

RECORDING REQUESTED BY:
Salinas Facilities Financing Authority

AND WHEN RECORDED RETURN TO:
Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attention: Cyrus Torabi, Esq.

[Space above for Recorder's use.]

GROUND LEASE

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THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11921 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

THE GRANTOR AND THE GRANTEE ARE GOVERNMENTAL AGENCIES.

GROUND LEASE

by and between

CITY OF SALINAS

and

SALINAS FACILITIES FINANCING AUTHORITY

Dated as of August 1, 2020

Relating to

\$ _____

**SALINAS FACILITIES FINANCING AUTHORITY
LEASE REVENUE REFUNDING BONDS, SERIES 2020A-1**

and

\$ _____

**SALINAS FACILITIES FINANCING AUTHORITY
LEASE REVENUE REFUNDING BONDS, SERIES 2020A-2 (QUALIFIED 501(c)(3) BONDS)**

GROUND LEASE

THIS GROUND LEASE (this “**Ground Lease**”) is executed and entered into as of August 1, 2020, by and between the CITY OF SALINAS (the “**City**”), a municipal corporation and chartered city that is duly organized and existing under and by virtue of its charter and the Constitution and laws of the State of California, as lessor, and the SALINAS FACILITIES FINANCING AUTHORITY (the “**Authority**”), a joint exercise of powers entity that is duly organized and existing under the laws of the State of California, as lessee.

RECITALS

A. The City, located in Monterey County, California, previously entered into a Lease Agreement, dated as of October 1, 2014 (the “**2014 Lease**”), with the Authority, which is currently outstanding in the principal amount of \$18,539,341.30, in order to finance certain capital improvements of the City (the “**2014 Project**”).

B. The City previously entered into a Lease/Purchase Agreement (Refunding of 2005 Certificates of Participation), dated as of September 1, 2015 (the “**2015 Lease**”), with the Authority, which is currently outstanding in the principal amount of \$7,785,000, in order to refinance certain capital improvements of the City on a tax-exempt basis (the “**2015 Tax-Exempt Project**”) and certain capital improvements of the City as an issue of “qualified 501(c)(3) bonds” (the “**2015 501(c)(3) Project**”).

C. The Authority and the City have determined that it would be in the best interests of the City and residents of the City to authorize the preparation, sale and delivery by the Authority of the “Salinas Facilities Financing Authority Lease Revenue Refunding Bonds, Series 2020A-1” (the “**Series 2020A-1 Bonds**”) for the purposes of prepaying the 2014 Lease and the portion of the 2015 Lease that is allocable to the 2015 Tax-Exempt Project and refinancing the 2014 Project and the 2015 Tax-Exempt Project.

D. The Authority and the City have determined that it would be in the best interests of the City and residents of the City to authorize the preparation, sale and delivery by the Authority of the “Salinas Facilities Financing Authority Lease Revenue Refunding Bonds, Series 2020A-2 (Qualified 501(c)(3) Bonds)” (the “**Series 2020A-2 Bonds**” and, together with the Series 2020A-1 Bonds, the “**Series 2020 Bonds**”) for the purposes of prepaying the portion of the 2015 Lease that is allocable to the 2015 501(c)(3) Project and refinancing the 2015 501(c)(3) Project.

E. In connection with the foregoing, the City will lease certain real property of the City and the improvements located thereon, consisting of City Hall office buildings and the City Council Rotunda at 200 and 220 Lincoln Avenue, Salinas, California 93901 (the “**Property**”), to the Authority pursuant to this Ground Lease, and the City will sublease the Property back from the Authority pursuant to a Lease Agreement, dated as of the date hereof (the “**Lease Agreement**”).

F. The Property is more particularly described in Exhibit A hereto.

G. The City and the Authority have determined that it would be in the best interests of the City and the Authority to provide the funds that are necessary to prepay the 2014 Lease and the portion of the 2015 Lease that is allocable to the 2015 Tax-Exempt Project and refinance the 2014

Project and the 2015 Tax-Exempt Project through the issuance by the Authority of the Series 2020A-1 Bonds, which will be payable from certain base rental payments (the “**2020A-1 Base Rental Payments**”) to be made by the City under the Lease Agreement.

