

**PROJECT
LEASE AGREEMENT**

between

**SALINAS PUBLIC SAFETY FACILITIES INC.,
a California nonprofit public benefit corporation**

as Landlord

and

**CITY OF SALINAS,
a municipal corporation and charter city under
the Constitution of the State of California**

as Tenant

_____, 2018

**Public Safety Center Project
Salinas, California**

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Salinas, California**

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PROJECT LEASE AGREEMENT

THIS PROJECT LEASE AGREEMENT (“Lease”) is dated for reference purposes _____, 2018 and is made by and between **SALINAS PUBLIC SAFETY FACILITIES INC.**, a California nonprofit public benefit corporation (“Landlord”), and the **CITY OF SALINAS**, a municipal corporation and charter city under the Constitution of the State of California (“Tenant”). Landlord and Tenant agree as follows:

RECITALS

A. Landlord is the lessee under that certain Ground Lease dated _____, 2018 (“Ground Lease”), with Tenant as lessor, pursuant to which Landlord leases that certain real property in the City of Salinas, County of Monterey, California, the address of which is 312 East Alisal Street, Salinas, California and which is more particularly described on the attached **EXHIBIT A** (“Land”).

B. Pursuant to California Government Code Sections 25549.1 *et seq.*, Tenant desires to have Landlord construct and equip on the Land a public safety facility consisting of a new primary two-story approximately 44,352 square-foot Salinas police service headquarters building, a new secondary one-story approximately 24,878 square-foot support building, and related on and off site improvements for the City of Salinas, California which is to be delivered in “turnkey condition.”

C. Landlord and Tenant desire to enter into this Lease whereby Tenant shall lease and, upon substantial completion, shall occupy the Premises (as defined below) at the rent and subject to all of the terms, covenants and conditions set forth herein.

D. Landlord will engage Griffin Swinerton, a joint venture (“Griffin”) as Developer to develop, oversee and manage the design, permitting and construction phases of the Project in accordance with the terms and conditions of a Development Agreement and for a Fixed Price as provided herein, all of which shall be subject to Tenant’s Concurrence as provided herein.

E. Landlord anticipates that financing for the Project will be obtained by its issuance of tax-exempt obligations in accordance with the provisions of Revenue Ruling 63-20 of the U.S. Treasury, as amended and updated by Revenue Procedure 82-26 of the U.S. Treasury (“Bonds”). 63-20 Bonds are tax-exempt bonds issued by a nonprofit organization on behalf of a government entity to finance a public facility. Upon payment in full of the Bonds, or earlier defeasance thereof, Landlord will convey unencumbered title to the Premises to Tenant for no additional consideration.

AGREEMENT

1. Definitions. As used in this Lease, the following capitalized terms shall have the following meanings:

1.1 “Abatement” means a reduction in the Rent payable by Tenant hereunder (other than Additional Rent for current Operating Costs) as a result of damage, destruction or partial condemnation of the Premises or a defect in Landlord’s title to the Premises not resulting from Tenant’s ownership of the Land, any of which results in substantial interference with Tenant’s right to use and occupancy of the Premises. The amount by which Rent is abated during any period shall be the amount necessary to cause the resulting Rent payable by Tenant (other than Additional Rent for current Operating Costs) not to exceed the Fair Market Rent for the portions of the Premises with respect to which there is no substantial interference.

1.2 “ADA” means the Americans With Disabilities Act of 1990, as amended from time to time.

1.3 “Additional Rent” means the Operating Costs, including Taxes and Utilities, together with Capital Expenditures, each as defined herein, payable by Tenant under the provisions of this Lease.

1.4 “Administrative Fees and Expenses” shall have the meaning set forth in the Indenture.

1.5 “Annual Capital Repair Reserve Payment” means the annual payment to the Capital Repairs Fund described in Section 5.11 below.

1.6 “Annual Operating Budget” shall have the meaning set forth in Section 5.7 below.

1.7 “Architect” means LPA, Inc., a California corporation, the anticipated architect for the Project, or another qualified architect selected by Landlord, with the Tenant’s Concurrence (as defined in Section 1.68 below).

1.8 “Asset Management Fee” means that fee payable to Landlord as part of the Additional Rent in an amount equal to one percent (1%) of the Base Rent payable hereunder as of the Rent Commencement Date, except that portion of the Rent payable for (i) the Asset Management Fee and (ii) the Annual Capital Repair Reserve Payments.

