceeding or hearing based upon or arising out of, directly or indirectly, this Lease or any document related thereto, any dealings of the Authority related to the subject matter of this Lease or any related transactions (hereinafter, a "Claim") shall be determined by a consensual general judicial reference (the "Reference") pursuant to the provisions of section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time;

(2) upon a written request, or upon an appropriate motion by the Authority, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined

below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The Authority agrees that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee;

(3) the Authority shall promptly and diligently cooperate with the Referee and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this section;

(4) the Authority may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee's report and have judgment entered thereon. If the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; and

(5) the Authority will have such rights to assert such objections as are set forth in section 638 et seq. of the California Code of Civil Procedure.

The parties to the Reference proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State, or a federal court judge, in each case, with at least 10 years of judicial experience in civil matters. The Referee shall be appointed in accordance with section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within 10 days after the request or motion for the Reference, the parties to the Reference proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Kings County Superior Court or the other similar federal court. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this section.

No provision of this section shall limit the right of the Authority to (i) exercise such self-help remedies as might otherwise be available under applicable law; or (ii) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Reference. The exercise of, or opposition to, any such remedy does not waive the right of the Authority to the Reference pursuant to this section.

Promptly following the selection of the Referee, the parties to such Reference proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Reference proceeding in such manner as the Referee deems just.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be signed by their respective officers, all as of the day and year first above written.

MENDOTA JOINT POWERS FINANCING
AUTHORITY

ATTEST:

By _____
Executive Director

By _____
Secretary

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as Trustee

By _____
Authorized Officer

EXHIBIT A

[FORM OF BOND]

THIS BOND MAY NOT BE REGISTERED IN THE NAME OF, OR TRANSFERRED TO, ANY PERSON EXCEPT AN APPROVED BUYER WHO HAS EXECUTED AND DELIVERED A PURCHASER LETTER OF REPRESENTATIONS IN ACCORDANCE WITH THE INDENTURE (DEFINED HEREIN)

No. ____

\$ _____

**MENDOTA JOINT POWERS FINANCING AUTHORITY
LEASE REVENUE BOND, SERIES 2022**

RATE OF INTEREST:

MATURITY DATE:

DATED DATE:

As provided in Indenture.

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The MENDOTA JOINT POWERS FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay (but only out of the Revenues, as defined in the Indenture hereinafter referred to, and certain other moneys) to the Registered Owner identified above or registered assigns (the "Registered Owner"), on the Maturity Date identified above or any earlier redemption date, the principal amount identified above (the "Principal Amount") in lawful money of the United States of America; and to pay interest thereon at the Rate of Interest identified above in like money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond (unless this Bond is authenticated on or before an Interest Payment Date and after the fifteenth calendar day of the month preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to May 1, 2023, in which event it shall bear interest from the Dated Date identified above; provided, however, that if, at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest hereon has previously been paid or made available for payment), payable semiannually on May 1 and November 1 in each year, commencing May 1, 2023 (the "Interest Payment Dates") until payment of such Principal Amount in full. The Principal Amount hereof is payable by check upon presentation hereof upon maturity or earlier redemption at the designated corporate trust office (the "Trust Office") of The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), initially its corporate trust office in San Francisco, California, or at such other office as the Trustee may designate. Interest hereon is payable by check of the Trustee mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of the Registered Owner as it appears on the registration books of the Trustee as of the fifteenth calendar

day of the month preceding such Interest Payment Date (except that in the case of a Registered Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Bonds, such payment may, at such Registered Owner's option, be made by wire transfer of immediately available funds in accordance with written instructions provided by such Registered Owner prior to the fifteenth calendar day of the month preceding such Interest Payment Date).

This Bond is one of a duly authorized issue of bonds of the Authority designated the "Mendota Joint Powers Financing Authority Lease Revenue Bonds, Series 2022" (the "Bonds"), in an aggregate principal amount of \$[Par Amount] issued under an Indenture, dated as of December 1, 2022 (the "Indenture"), by and between the Authority and the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the Revenues (as that term is defined in the Indenture), of the rights, duties and immunities of the Trustee and of the rights and obligations of the Authority thereunder; and all of the terms of the Indenture are hereby incorporated herein and constitute a contract between the Authority and the Registered Owner hereof, and to all of the provisions of which Indenture the Registered Owner hereof, by acceptance hereof, assents and agrees.

