

Recording Requested by the City of San José
and the City of San José Financing Authority

When Recorded Mail To:
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THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

SECOND AMENDMENT TO GENERAL SUBLEASE

Dated as of June 1, 2014

between

**CITY OF SAN JOSE FINANCING AUTHORITY
as lessor**

and the

**CITY OF SAN JOSE
as lessee**

Relating to

**\$67,195,000
Initial Principal Amount
City of San José Financing Authority
Taxable Lease Revenue Bonds,
Series 2008F
(Land Acquisition Refunding Project)**

SECOND AMENDMENT TO GENERAL SUBLEASE

THIS SECOND AMENDMENT TO GENERAL SUBLEASE (the "Second Amendment"), dated as of June 1, 2014, is between the CITY OF SAN JOSE FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California, as lessor (the "Authority"), and the CITY OF SAN JOSE, a municipal corporation and chartered city duly organized and existing under the Constitution and laws of the State of California, as lessee (the "City").

BACKGROUND:

WHEREAS, in connection with the issuance of the Authority's Series 2008F Bonds (together, the "Bonds," as defined in the Original Indenture described below), the Authority and the City entered into a General Sublease Agreement, dated as of June 1, 2008, between the Authority and the City, which was recorded in the real property records of the Santa Clara County Recorder's Office on June 10, 2008 as document number 19881100 (as supplemented and amended by a First Supplement to General Sublease dated as of November 1, 2010, was recorded in the real property records of the Santa Clara County Recorder's Office on January 19, 2011 as document number 21052372, the "Original General Sublease" and, with this Second Amendment, the "General Sublease");

WHEREAS, the Bonds were issued pursuant to an Indenture of Trust dated as of June 1, 2008 (the "Original Indenture"), between the Authority and Wells Fargo Bank, National Association, as trustee (the "Trustee");

WHEREAS, the Original Indenture is being amended and restated in its entirety by an Amended and Restated Indenture of Trust, dated as of June 1, 2014 (the "Amended and Restated Indenture"), between the Authority and the Trustee, for the purpose of converting the Bonds to an Index Rate and conforming the terms of the Bonds with certain conditions for the direct purchase of the Bonds by Bank of America, N.A. (the "Bank");

WHEREAS, the Authority and the City desire to amend the Original General Sublease as provided in Section 8.03 thereof and Section 6.10 of the Original Indenture, in order to conform the terms of the General Sublease to the Amended and Restated Indenture and to allow for removal of property from the Project; and

WHEREAS, the Authority and the City have duly authorized the execution and delivery of this Second Amendment;

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

Section 1. The Authority and the City hereby agree that the Indenture referred to in the General Sublease will, from the date of delivery of the Bonds to the Bank, be the Amended and Restated Indenture, as it may hereafter be supplemented and amended.

Section 2. Exhibit B: Lease Payments attached hereto will replace Exhibit C to the Original General Sublease.

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Section 3. During the Initial Period, or any period when the Bank is the sole holder of the Bonds, any notice or consent required with respect to a Credit Provider or a Liquidity Provider under this General Sublease will also be required with respect to the Bank. The Bank is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted to it hereunder.

Section 4. Section 4.05 of the General Sublease is hereby amended to read as follows:

Section 4.05. Optional Prepayment. The City shall have the right, at any time during which the Bonds are Outstanding, to prepay all or any part of the Lease Payments, and the Authority agrees that the Trustee shall accept such prepayments when the same are tendered by the City. All such prepayments (and the additional payment of any amount necessary to pay the applicable premiums, if any, payable upon the redemption of Bonds) shall be deposited upon receipt in the Revenue Fund, and applied to redeem or purchase Bonds, or to pay Bonds upon the maturity thereof, pursuant to the Indenture, provided that any such prepayment shall be in an amount, together with interest earnings thereon, sufficient to redeem or pay at maturity the applicable Bonds on the applicable redemption or maturity date or dates, and to pay interest on said Bonds through such redemption or maturity date or dates. The City also shall have the right to surrender Bonds acquired by it in any manner whatsoever to the Trustee for cancellation and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and surrendered, and shall be allocated to Lease Payments as specified in writing by the City. Notwithstanding any such prepayment or surrender of Bonds, as long as any Bonds remain Outstanding or any Additional Payments remain unpaid, the City shall not be relieved of its obligations hereunder.

Lease Payments due after any such partial prepayment shall be in the amounts necessary to pay debt service, when due, on the Bonds remaining Outstanding after such prepayment.

In the event the City deposits with the Trustee the full amount of any prepayment of the Lease Payments pursuant to this Section 4.05, the Authority shall, if applicable, at the request of the City forthwith take all steps that may be necessary under Section 3.01(a) of the Indenture to cause the redemption of all or a portion of Bonds under and in accordance with Section 3.01(a) of the Indenture.

If the City is not in default in the payment of any Additional Payments, the Authority, at the request of the City, at any time that there is on deposit with the Trustee moneys or securities in the amount necessary to pay or redeem all Bonds then Outstanding (as provided in Article X of the Indenture), shall forthwith take all steps that may be necessary to discharge the entire indebtedness on all Bonds Outstanding.

The City shall give the Credit Provider and Liquidity Provider, if any, notice of any prepayment made hereunder prior to the date such prepayment is made.

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Section 5. Section 4.08 “Additional Payments” of the General Sublease is hereby amended to add subparagraph (j) as follows:

(j) All fees and other amounts owing from time to time by the Authority or the City to the Bank that are not payable from Lease Payments.

Section 6. Section 4.10 of the General Sublease is hereby amended to add the following language as the final paragraph of Section 4.10:

Notwithstanding the foregoing, during the Initial Period, if the conditions precedent to the removal of property from the Project set forth in the Agreement are met, subparagraph (b) above will not be a condition precedent to the removal of property from the Project.