1.9 “Base Rent” means the rent payable by Tenant under this Lease from the Rent Commencement Date to and including the Expiration Date in the amounts set forth on the Schedule of Base Rent, annexed hereto as **EXHIBIT B** and by this reference incorporated herein. Base Rent is the amount necessary to pay principal and interest with respect to the Bonds in accordance with the Indenture.

1.10 “Bond Closing” refers to the date the Bond proceeds are available to the Trustee.

1.11 “Bonds” means those tax-exempt obligations to be issued by Landlord for design, permitting and construction of the Project pursuant to the Indenture and which satisfy the requirements of Revenue Ruling 63-20 of the U.S. Treasury, as amended and updated by Revenue Procedure 82-26 of the U.S. Treasury, and other regulations, interpretations and letter rulings issued by the Internal Revenue Service with respect to such financings. From the

proceeds of such Bonds, Landlord intends to pay all costs associated with the ground lease of the Land, the development of the Project for the Fixed Price, all costs of issuing the Bonds, and capitalized interest during the construction period.

1.12 “Business Day” shall have the meaning set forth in the Indenture.

1.13 “Calendar Year” means a calendar year commencing with January 1 and ending with December 31.

1.14 “Capital Expenditures” means (i) the acquisition of a prior non-existing asset or the repair or replacement of a pre-existing asset; (ii) not characterized as an operating cost or expense under generally accepted accounting principles, (iii) which maintains the value of the Premises over its usual life and is permanently affixed to the real estate, and (iv) does not include personal property, or removable trade fixtures.

1.15 “Capital Repairs Fund” means the fund of that name established under the Indenture and referenced in Section 5.11 below.

1.16 “Code” means the Internal Revenue Code of 1986, as amended, or any successor federal income tax statute or code. Any reference to a provision of the Code shall include the applicable Department of Treasury regulations.

1.17 “Construction Contracts” means (i) the General Construction Contract and (ii) all other contracts for construction services entered into between Landlord, or Developer, on behalf of and acting as agent for Landlord, and any Contractor, for construction of any portion of the Project not covered by the General Construction Contract.

1.18 “Construction Documents” mean the Construction Drawings and Detailed Specifications approved, in writing, by Landlord with Tenant’s Concurrence, for the construction of the Project, including technical drawings, schedules, diagrams, plans and specifications setting forth in detail the requirements for construction of the Project and providing information customarily required for the use of the building trades.

1.19 “Construction Drawings” means drawings setting forth in detail the requirements for the construction of the Project. As used herein, “Construction Drawings” include all graphic and pictorial documents depicting the design, location and dimensions of the elements of the Project (including Tenant Improvements) and include plans, elevations, sections, details, schedules and diagrams for the Project, all of which shall be consistent with the Project Requirements. The general design and location of the improvements are based upon the general design and concepts presented to Tenant by Landlord in Tenant’s Request for Proposal process.

1.20 “Contract Documents” means the contract with the Architect, Construction Documents, the Construction Contracts and the other documents identified as Contract Documents in the General Construction Contract, all of which shall be subject to Tenant’s Concurrence as defined herein.

1.21 “Contractors” means the General Contractor and any other construction contractors and design-builders with whom Landlord enters into direct contracts upon the written

recommendation of Developer, or with whom Developer on behalf of and acting as the Landlord's agent, enters into contracts; provided, however, that all such contracts shall be entered into with Tenant's Concurrence.

1.22 "Detailed Specifications" means all written detailed requirements for materials, equipment, construction systems, standards and workmanship for the construction of the Project.

1.23 "Developer" means Griffin Swinerton, a joint venture, and its successors and permitted assigns under the Development Agreement.

1.24 "Development Agreement" means that certain Development Agreement of even date herewith, as amended from time to time, between Developer and Landlord which provides for the development, design, permitting and construction of the Project, and which has received Tenant's Concurrence.

1.25 "Effective Date" means the date that this Lease is fully executed, acknowledged and delivered by Landlord and Tenant.

1.26 "Environmental Laws" means all federal, state, and local laws, statutes, rules, regulations, ordinances, and codes relating to the regulation or protection of human health, safety, the environment, and natural resources, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. §§ 5101 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*), the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*), the Solid Waste Disposal Act (42 U.S.C. §§ 6901 *et seq.*), the Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.*), the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §§ 11001 *et seq.*), the Occupational Safety and Health Act (29 U.S.C. §§ 651 *et seq.*), and any similar or comparable state or local laws, including, without limitation, the California Hazardous Substance Account Act (California Health & Safety Code §§ 25300 *et seq.*), as such federal, state, and local laws exist as of the Effective Date and as amended in the future.