The Bonds are authorized to be issued pursuant to the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the "Act"). The Bonds are special obligations of the Authority and, as and to the extent set forth in the Indenture, are payable solely from and secured by a first lien on and pledge of the Revenues as provided in the Indenture. All of the Bonds are equally secured by a pledge of, and charge and lien upon, all of the Revenues (other than deposits to the Rebate Fund created by the Indenture), and the Revenues (other than deposits to the Rebate Fund created by the Indenture) constitute a trust fund for the security and payment of the principal of and interest on the Bonds. The full faith and credit of the Authority are not pledged for the payment of the principal of or interest or premium (if any) on the Bonds. The Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other moneys and securities as provided in the Indenture.

The Bonds have been issued for the purpose of financing certain capital improvements for the City. The Authority and the City have entered into a Lease Agreement, dated as of December 1, 2022 (the "Lease"), under which the City is obligated to pay amounts which are anticipated to be sufficient to enable the Authority to pay the principal of and interest on the Bonds.

The Bonds are subject to redemption prior to their maturity as provided in the Indenture.

The Bonds are subject to redemption prior to their respective maturity dates, upon notice as provided in the Indenture, as a whole or in part on any date, from prepayments of Base Rental Payments made by the City pursuant to the Lease from funds received by the City due to a taking of the Leased Property or any portion thereof under the power of eminent domain or from insurance proceeds received by the City due to damage to or destruction of the Leased Property or any portion thereof, under the circumstances and upon the conditions and terms prescribed in the Indenture and in the Lease. Redemption of Bonds pursuant to this paragraph shall be made at a redemption

price equal to the sum of the principal of the Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium.

The Bonds may be issued in denominations of \$1,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Indenture, this Bond may be exchanged at the Trust Office of the Trustee for a like aggregate principal amount, interest rate and maturity of fully registered Bonds of other authorized denominations.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds, of Authorized Denomination or Denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary. The Trustee shall not be required to register the transfer or exchange of any Bond during the period in which the Trustee is selecting Bonds for redemption or any Bond selected for redemption.

The Indenture and the rights and obligations of the Authority and of the owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Indenture; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or premiums at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee, all as more fully set forth in the Indenture.

It is hereby certified that all things, conditions and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of California and by the Act (as such term is defined on the reverse side hereof) and the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or statutes of the State of California or by the Act.

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed in its name and on its behalf by the manual signatures of its Executive Director and Secretary as of the Dated Date identified above.

MENDOTA JOINT POWERS FINANCING
AUTHORITY

By _____
Executive Director

[SEAL]

ATTEST:

Secretary

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture and registered on the Bond Registration Books.

Dated: _____, 20__

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee

By _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto _____
_____, whose tax identification number is _____, the within-
mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s) _____
_____ attorney to transfer the same
on the books of the Trustee with full power of substitution in the premises.

Dated:

Signature guaranteed:

NOTE: The signature(s) on this Assignment
must correspond with the name(s) as written on
the face of the within Bond in every particular
without alteration or enlargement or any
change whatsoever.

NOTICE: Signature must be guaranteed by a
member of an institution which is a participant
in the Securities Transfer Agent Medallion
Program (STAMP) or other similar program.

EXHIBIT B

FORM OF COSTS OF ISSUANCE REQUISITION

REQUISITION NO. __

with reference to

Mendota Joint Powers Financing Authority
Lease Revenue Bonds, Series 2022

I. The Mendota Joint Powers Financing Authority (the “Authority”) hereby requests The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), pursuant to that certain Indenture, dated as of December 1, 2022 (the “Indenture”), by and between the Authority and the Trustee, under the terms of which the Authority has issued its Lease Revenue Bonds, Series 2022, to pay from the moneys in the Costs of Issuance Fund established pursuant to the Indenture, the amounts shown on Schedule I attached hereto to the parties indicated in Schedule I.

II. The payees, the purposes for which the costs have been incurred, and the amount of the disbursements requested are itemized on Schedule I hereto.

III. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the Costs of Issuance Fund. None of the items for which payment is requested has been reimbursed previously from the Costs of Issuance Fund.

Dated: _____, 20__

MENDOTA JOINT POWERS FINANCING
AUTHORITY

By _____
Title: _____

EXHIBIT C

FORM OF PROJECT FUND REQUISITION

Requisition of the City
(Project Fund)
(Section 3.04 of the Indenture)

The Bank of New York Mellon Trust Company, N.A.

Attention: Corporate Trust Department

Request No.: P-___ (to be sequentially numbered)

<u>Project Component</u>	<u>Amount of This Draw</u>	<u>Aggregate Amount Draws Including This Draw</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Continue on Additional Sheet if Necessary)

Name and Address of party to whom payment is to be made:

Purpose for which the obligation was incurred:

The undersigned (the "City") hereby certifies that (i) each such cost or expense constitutes a proper charge against the Project Fund for services rendered, and has not been the subject of any other payment request filed with you; and (ii) if the payment is to be made to the City for amounts that it has paid or will pay to third parties, then the City has either made payment or will make payment within three business days of receipt of moneys requisitioned hereunder and that the aggregate number of business days during this calendar year during which it has held such amounts before making payment does not exceed twenty.