H. The City and the Authority have determined that it would be in the best interests of the City and the Authority to provide the funds that are necessary to prepay the portion of the 2015 Lease that is allocable to the 2015 501(c)(3) Project through the issuance by the Authority of the Series 2020A-2 Bonds, which will be payable from certain base rental payments (the “**2020A-2 Base Rental Payments**” and, together with the 2020A-1 Base Rental Payments, the “**Base Rental Payments**”) to be made by the City under the Lease Agreement.

I. The City and the Authority have determined that it would be in the best interests of the City and the Authority to provide for the issuance of the Bonds pursuant to an Indenture, dated as of the date hereof (the “**Indenture**”), by and among the Authority, the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**Trustee**”).

J. All rights to receive the Base Rental Payments have been assigned without recourse by the Authority to the Trustee pursuant to an Assignment Agreement, dated as of the date hereof (the “**Assignment Agreement**”).

K. All acts, conditions and things that are 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 Ground 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 Ground Lease.

In consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Except as otherwise defined herein, or unless the context clearly otherwise requires, words and phrases that are defined in Article I of the Lease Agreement shall have the same meaning in this Ground Lease.

ARTICLE II

LEASE OF THE PROPERTY; RENTAL

Section 2.01 Lease of Property. The City hereby leases to the Authority, and the Authority hereby leases from the City, for the benefit of the Owners of the Bonds, the Property, subject only to Permitted Encumbrances, to have and to hold for the term of this Ground Lease.

Section 2.02 Rental. The Authority shall pay to the City as and for rental of the Property hereunder, the net proceeds of the Bonds, the receipt of which is hereby acknowledged.

ARTICLE III

QUIET ENJOYMENT

The parties intend that the Property will be leased back to the City pursuant to the Lease Agreement for the term thereof. It is further intended that, to the extent provided herein and in the Lease Agreement, if an event of default occurs under the Lease Agreement, the Authority, or its assignee, will have the right, for the then-remaining term of this Ground Lease: (a) to take possession of the Property; (b) if it deems it appropriate, to cause an appraisal of the Property and a study of the then reasonable use thereof to be undertaken; and (c) to relet the Property. Subject to any rights that the City may have under the Lease Agreement (in the absence of an event of default) to possession and enjoyment of the Property, the City hereby covenants and agrees that it will not take any action to prevent the Authority from having quiet and peaceable possession and enjoyment of the Property during the term hereof and will, at the request of the Authority and at the City's cost, to the extent that it may lawfully do so, join in any legal action in which the Authority asserts its right to such possession and enjoyment.

ARTICLE IV

SPECIAL COVENANTS AND PROVISIONS

Section 4.01 Waste. The Authority agrees that at all times that it is in possession of the Property, it will not commit, suffer or permit any waste on the Property, and that it will not willfully or knowingly use or permit the use of the Property for any illegal purpose or act.

Section 4.02 Further Assurances and Corrective Instruments. The City and the Authority agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property hereby leased or intended so to be or for carrying out the expressed intention of this Ground Lease, the Indenture and the Lease Agreement.

Section 4.03 Waiver of Personal Liability. All liabilities under this Ground Lease on the part of the Authority shall be solely liabilities of the Authority as a joint exercise of powers entity, and the City hereby releases each and every director, officer and employee of the Authority of and from any personal or individual liability under this Ground Lease. No director, officer or employee of the Authority shall at any time or under any circumstances be individually or personally liable under this Ground Lease to the City or to any other party whomsoever for anything done or omitted to be done by the Authority hereunder.

All liabilities under this Ground Lease on the part of the City shall be solely liabilities of the City as a public corporation, and the Authority hereby releases each and every member, officer and employee of the City of and from any personal or individual liability under this Ground Lease. No member, officer or employee of the City shall at any time or under any circumstances be individually or personally liable under this Ground Lease to the Authority or to any other party whomsoever for anything done or omitted to be done by the City hereunder.

Section 4.04 Taxes. The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Property.

Section 4.05 Right of Entry. The City reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time to inspect the same.