1.27 "Event(s) of Default" has the meaning set forth in Section 22 of this Lease.

1.28 "Expiration Date" means the earlier of _____, 20__, or the date on which this Lease terminates in accordance with its terms; provided, however, that the Expiration Date may be extended as provided in Section 3 in the event of an Abatement of Rent under Section 19.4 or Section 20.2 below.

1.29 "Fair Market Rent" means the fair market rent (other than rent to cover current operating expenses) payable for similar public safety facility premises in Monterey County, California comparable to the Premises hereunder, determined as of the Effective Date. The Fair Market Rent shall be determined by a qualified MAI appraiser selected by Tenant and reasonably acceptable to Landlord. The Fair Market Rent shall be calculated as of the Effective Date and thereafter shall be re-calculated in the event of damage, destruction or partial condemnation of the Premises as contemplated in Sections 19 and 20 or in the event of a defect

in Landlord's title to the Premises not resulting from Tenant's ownership of the Land and resulting in substantial interference with Tenant's right to use and occupancy of the Premises;

1.30 "Final Acceptance" means that the following events have occurred with respect to the Project:

(a) The City of Salinas, California, has issued all certificates of occupancy for the Project.

(b) Each Contractor has issued its "Certificate of Substantial Completion" together with its "Affidavit of Payment of Debts and Claims" (AIA Forms 706 and 706A), together with final waivers and releases of lien, in form satisfactory to Landlord, from Contractors and all subcontractors as Landlord may require.

(c) All Punch List items for the Project have been completed to the reasonable satisfaction of Landlord with Tenant's Concurrence, but if Landlord consents to Final Acceptance, with Tenant's Concurrence, without completion of all Punch List items, Landlord and Developer shall have agreed upon the estimated cost of any Punch List items remaining to be completed and 150% of such estimated costs shall be withheld by the Trustee in the Project Costs Account until the Punch List items have been completed to the reasonable satisfaction of Landlord with Tenant's Concurrence. When the Punch List items have been completed, and Developer has so notified Landlord, upon Landlord's reasonable satisfaction (with Tenant's Concurrence) that such Punch List items have been completed, Landlord shall deliver its requisition to the Trustee for payment of such funds being withheld by Trustee.

(d) Developer has submitted its application for Final Payment together with evidence reasonably satisfactory to Landlord that all construction costs for the Project have been paid in full including evidence of full payment for any personal property installed on the Land as part of the Project Costs.

(e) The period for filing construction liens for the Project has expired and none have been filed or releases or discharges of construction liens in form and substance satisfactory to Landlord have been obtained by Developer from all Contractors in accordance with all Construction Contracts and from such laborers, Contractors and subcontractors performing work on site as Landlord, with Tenant's Concurrence, may require.

(f) Architect has issued its "Certificate of Final Completion" for the Project and Landlord has received the certificate of any other architect or engineer reasonably requested by Landlord.

(g) General Contractor has issued a certificate that (i) the Project has been finally completed in substantial accordance with the Contract Documents and (ii) no Hazardous Substances were incorporated into the structure of the Project.

(h) Developer has delivered to Landlord a written report showing the allocation of Project Costs among the categories of the Project Budget and the remaining specified dollar amount of the Project Contingency and the undisbursed portion of the Developer's Fee (as defined in the Development Agreement).

(i) Landlord has received an endorsement to its title policy and Trustee shall have received an endorsement to its title policy, each dated as of and issued on the date of Final Acceptance, which shall (i) insure Landlord and Trustee, respectively, against any liens for labor or materials, whether or not of record, which may have arisen in connection with the construction of the Project, and (ii) show no additional exceptions to such title policy other than those approved by or arising through Landlord.

(j) Developer shall have delivered to Landlord and Tenant its affidavit that the Construction Contracts for the Project required the Contractors under those contracts and their subcontractors to pay prevailing wage in accordance with Section 33.

1.31 “Final Payment” means payment to the Developer, the Architect, General Contractor and any other Contractors by Landlord following Final Acceptance.