Date: _____, 20__

CITY OF MENDOTA

By: _____

Title: _____

EXHIBIT D

FORM OF NET PROCEEDS REQUISITION

REQUISITION NO. __ (to be numbered sequentially)

with reference to

Mendota Joint Powers Financing Authority
Lease Revenue Bonds, Series 2022

I. The Mendota Joint Powers Financing Authority (the “Authority”) hereby requests The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), pursuant to that certain Indenture, dated as of December 1, 2022 (the “Indenture”), by and between the Authority and the Trustee, under the terms of which the Authority has issued its Lease Revenue Bonds, Series 2022, to pay from the moneys in the Insurance and Condemnation Fund established pursuant to the Indenture, the amounts shown on Schedule I attached hereto to the parties indicated in Schedule I.

II. The payees, the purposes for which the costs have been incurred, and the amount of the disbursements requested are itemized on Schedule I hereto.

III. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the Insurance and Condemnation Fund. None of the items for which payment is requested has been reimbursed previously from the Insurance and Condemnation Fund.

IV. There has not been filed with or served upon the City or the Authority a stop notice or any other notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable to the person[s] named on Schedule I hereto which has not been released or will not be released simultaneously with the payment of such obligation, other than liens accruing by mere operation of law.

Dated: _____, 20__

MENDOTA JOINT POWERS FINANCING
AUTHORITY

By _____
Title: _____

EXHIBIT E

FORM OF PURCHASER LETTER OF REPRESENTATIONS

_____, 20__

[issuer]

city, state, zip

[bond counsel]

city, state, zip

Raymond James & Associates, Inc.

city, state, zip

Re: [issuer name] _____
[bond name] _____, Series 20__

To the Addressees:

The undersigned is a duly authorized officer of _____, a [state/federal bank] organized and existing under the laws of the [State of STATE/United States of America] (the "Purchaser"). The undersigned acknowledges receipt, on behalf of Purchaser, of the fully executed [issuer name] (STATE) (the "Issuer") [name of bonds], Series 20__, dated _____, 20__, in the principal amount of \$_____ (the "Bonds"). The undersigned represents, warrants, and covenants in conjunction with its purchase of the Bonds that:

1. Purchaser agrees to the terms and provisions set forth in the Bonds.
2. Purchaser has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of prospective investments without reliance upon others. In reaching the conclusion that it desires to acquire the Bonds, Purchaser has carefully evaluated all risks associated with this purchase and acknowledges that it is able to bear the economic risk of this purchase. Purchaser is [an institutional "accredited investor" within the meaning of Rule 501 (a) promulgated under the Securities Act of 1933, as amended (the "1933 Act")]/[a "qualified institutional buyer" as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the "1933 Act")].
3. Purchaser presently intends to hold the Bonds to maturity, earlier redemption, or mandatory tender. Purchaser is purchasing the Bonds for investment for its own account or for its loan portfolio and is not purchasing the Bonds for resale or other disposition, and Purchaser has no present intention of reselling or otherwise disposing of all or any part of the Bonds or dividing its interest therein; however, Purchaser

reserves the right to sell participation interests in or otherwise dispose of the Bonds in the future as it chooses. Purchaser agrees that it will not sell, transfer, assign, or otherwise dispose of the Bonds or such ownership interests therein (1) unless it obtains from the purchaser and delivers to the Issuer either (a) an agreement similar in form and substance to this agreement, or (b) a written acknowledgement that such purchaser is either (i) an institutional “accredited investor” within the meaning of Rule 501 (a) promulgated under the Securities Act of 1933, as amended (the “1933 Act”), or (ii) a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act; and (2) except in compliance with the applicable provisions of the 1933 Act, the Securities Exchange Act of 1934, as amended (the “1934 Act”), any rules and regulations promulgated under either the 1933 Act or the 1934 Act, and the applicable securities laws of any other jurisdiction, and in connection therewith, Purchaser agrees that it shall furnish to any purchaser of the Bonds all information required by applicable law.