Section 7. Section 5.05 of the General Sublease is hereby amended to read as follows:

Section 5.05. Rental Income Interruption Insurance. The City shall maintain or cause to be maintained, throughout the term of the General Sublease, rental income interruption insurance in an amount not less than the aggregate Lease Payments payable by the City pursuant to this General Sublease for a period of twenty-four (24) months (based on an interest rate on the Index Rate Bonds, Variable Rate Bonds, Short-Term Rate Bonds, or FRN Rate Bonds of 12% or such lower rate as agreed to in writing by the Credit Provider or, in the case of Bonds in a Long-Term Rate Period or a Fixed Rate Period, the actual rate on the Bonds during such period that such rate is in effect), to insure against loss of rental income from the Project caused by perils covered by the insurance required by Section 5.04; provided, however, the City shall be obligated to maintain such insurance only if the insurance is commercially available at a reasonable cost from a reputable insurer. Such insurance shall not be subject to any separate deductible.

Section 8. Section 5.10 of the General Sublease is hereby amended to read as follows:

Section 5.10. Supplemental Insurance Provisions. Notwithstanding anything in this General Sublease to the contrary, for so long as the Bank is the sole Holder of the Bonds or a Credit Facility or Liquidity Facility is in effect with respect to the Bonds, or amounts remain owing to the Credit Provider with respect to the Credit Facility or the Liquidity Provider with respect to the Liquidity Facility, the insurance provisions and requirements of the Agreement, the Credit Facility Agreement, and the Liquidity Facility Agreement (as applicable) will be supplemental to the insurance provisions and requirements set forth in this Article V, and the City shall comply with all such provisions and requirements.

Section 9. Section 5.11 of the General Sublease is hereby amended to read as follows:

Section 5.11. Governmental Relief. The Authority and the City hereby covenant that they will each use their best efforts to appropriate funds and to apply for any grants, loans or other amounts or relief available from the State or

the federal government in order to obtain amounts necessary (i) to rebuild any portion of the Project destroyed or damaged in connection with an uninsured or underinsured calamity causing destruction or damage or (ii) to redeem the Bonds pursuant to Section 3.01(b) of the Indenture. Any amounts so received by the City or the Authority shall be treated as insurance proceeds and deposited as provided in Section 5.05 of the Indenture.

Section 10. Section 5.14 of the General Sublease is hereby amended to read as follows:

Section 5.14. Continuing Disclosure. The City acknowledges that it shall be obligated, during any period when the interest rate on the Bonds is a Long-Term Rate or a Fixed Rate, to undertake the continuing disclosure requirements promulgated under Securities and Exchange Commission Rule 15c2-12, as it may from time to time hereafter be amended or supplemented. Notwithstanding any other provision of this General Sublease, failure of the City to comply with the requirements of said Rule 15c2-12, as it may from time to time be amended or supplemented shall not be a Lease Event Default hereunder; however, any Participating Underwriter (as defined in said 15c2-12) or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section 5.14.

Section 11. Section 10.01 of the General Sublease is hereby amended to read as follows:

Section 10.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in first class form with postage fully prepaid:

If to the City: City of San José
Finance - Debt Management
200 East Santa Clara Street, 13th Floor
San José, California 95113-1905

If to the Authority: City of San José Financing Authority
c/o City of San José
Finance - Debt Management
200 East Santa Clara Street, 13th Floor
San José, California 95113-1905

If to the Trustee: Wells Fargo Bank, National Association
707 Wilshire Blvd., 17th Floor
Los Angeles, CA 90017
Attn: Corporate Trust Department

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If to the Bank: Bank of America N.A.
800 5th Avenue
Seattle, Washington 98104
Attention: Nancy Nuerenberg
Facsimile: (206) 358-8818
Telephone: (206) 358-6279
E-mail: nancy.d.nuerenberg@baml.com

with a copy to: Bank of America, N.A.
333 S. Hope St., Suite 19
Los Angeles, California 90071
Attention: Jyoti Rathore
Telephone: (860) 952-7468
E-mail: clair.d.bennett@baml.com

The Authority, the City and the Trustee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 12. Execution in Counterparts. This Second Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13. Original General Sublease. Except as amended hereby, the Original General Sublease will remain in full force and effect.

Section 14. Effective Date. This Second Amendment shall be effective, and shall become binding against the Authority and the City, on the Effective Date (as defined in the Amended and Restated Indenture).

Section 15. Real Property. The real property encumbered hereby is set forth in Exhibit A hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to General Sublease as of the date first above written.

CITY OF SAN JOSE FINANCING
AUTHORITY, as Lessor

By: _____
Treasurer

CITY OF SAN JOSE, as Lessee

By: _____
Director of Finance

Approved as to form:

By: _____
Chief Deputy City Attorney

EXHIBIT A
LEGAL DESCRIPTION

[Insert legal description]

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EXHIBIT B

LEASE PAYMENTS

Lease Payments due on each Lease Payment Date, which shall be the third Business Day prior to each Interest Payment Date, shall be in an amount equal to the debt service payments due on the Bonds on each Interest Payment Date, and shall include (i) interest on the Bonds and (ii) the principal amounts, if any, due on the Bonds, including redemption pursuant to Section 3.01(c) (Mandatory Sinking Account Redemption), Section 3.01(d) (Mandatory Redemption pursuant to the Agreement), Section 3.01(e) (Redemption of Bank Bonds) and Section 3.01(f)(2) (Redemption at Direction of Credit Provider) and Section 3.01(g) (Redemption of Unremarketed Bonds) of the Indenture.

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