1.32 “Financed FF&E” means furniture, fixtures, equipment and movable property as set forth on **EXHIBIT N** attached hereto, the costs of which will (i) be included in Project Costs, but only to the extent of the Financed FF&E Allowance set forth in the approved Project Budget, and (ii) financed through the Bonds. Any cost of furniture, fixtures, equipment and movable property that is in excess of the Financed FF&E Allowance set forth in the approved Project Budget shall not be part of the Fixed Price. The Financed FF&E will be designed, provided and installed as set forth on **EXHIBIT N**.

1.33 “Fixed Price” means an amount not to exceed \$ _____, the total amount to be paid by Landlord for Project Costs. A detailed description of Project Costs by line item and category is set forth in the Project Budget.

1.34 “General Construction Contract” means the agreement between Landlord and the General Contractor for construction of the Project.

1.35 “General Contractor” means Swinerton Builders, a California corporation, the anticipated general contractor for the Project, or another qualified general contractor selected by Landlord with Tenant’s Concurrence.

1.36 “Ground Lease” means the long-term ground lease entered into, or to be entered into, by Salinas Public Safety Facilities Inc. as lessee and the City of Salinas as lessor for the Land.

1.37 “Hazardous Substance” means any material, waste, substance, industrial waste, toxic waste, chemical contaminant, petroleum, asbestos, polychlorinated biphenyls, radioactive materials, or other substances regulated or classified by Environmental Laws as hazardous, toxic or lethal to persons or property.

1.38 “Indenture” means the trust indenture pursuant to which Landlord will cause the issuance of the Bonds.

1.39 “Land” means the real property located in the City of Salinas, County of Monterey, California, which is the subject of the Ground Lease and this Lease and which is more particularly described in the attached **EXHIBIT A**.

1.40 “Landlord” means Salinas Public Safety Facilities Inc., a California nonprofit public benefit corporation, and its successors and permitted assigns.

1.41 “Laws” means any constitution, statute, ordinance, regulation, rule, resolution, judicial decision, administrative order or other requirement of any federal, state, county, municipal or other governmental agency or authority having jurisdiction over the parties or the Premises, or both, in effect either at the time of execution of this Lease or at any time during the Term, including without limitation, any regulation or order of a quasi-official entity or body (e.g., board of fire examiners or public utilities) and all rules, laws and regulations issued thereunder, as the same may be amended from time to time.

1.42 “Leasehold Mortgage” means the (a) Construction Leasehold Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing; (b) Assignment of Leases and Cash Collateral; (c) applicable Uniform Commercial Code financing statements; and (d) other security documents executed by Landlord in connection with or to secure the Bonds.

1.43 “Liens” means any lien, charge, security interest or encumbrance, except the Indenture and the Mortgage, which may be attached to, upon or against the Premises or any portion thereof.

1.44 “Notice Address” means, as to each of the Notice Parties, its respective address as specified in or pursuant to Section 32.8 of this Lease.

1.45 “Notice Parties” means each of Landlord, Tenant and Trustee.

1.46 “Operating Costs” means any and all costs and expenses directly related to ownership, operation and maintenance of the Premises, as more particularly set forth in Section 5.2 of this Lease, but excluding Project Costs, Capital Expenditures and the other items expressly excluded under Section 5.3 of this Lease.

1.47 “Permitted Use” means use of the Premises by Tenant for public safety purposes, government office purposes, and/or any other lawful use consistent with the provisions of Section 7.

1.48 “Preliminary Plans” means the initial renditions for the Project pursuant to site plan approvals issued with respect to the Project by the City of Salinas, California, a schedule of which Preliminary Plans is attached hereto as **EXHIBIT C** and incorporated herein by this reference. The Preliminary Plans include a design intent summary regarding the quality of construction, and general intent of design.

1.49 “Premises” means the entirety of the facilities and any other improvements on the Land, together with a leasehold interest in the Land pursuant to the Ground Lease

1.50 “Project” means the total design, permitting and construction, all design and other professional services, and all labor, materials and equipment used or incorporated in such design and construction of the Public Safety Facility on the Land and the Tenant

Improvements to be constructed within the Public Safety Facility. The Project shall be consistent with and reasonably inferable from the approved Project Requirements as being necessary to produce the intended results.

1.51 “Project Budget” means the budget for development of the Project attached hereto as **EXHIBIT D-2** and as revised from time to time by Developer and Landlord with Tenant’s Concurrence, and in accordance with the Development Agreement.