4. Purchaser, through its agents and employees, has investigated the Issuer[borrower] and its financial, statistical, demographic, and other information and acknowledges that it has been furnished with, or has been given access to, without restriction or limitation, all of the underlying documents in connection with this transaction, as well as all other information which a reasonable, prudent, and knowledgeable investor would desire in evaluating the purchase of the Bonds without reliance upon others. Further, Purchaser acknowledges that the Issuer and other knowledgeable parties have made available to it and its representatives the opportunity to ask any questions it may have, and receive satisfactory answers, concerning the Issuer and the security and the source of payment of the Bonds.
5. Purchaser has been informed and understands that no Official Statement has been prepared in connection with the sale and delivery of the Bonds, the Bonds are not and will not be rated, and that the Bonds are not subject to any continuing disclosure undertaking pursuant the SEC Rule 15c2-12.
6. Purchaser acknowledges that the Bonds do not constitute a debt or loan of the State of California or any political subdivision thereof. The security for payment of the Bonds is more particularly described in the Bonds and the Indenture of the Issuer authorizing the issuance of the Bonds.
7. The representations in this Letter shall not relieve the Issuer from any obligation to disclose any information required by the documents in connection with the issuance of the Bonds or required by applicable law.
8. This Letter will constitute an agreement with respect to the matters herein contained as of the date hereof. This Letter is expressly for your benefit and may not be relied upon by any other party.

9. Purchaser represents and warrants that the execution of this agreement has been duly authorized by the Purchaser and it has been duly executed by an authorized officer thereof.

Signed and delivered as of the date shown above.

Sincerely yours,

[PURCHASER FULL CORPORATE NAME]

Signed by: _____

Print Name: _____

Print Title: _____

_____, 2022

Cristian Gonzalez
City Manager
City of Mendota
643 Quince Street
Mendota, CA 93640

Re: Placement Agreement for Mendota Joint Powers Financing Authority, 2022 Lease Revenue Bonds (Police Department and City Council Chambers)

Dear Cristian:

Raymond James & Associates, Inc. ("Raymond James") is pleased to submit this agreement (this "Agreement") to the Mendota Joint Powers Authority ("Client") to serve as placement agent (the "Placement Agent") for the proposed placement of tax-exempt municipal bonds or other debt instruments (the "Bonds") in the approximate principal amount of \$3,500,000 to finance a portion of the costs associated with improvements to the Police Department and City Council Chamber facilities (the "Financing").

1) During the term of this Agreement, in our capacity as Placement Agent, Raymond James proposes to undertake certain activities, including, as appropriate, the following:

(a) Advising Client as to the form and structure of the Bonds and prevailing interest rates and market conditions for comparable securities.

(b) Assisting in the preparation of a Term Sheet or other applicable information and offering material (the "Term Sheet"). Responsibility for the contents of such Term Sheet as it relates to Client shall be solely that of Client and any issuer of the Bonds.

(c) Managing, structuring, arranging for and participating in all discussions with nationally recognized rating agencies for obtaining ratings on the Bonds, if appropriate.

(d) Introducing Client to potential investors that may serve as the purchaser of the Bonds.

(e) Participating in meetings with transaction participants, including potential investors for the Bonds.

(f) Articulating, explaining or defending negotiating proposal or positions adopted by Client regarding the placement of the Bonds with potential investors.

2) In order that Client and the Placement Agent can best coordinate efforts to effect a financing satisfactory to Client, Client grants Raymond James sole and exclusive right and authority to perform the services described herein and agrees that it will not initiate or participate in any discussions relating to the financing with any person other than Raymond James. **As compensation for Raymond James' placement agent's services hereunder Client will pay \$15,000.** Client and Raymond James expressly agree that Raymond James' services will be fully performed and such fee will be due and payable only upon issuance of the Bonds, whether or not the issuance of the Bonds was arranged by Raymond James or such issuance occurs subsequent to the expiration of this Agreement.

3) In addition, Client agrees to pay Placement Agent's out-of-pocket expenses, which shall include, but not be limited to, travel, delivery and similar charges.

4) Client hereby covenants and agrees that it will indemnify and hold harmless Raymond James, its parent and affiliates, and each of the foregoing entities' officers, directors, employees and agents (the "Raymond James Indemnitees") against any and all losses, claims, demands, damages or liabilities of any kind whatsoever, arising from or out of the acts, omissions or doings of the Client, its representatives, employees or agents, or in any way relating to the financings or other matter within the purview of this Agreement, whether pursuant to statute or at common law or otherwise (hereinafter, "Claims"), and will reimburse each of the Raymond James Indemnitees for any legal or other expense reasonably incurred by it in connection with investigating or defending any such Claims or actions or proceedings arising from such Claims, whether or not resulting in any liability.

5) Client understands that the consummation of the transaction will be based upon, among other things, the truth, accuracy and completeness of the information included in the Term Sheet or otherwise provided to the Placement Agent. Client agrees that all such information will be true, correct and complete, and that it will update such information during the course of the placement, as appropriate, and that all projections provided to Placement Agent will have been prepared in good faith and based upon reasonable assumptions. Client acknowledges and agrees that Raymond James will rely upon such information and projections without independent verification.