Section 4.06 Representations of the City. The City represents and warrants to the Authority and the Trustee as follows:

(a) the City has the full power and authority to enter into, to execute and to deliver this Ground Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Ground Lease;

(b) except for Permitted Encumbrances, the Property is not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the use of the Property for governmental purposes as contemplated by the City;

(c) all taxes, assessments or impositions of any kind with respect to the Property, except current taxes, have been paid in full; and

(d) the Property is necessary to the City in order for the City to perform its governmental functions.

Section 4.07 Representations of the Authority. The Authority represents and warrants to the City and the Trustee that the Authority has the full power and authority to enter into, to execute and to deliver this Ground Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution and delivery of this Ground Lease.

ARTICLE V

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 5.01 Assignment and Subleasing. This Ground Lease may be sold or assigned and the Property subleased, as a whole or in part, by the Authority without the necessity of obtaining the consent of the City, if an event of default occurs under the Lease Agreement. The Authority shall, within 30 days after such an assignment, sale or sublease, furnish or cause to be furnished to the City a true and correct copy of such assignment, sale or sublease, as the case may be.

Section 5.02 Restrictions on City. The City agrees that, except with respect to Permitted Encumbrances, it will not mortgage, sell, encumber, assign, transfer or convey the Property or any portion thereof during the term of this Ground Lease.

ARTICLE VI

TERM; TERMINATION

Section 6.01 Term. The term of this Ground Lease shall commence as of the date of commencement of the term of the Lease Agreement and shall remain in full force and effect from

such date to and including _____ 1, 20__ (the “**Scheduled Termination Date**”), unless such term is extended or sooner terminated as hereinafter provided.

Section 6.02 Extension; Early Termination. If, on the Scheduled Termination Date, the Bonds shall not be fully paid, or provision therefor made in accordance with Article X of the Indenture, or the Indenture shall not be discharged by its terms, or if the Rental Payments payable under the Lease Agreement shall have been abated at any time, then the term of this Ground Lease shall be automatically extended until the date upon which all Bonds shall be fully paid, or provision therefor made in accordance with Article X of the Indenture, and the Indenture shall be discharged by its terms, except that the term of this Ground Lease shall in no event be extended more than ten years beyond the Scheduled Termination Date. If, prior to the Scheduled Termination Date, all Bonds shall be fully paid, or provisions therefor made in accordance with Article X of the Indenture, and the Indenture shall be discharged by its terms, the term of this Ground Lease shall end simultaneously therewith.

ARTICLE VII

MISCELLANEOUS

Section 7.01 Binding Effect. This Ground Lease shall inure to the benefit of and shall be binding upon the City, the Authority and their respective successors and assigns.

Section 7.02 Severability. In the event that any provision of this Ground Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.03 Amendments, Changes and Modifications. This Ground Lease may be amended, changed, modified, altered or terminated only in accordance with the provisions of the Lease Agreement.

Section 7.04 Assignment to Trustee. The Authority and City acknowledge that the Authority has assigned its right, title and interest in and to this Ground Lease (but none of its obligations and none of its rights to provide consents or approvals hereunder) to the Trustee pursuant to certain provisions of the Assignment Agreement. The City consents to such assignment.

Section 7.05 Execution in Counterparts. This Ground Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.06 Applicable Law. This Ground Lease shall be governed by and construed in accordance with the laws of the State of California.

Section 7.07 Captions. The captions or headings in this Ground Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ground Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

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

CITY OF SALINAS

By: _____
City Manager

ATTEST:

City Clerk

SALINAS FACILITIES FINANCING AUTHORITY

By: _____
Executive Director

ATTEST:

Secretary

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the Property that is conveyed under the foregoing agreement to the Salinas Facilities Financing Authority, a joint exercise of powers agency that is duly organized and existing under and by virtue of the Constitution and the laws of the State of California, is hereby accepted by the undersigned officer or agent on behalf of the Board of Directors of the Salinas Facilities Financing Authority, pursuant to authority conferred by a resolution of the Board of Directors of the Salinas Facilities Financing Authority adopted on August 4, 2020, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: August __, 20

SALINAS FACILITIES FINANCING AUTHORITY

By: _____
Executive Director

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF MONTEREY

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

SIGNATURE OF NOTARY PUBLIC

EXHIBIT A

DESCRIPTION OF THE PROPERTY

[TO COME]