1.52 “Project Contingency” means the contingency by that name set forth in the Project Budget and further defined in the Development Agreement.

1.53 “Project Costs” means all costs for the completion of the development, design, permitting and construction of the Project, including, without limitation, all permit fees, all costs of the Base Shell and Core Building, HVAC, electrical and other building systems, all costs of Tenant Improvements, all costs of fixtures, furnishing and equipment described in the Construction Documents, all costs of architectural services provided by the Architect under the Architect's Agreement, all costs of services provided by the Interior Architect under the Interior Design Contract with respect to the Tenant Improvements, all other professional design and other services provided by Contractors or other professionals engaged by the Developer or General Contractor, all amounts paid to General Contractor under the General Construction Contract including all labor, material, and equipment used or incorporated in such design and construction, all amounts paid to other Contractors and subcontractors, if any, under any other Construction Contract or subcontract entered into by Landlord upon the written approval of Developer or by the Developer on behalf of and acting as the Landlord's agent in connection with the Project, including all labor, material, equipment used or incorporated in such design and construction, services provided by engineers, environmental consultants, surveyors and other professionals and consultants retained by Developer in connection with the Project, Other Costs, Developer's Overhead Allowance, Developer's Fee, insurance (other than Bond insurance), bonds (other than the Bonds), applicable state and local retail sales, business and occupation and other taxes (including real property taxes and assessments accruing from Commencement of Construction to Substantial Completion of the Project), plus the Project Contingency; excluding only (a) Tenant's Personal Property and any taxes thereon (which shall be paid by Tenant at its sole cost and expense), (b) Financing Costs, (c) costs for art or similar enhancements that are not included in the Project Requirements and not paid from the Tenant's Contingency; (d) costs of acquiring certain light, view or other easements or property interests benefiting the Project that are not included in the Project Requirements and are not paid from the Tenant's Contingency; (e) costs of removing or remediating any Hazardous Substances in, on or emanating from the Building Land in excess of the amount specifically set forth in the Project Budget for environmental remediation; (f) to the extent not reflected in the Preliminary Plans and Outline Specifications, costs of any offsite improvements required as a condition to or in connection with the development or construction of the Project; (g) Costs Not To Be Reimbursed.

1.54 “Project Requirements” means the Preliminary Plans, Construction Documents, Requirements of Law, and any other requirements for the Project specifically agreed to by Landlord and Developer with Tenant’s Concurrence.

1.55 “Project Schedule” means the schedule for development and construction of the Project as revised from time to time by Developer and Landlord in accordance with the Development Agreement, and with Tenant’s Concurrence. The initial Project Schedule is set forth in **EXHIBIT D-1** attached hereto and by this reference incorporated herein.

1.56 “Public Safety Facility” means the new primary two-story approximately 44,352 square-foot Salinas police service headquarters building, a new secondary one-story approximately 24,878 square-foot support building, and related on and off site improvements for the City of Salinas, California.

1.57 “Punch List” means a list of items required to be completed prior to Final Acceptance that are minor items which do not affect Landlord’s ability to lease the Premises to Tenant and do not affect Tenant’s ability to use the Premises for their Permitted Use. The Punch List shall be subject to Tenant’s Concurrence.

1.58 “Rent” means the sum of Base Rent and Additional Rent.

1.59 “Rent Commencement Date” means the date that Tenant’s obligation to pay Base Rent commences, which is the date of substantial completion of the project.

1.60 “Requirements of Law” means all requirements relating to land and building construction (including those specifically applicable to Tenant’s contemplated use of the Premises for the Permitted Use, and planning, zoning, subdivision, environmental, air quality, flood hazard, fire safety, accessibility, and other governmental approvals, permits, licenses and/or certificates as may be necessary from time to time to comply with all the foregoing and other applicable statutes, rules, orders, regulations, laws, ordinances, and covenants, conditions and restrictions, which now apply to and/or affect the design, construction, existence, intended use, operation and/or occupancy of the Land, the Premises or any part thereof.

1.61 “Substantial Completion Date” means the date of Substantial Completion of the Project.