6) Client acknowledges and agrees that this Agreement does not constitute a guarantee by Raymond James to arrange the placement of the Bonds. It is understood that Raymond James' obligations under this Agreement are to use reasonable efforts throughout the term of this Agreement to perform the services described herein. Client acknowledges and agrees that Raymond James is being retained to act solely as placement agent for the Bonds, and not as an agent, advisor or fiduciary to Client, and that this Agreement is not intended to confer rights or benefits on any member, affiliate, shareholder or creditor of Client or any other person or entity or to provide Client or any other person with any assurances that the transaction will be consummated. Placement Agent shall act as an independent contractor under this Agreement, and not in any other capacity, including as a fiduciary. Client acknowledges and agrees that: (i) the transaction contemplated by this Agreement is an arm's length, commercial transaction between Client and the Placement Agent in which Placement Agent is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to Client; (ii) Placement Agent has not assumed any advisory or fiduciary responsibility to Client with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether Raymond James has provided other services or is currently providing other services to Client on other matters); (iii) the only obligations Placement Agent has to Client with respect to the transaction contemplated hereby expressly are set forth in this Agreement; and (iv) Client has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

7) Client should be aware that the Placement Agent or its affiliates may have trading and other business relationships with other participants in the proposed transaction, including with potential purchasers of the Bonds. These relationships include, but may not be limited to, trading lines, frequent purchases and sales of securities and other engagements through which the Placement Agent may have, among other things, an economic interest. In addition, Client should be aware that the primary role of a placement agent is to arrange for the placement of securities in an arm's-length commercial transaction between the issuer and the purchaser and that the Placement Agent has financial and other interests that differ from those of the issuer. Notwithstanding the foregoing, **the Placement Agent will not receive any compensation with respect to the Bonds other than as disclosed above or otherwise disclosed to Client.** The Placement Agent is involved in a wide range of activities from which conflicting interests or duties may arise. Information which is held elsewhere within Raymond James, but of which none of the Placement Agent's personnel involved in the proposed transaction actually has knowledge, will not for any purpose be taken into account in determining the Placement Agent's responsibilities to Client.

8) This Agreement will become effective upon its acceptance by Client or until the closing of the Financing, whichever is earlier. Either Client or Raymond James may terminate this Agreement in its sole discretion upon 30 days' written notice without liability to the other except that Raymond James shall be entitled to the prompt payment of any unreimbursed out-of-pocket expenses described above, and Client shall remain obligated to Raymond James as provided in paragraph 2, above. Client's indemnification obligation shall survive any termination of this Agreement.

9) No opinion or advice of Raymond James shall be reproduced, disseminated, quoted or referred to at any time without the prior written consent of Raymond James. Upon the completion of the financing, we will be entitled to advertise the transaction in publications and at times selected by us at our own expense.

10) No waiver, amendment or other modification of this Agreement shall be effective unless in writing and signed by each party hereto.

11) Any dispute between the parties hereto concerning or arising under this Agreement shall be resolved by arbitration under the commercial arbitration rules of the American Arbitration Association. TO THE FULLEST EXTENT ALLOWABLE UNDER THE LAW EACH PARTY HERETO WAIVES ITS RIGHT TO A JURY TRIAL IN RESOLVING ANY SUCH DISPUTE.

We look forward to working with you and other members of your financing team on this important assignment.

Please sign below to evidence acceptance of the terms of this Agreement and return one executed copy to me.

Sincerely yours,

RAYMOND JAMES & ASSOCIATES, INC.

By: _____

Name: Jose A. Vera

Title: Managing Director

Accepted and agreed to:

CITY OF MENDOTA

By: _____

Name: Cristian Gonzalez

Title: City Manager

Dated: _____, 2022

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: NANCY BANDA, FINANCE DIRECTOR
VIA: CRISTIAN GONZALEZ, CITY MANAGER
SUBJECT: GRANTS UPDATE
DATE: NOVEMBER 8, 2022