1.62 “Substantial Completion of the Project” means that each of the following events has occurred with respect to the Project:

(a) Developer has notified Landlord and Tenant in writing that the Project, including all Tenant Improvements, are Substantially Complete in substantial accordance with the Contract Documents, subject only to the completion of normal Punch List items);

(b) Architect has issued its “Certificate of Substantial Completion” (AIA Document G704) stating that the work under the Construction Contracts is sufficiently complete in substantial accordance with the Contract Documents to permit Tenant to occupy or utilize the Premises for its Permitted Use;

(c) The City of Salinas has issued a temporary or final certificate of occupancy or other approval sufficient for initial occupancy of the Premises and the City’s Fire Department has also issued its approval for occupancy such that Tenant is permitted to and could, pursuant to such issued certificate of occupancy, physically occupy the Premises for its Permitted Use and utilize the parking; provided, however, if the delay in the issuance of the certificate of occupancy is attributable to the Tenant’s work, including, without limitation Tenant’s installation of Tenant’s Personal Property and any portion of the Financed FF&E that is

to be provided or installed by Tenant in accordance with **EXHIBIT N**, then this condition shall be deemed satisfied;

(d) Landlord has received evidence from Developer satisfactory to Landlord that all real property taxes and assessments on the Project payable by Developer that were due and owing have been paid;

(e) Each Contractor has issued its “Certificate of Substantial Completion” together with its “Affidavit of Payment of Debts and Claims” (AIA Forms 706 and 706A), together with partial waivers and releases of lien for work performed prior to the date of its “Certificate of Substantial Completion” in form satisfactory to Landlord, with Tenant’s Concurrence, from such materialmen, laborers, contractors and subcontractors as Landlord, with Tenant’s Concurrence, may reasonably require;

(f) Access to the Premises has undergone inspection by a “Certified Access Specialist” and has been determined pursuant to such inspection to meet all applicable construction-related accessibility standards under California Civil Code Section 55.53, and Landlord has so certified to Tenant pursuant to California Civil Code Section 1938;

(g) Landlord, with Tenant’s Concurrence, has accepted the Project as Substantially Complete, subject to completion of the Punch List items agreed upon by Landlord, with Tenant’s Concurrence; and

(h) Landlord shall, or shall cause Developer to, have caused a Notice of Completion under California Civil Code Section 3093 to be recorded.

1.63 “Substantially Complete” means that the Project has been constructed in substantial accordance with the Contract Documents and: (a) all elements required for the functioning of the Project are operational and in good working order and condition including satisfying applicable ADA building requirements, as well as regulations adopted thereunder; (b) the Public Safety Facility is weather tight and waterproof; (c) the fire and life safety systems within the Project are operational and in good working order and condition; (d) the Public Safety Facility elevators operate and function in good working order and condition, but may still require minor touch up installation and cleaning; (e) the mechanical and electrical systems, including but not limited to the HVAC system, have been individually tested and verified that they are in good working order and able to support the Permitted Use of the Project by the Tenant, and have been tested to assure that the Project systems operate on an integrated basis; (f) the finish work has been substantially completed, including, but not limited to public lobby, elevator, HVAC, plumbing, fire and life safety, sprinkler and electrical systems, doors, partitions, cabinetry, carpet and base, including removal of all construction debris; and (g) all roadway improvements, site utilities, sidewalks and landscaping have been substantially completed and construction barricades and equipment have been removed, except in each case minor Punch List items which do not materially affect use and occupancy of the Project for its Permitted Use.

1.64 “Taxes” means all real and personal property taxes and assessments (including assessments for special assessment district improvements), supplemental assessments, license and permit fees, leasehold excise taxes, other excise taxes, levies, sales, use and

occupancy taxes, any tax or charge assessed against the Rent or fair market value of the Premises and any taxes levied or assessed in addition to or in lieu of, in whole or in part, such taxes, assessments or other charges and all other governmental impositions and charges of every kind and nature, general and special, ordinary and extraordinary, foreseen and unforeseen of every character which at any time from and after the Substantial Completion Date may be imposed, levied upon or assessed against or which arise with respect to or constitute a lien upon the Land, the Premises (or any part thereof), the leasehold estate created by this Lease or any part thereof, or any estate, right or interest therein, or any occupancy, use or possession of or activity conducted on the Premises or any part thereof. Taxes shall not include any tax computed on the basis of Landlord's net income.

1.65 "Tenant" means the City of Salinas, and its successors and permitted assigns, as the tenant under this Lease.

1.66 "Tenant Contingency" means the contingency in the amount set forth in the Project Budget which may be used to cover any changes in the Project resulting from any material improvements or deviation required by Landlord from the design or level of quality reflected in the Preliminary Plans and Outline Specifications set forth in the Development Agreement or for Tenant Improvements requested by Tenant which exceed the Tenant Improvement Allowance.