GRANTS UPDATE

- **FEMA-4482-DR-CA California Covid-19 Pandemic** – Staff submitted a reimbursement for Covid-19 expenses. However, a revised application will be prepared to be submitted to remove ineligible expenditures.
- **Wonderful Community Grant** – Staff submitted an application for the Wonderful Community Grant Program for \$100,000.00 to install an inclusive playground and three freestanding inclusive play equipment at Rojas-Pierce Park. The project was not awarded.
- **Backup Generator Funding Program** – Staff will be submitting an application for three generators for Well# 8, the Water Treatment Plant, and for the new water storage to be constructed on Smoot Avenue.
- **Automatic Meter Read Project** – Staff is preparing the second claim for reimbursement.
- **T-Mobile Home Community Grant** –The application for Christmas decorations for Oller Street was not approved.
- **Flood Plain Management Services** – The U.S. Army Corps of Engineers is coordinating a kick-off meeting for the Mendota, CA FPMS Project to introduce the City of Mendota staff to the USACE Project Delivery Team and discuss project objectives and data needs to get the project started.
- **Coronavirus State and Local Fiscal Recovery Funds (ARPA) Subrecipient Agreement with the County of Fresno** – Staff submitted the agreement with City Manager’s signature as requested by the County Administrative Office. This agreement is tentatively scheduled for the November 29th Board Meeting. This project is for the new 200,000 water storage tank and pump station.
- **SB 1383** – Staff will be planning educational workshops and other outreach marketing for the community regarding the new California SB 1383. This bill sets goals to reduce the disposal of organic waste in landfills.
- **Clean Mobility Option Voucher Pilot Program for Community Transportation Needs Assessment** – Staff will be preparing an application to this grant program.

In – Progress Grants:

- **Rojas-Pierce Park Expansion Project** – County of Fresno, Urban Community Development Block Grant (CDBG) Program
- **Rojas-Pierce Park Expansion Project** – Per Capita Program

- **Rojas-Pierce Park Expansion Project** – CDBG-CV
- **COPS Hiring Program** – Department of Justice
- **Proposition 64** – Board of State and Community Corrections
- **Urban Flood Protection Grant** – California Natural Resources Agency
- **Automatic Meter Read Project** – State Water Board
- **Tire-Derived Product** – Cal Recycle
- **SB 1383** – Cal Recycle
- **Office of Traffic Safety** – STEP Program

Audit: Staff is preparing the grant reconciliation for the Fiscal Year 2021-2022 to submit to Price, Paige, and Company for the June 30, 2022 audit.

Attachment(s):

1. Grants Spreadsheet

MENDOTA, CITY OF
Grant Report
Nov-22

Grant Name	Application Due Date	Award Date	Agency: Federal/State/County/ Private	Pass-thru	Matching	Award Amount	Purpose of Grant	Notes
Slate Water Resources Control Board	12/9/2022	TBD	State	N	N	TBD	(3) Backup Generators	
Wonderful Community Grants	8/31/2022	9/30/2021	Private	N	N	\$ 100,000.00	Installation of an Inclusive Playground with three freestanding inclusive equipment	DENIED
T-Mobile	6/30/2022	6/30/2022	Private	N	N	\$ 46,141.92	(32) Christmas Ornaments for Oller Street	DENIED
CA WA & WWA Arrearages Payment	4/1/2022	6/6/2022	State	N	N	\$ 29,223.54	Financial assistance for customers' accounts 60 days+ for wastewater only	
County of Fresno Subrecipient Grant	3/9/2022	6/21/2022	County	Y	N	\$ 2,906,593.00	Water Storage Tank and Booster Pump Station	
Senator Anna Caballero Budget Request	2/25/2022	6/30/2022	State	Y	N	\$ 1,500,000.00	Police Department and City Council Chambers	
CalRecycle SB 1383 Grant	2/1/2022	TBD	State	N	N	\$ 20,000.00	Implementation program for SB 1383. Staff will conduct educational presentations, site visits, and enforcement activities.	
Clean California Local Grant Program	2/1/2022	3/1/2022	State	N	N	\$ 5,000,000.00	(4) Projects: 1-Pocket Park at Bass Avenue and 2nd Street; 2-Art Sculpture at Bass Avenue Roundabout; 3-Trail to Pool Park; 4-Trails in Pool Park	DENIED
Outdoor Equity Grant Program	10/8/2021	3/1/2022	State	N	N	\$ 154,861.00	Outdoor activities in the community and traveling inside of California	DENIED
Office of Traffic Safety Grants	1/31/2021	3/1/2022	State	N	N	\$ 550,000.00	DUI Checkpoints with partnering cities in the Westside	Mendota will be the lead agency
CA WA & WWA Arrearages Payment	12/6/2021	3/15/2022	State	N	N	\$ 70,743.47	Financial assistance for customers' accounts 60 days+ for water only	
Wonderful Community Grants	8/31/2021	9/30/2021	Private	N	N	\$ 50,000.00	(30) Rental Assistance (Continuing) (135) Utility Assistance (100) Dental Care	DENIED
Tire-Derived Product Grant	6/1/2021	8/31/2021	State	N	N	\$ 149,995.02	Install rubber mulch at (7) project sites citywide for landscape purposes.	
New Alternative Fuel Vehicle Purchase	TBD	TBD	Local	N	N	Up to \$20,000 per vehicle	Purchase (2) electric "Zero" motorcycles for the Police Department and (3) vehicles for Public Works & Public Utilities	
Statewide Park Development and Community Revitalization Program (SPP)	3/12/2021	12/13/2021	State	N	N	\$ 8,500,000.00	1) Community Center - Rojas-Pierce Park; 2) Fitness Court	DENIED
Proposition 64 Public Health and Safety Grant Program	1/29/2021	5/1/2021	State	N	N	\$ 452,509.75	(2) Community Resource Officers, (2) Administrative Assistants, (1) K-9, (1) vehicle	Partnership with City of Fresno (Lead Applicant), Fresno EOC, The Boys & Girls Clubs of Fresno County
Good Neighbor Citizenship Company Grants	10/31/2020	4/30/2021	Private	N	N	\$ 198,825.00	Pocket Park at Bass Avenue and I Street	DENIED
CARES County of Fresno	10/1/2020	12/31/2020	County	N	N	\$ 229,732.87	COVID-19 relief funds: Non-profit organizations; Message Trailers; Overtime	
Coronavirus Relief Funds (CRF)	10/1/2020	7/1/2020	State	N	N	\$ 154,512.00	Expenditures incurred for COVID-19 - Use funds for Police Department MDT's	
FEMA-4482-DR-CA	9/30/2022	TBD	State	N	Y	TBD	Expenditures incurred for COVID-19	25% match
CDGB -Coronavirus and Other	3/1/2020	7/1/2020	County	N	N	\$ 104,796.00	Fire Department Equipment & Broadband Assistance for Mendota Residents	
Wonderful Community Grants	8/31/2020	9/15/2020	Private	N	N	\$ 50,000.00	COVID-19 relief funds	MCC Administering
Tobacco Grant Program	8/7/2020	12/31/2020	State	N	N	\$ -	Add new tobacco language to our municipal code for enforcement; overtime for educational awareness to local vendors.	DENIED
California Aid to Airports Program	7/9/2020	3/31/2021	State	N	N	\$ 10,000.00	Annual credit grant to fund operational costs at the airport	
Community Facilities Grant	7/1/2020	8/1/2020	Federal	N	Y	\$ 50,000.00	Purchase (2) Police Ford Explorers, upfit and equipment. This grant is in conjunction with the New Alternative Fuel Vehicle Purchase Grant.	USDA
New Alternative Fuel Vehicle Purchase	6/22/2020	10/31/2020	Local	N	N	Up to \$20,000 per vehicle	Purchase (1) Police Ford Explorer and (1) Ford F-250 Truck	
CARES Act Airport Grant	6/18/2020	12/31/2020	Federal	N	N	\$ 1,000.00	Reimburse operational and maintenance expenses or debt service payments for the William Robert Johnston Municipal Airport	
Urban Flood Protection Grant Program	6/15/2020	9/7/2021	State	N	N	\$ 4,500,000.00	Removal and replacement of undersized and critically damaged storm drain from 8th Street southeasterly past 10th Street to an existing ditch.	
COPS Hiring Program	3/11/2020	10/1/2020	Federal	N	Y	\$ 125,000.00	Hire (1) Full-time Police Officer for 3 years.	25% match
Office of Traffic Safety Grants	1/30/2020	10/1/2020	State	N	N	\$ 81,527.00	DUI Saturations, Traffic Enforcements, Car Seat Installation/Giveaway Event, Emergency Medical Services for the Fire Department	We received 2/3 grants applied. Car Seat Installation was not approved.
Fresno COG 2019-2020 CMAQ	1/1/2020	5/1/2020	Federal	Y	Y	\$ 458,304.00	Alley Paving Project for 7U & 7U1 (near Unida/Beimont/Derrick) and about 1/3 of the alleys on the eastside.	11.47% match
SB 2 Planning Grant Program	12/20/2019	6/1/2020	State	N	N	up to \$160,000	Update planning documents and processes of housing approvals/production	
New Alternative Fuel Vehicle Purchase	12/20/2019	6/1/2020	Local	N	N	Up to \$20,000 per vehicle	Purchase (1) Public Works/Utilities Trades Vehicle & (2) Police Explorers Interceptors	(2) Police Explorers Vehicles to be paid with funding from USDA
Beverage Container Recycling City/County Payment Program	12/17/2019	2/28/2020	State	N	N	\$ 5,000.00	Billboard Advertisement and Radio Advertisement to promote beverage container recycling.	If you don't expend the full \$5,000.00, you must repay CalRecycle.
Automatic Meter Read Construction		10/21/2019	State	N	Y	\$ 3,074,561.00	Install City-wide Automatic Meter Reading Meters	Grant Component \$2,724,912.00
Access to Historical Records: Archival Projects	10/3/2019	7/1/2020	Federal	N	Y	\$ 95,907.00	Digitize public records and make freely available online	DENIED
National Fitness Campaign 2020	8/1/2019	10/1/2020	Private	N	Y	\$ 30,000.00	Outdoor Fitness Court	If the City wishes to pursue this grant, we would need to match \$100,000.00.
Urban Community Development Block	7/31/2019	7/1/2020	County	N	N	\$ 575,222.00	Phase II Rojas-Pierce Park Expansion Project	For Fiscal Years 2019/2020; 2020/2021 & 2021/2022
California Aid to Airports Program	7/31/2019	10/31/2019	State	N	N	\$ 10,000.00	Annual credit grant to fund operational costs at the airport	
Urban County Per Capita Grant Program	6/3/2019	2020	State	N	N	\$ 6,969.92	Rojas-Pierce Park Expansion	One-time basis
Per Capita Grant Program	6/3/2019	2020	State	N	N	\$ 177,952.00	Rojas-Pierce Park Expansion	One-time basis

<i>Key: Applied for Grants</i>
<i>In process</i>
<i>Approved</i>
<i>Denied</i>
<i>Closed</i>

Memorandum

To: City Council via Cristian Gonzalez, City Manager

From: Michael Osborn, City Engineer
Jeff O'Neal, City Planner

Subject: City Engineer's Report to City Council

Date: November 2, 2022

Engineering Projects:

1. Rojas Pierce Park:
 - Construction of Phase 2 Expansion Project (field lighting) in Fall 2022 with CDBG funding (bids open on Friday, 11/4)
2. Well 10 and Water Main Relocation
 - Design in progress; coordination with USBR and BB Limited
3. Mendota Meter Reading Project
 - Construction is completed with Waterboard funding
4. Citywide RRXG Improvements:
 - Coordinating crossing improvements at SR 33 with Railroad, Caltrans & CPUC
 - Construction estimated in Fall 2023
5. MJHS Safe Routes to School Project
 - ATP funded; Construction contract awarded, work starting in December 2022
6. 2022 Local Street Reconstruction Project
 - SB1 funded; Construction contract awarded, work starting in November 2022
7. Backwash Reclaim Project
 - Design is underway; looking for funding opportunities for construction
8. Mendota Stormwater Improvement Project
 - Prop 68 UFPGP funded: Final design in progress; Construction in Spring/Summer 2023
9. Derrick & Oller Roundabout
 - Design & CEQA preparation in progress; Construction in Fall 2023
10. Westside Water Tank & Booster Pump
 - Design is underway; Construction in Winter/Spring 2023

Planning/Development Projects

1. Rojas Pierce Park Annexation
 - Continuing discussions with USBR about whether and how the WWD land retirement program affects the project.
2. Regional Housing Needs Allocation
 - Participating in Fresno COG meetings for 6th Cycle multijurisdictional Housing Element
3. Safe Routes to School Master Plan
 - ATP funded: Workshops and School Sites Audit complete; preparing safety countermeasures

4. Reviewing proposed mixed-use development at Bass and 33

Grant Applications:

1. 5th Street & Quince Street Reconstruction:
 - \$706,251 in STBG funding AWARDED; Construction authorization in FFY 23/24
2. Amador & Smoot Extension:
 - \$874,000 in STBG & CMAQ TPP funds; Construction authorization in FFY 23/24

On-going (this month):

1. Representation of the City at FCOG TTC
2. Discussion of road projects with Caltrans
3. Assistance to Finance Director for grant opportunities

Overall P&P Staff engaged (month of October):

- Engineers: 10
- Planners: 4
- Surveyors: 4
- Environmental Specialist: 3
- GIS/CAD Specialists: 2
- Construction Manager: 0
- Project Administrator: 4

Abbreviations:

EOPCC – Engineer's Opinion of Probable Construction Cost
NTP – Notice to Proceed
CUCCAC – California Uniform Construction Cost Accounting Commission
STBG – Surface Transportation Block Grant
CMAQ – Congestion Mitigation and Air Quality (grant)
ATP – Active Transportation Plan (grant)
RFP – Request for Proposal

RFA- Request for Authorization (for grant funding)
FCOG – Fresno Council of Governments
ADA – Americans with Disabilities Act
DBE – Disadvantaged Business Enterprise
TTC – Technical Transportation Committee (through FCOG)
RTP/SCS – Regional Transportation Plan, Sustainable Communities Strategies