1.67 "Tenant Improvements" means any improvements to the interior of the Public Safety Facility, including but not limited to HVAC thermostats, operating controls and conduit rough-in for data, telephone, and security wiring, all of which are more specifically described in the Construction Documents and subject to Tenant's Concurrence. Tenant Improvements do not include Tenant's Personal Property.

1.68 "Tenant's Concurrence" means, with respect to any Contract Documents or any action to be taken by Landlord with respect to the Project for which Tenant's concurrence is specified, the written approval of Tenant to such Contract Document or action following (i) written notice to Tenant from Landlord requesting such concurrence and (ii) the period of time expressly stated in days for Tenant to consider such request either as specified herein or, if not specified, a commercially reasonable period of time. If Tenant fails to respond within such period, Tenant's Concurrence shall be deemed granted. Tenant's Concurrence shall not be unreasonably withheld or delayed.

1.69 "Tenant's Construction Representative" means the _____, or such other individual named in a notice from Tenant to Landlord given from time to time.

1.70 "Tenant's Personal Property" means Tenant's furniture, equipment and movable property placed in the Premises. Tenant shall provide and install Tenant's Personal Property at Tenant's sole cost and expense. Tenant's Personal Property does not include Financed FF&E.

1.71 "Term" means the period beginning on the Effective Date and ending on the Expiration Date.

1.72 “Trustee” means a national bank or other financial institution with trust powers selected by Landlord to serve as the bond trustee under the Indenture or any duly authorized successor thereto appointed pursuant to the Indenture.

1.73 “Utilities” means all utilities and services furnished to the Premises, after the Substantial Completion Date including without limitation, gas, electricity, water and sewer.

Any capitalized term used, but not defined in this Lease shall have the meaning assigned to it in the Development Agreement.

2. Premises. Landlord leases to Tenant and Tenant leases from Landlord the Premises for the Term. Tenant shall not, however, be entitled to occupy the Premises until the date of Substantial Completion of the Project.

3. Term. The Term shall commence on the Effective Date and shall expire on the Expiration Date; provided, however, that the right of Tenant to occupy the Premises shall not commence until the Substantial Completion Date.

If on the Expiration Date, the total Base Rent otherwise payable hereunder has not been fully paid as a result of an Abatement of Rent under Section 19.4 or Section 20.2 below and the Bonds have not been fully paid, then the Term of this Lease may, at the option of Landlord, be extended until the total Base Rent otherwise payable hereunder shall be fully paid and the Bonds have been fully paid, except that the Term of this Lease shall in no event be extended beyond, _____, 20____. In the event of any such extension of the Term, the Base Rent shall be the amount payable by Tenant immediately prior to such extension period.

Notwithstanding that the right of Tenant to occupy the Premises shall not commence until the Substantial Completion Date, all of the other terms and provisions of this Lease shall be effective from and after the Effective Date (except as otherwise provided herein, such as provisions related to Tenant’s obligation to pay Rent and to procure insurance).

4. Base Rent; Conveyance of Premises.

4.1 Obligation to Pay Base Rent. Tenant shall pay the Base Rent to the Trustee at the Trustee’s address set forth in Section 32.8 and without deduction, offset, prior notice or demand, in advance on the Rent Commencement Date and thereafter throughout the Term at least fifteen (15) days in advance of the date on which a Bond payment is due. The first Base Rent payment shall include a pro-rated amount for the period between the Substantial Completion Date and the Rent Commencement Date. Tenant may elect to offset against its obligation to pay Base Rent amounts in the Capitalized Interest Fund (as defined in the Indenture) or otherwise held by Trustee and that are available to pay principal of and/or interest on the Bonds, all to the extent permitted under the Indenture. Tenant acknowledges that time is of the essence in payment of Base Rent since Landlord intends to use Base Rent to make principal and interest payments on the Bonds. In any year, the aggregate amount of Base Rent plus the Annual Capital Repair Reserve Payment shall not exceed the Fair Market Rent (as defined in Section 1.29) for the Premises.

4.2 Defeasance. In the event that money and/or “Government Obligations,” as such obligations are now or may hereafter be defined in the Indenture, maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to pay or prepay all Base Rent then due under this Lease in accordance with the terms of this Lease, are irrevocably set aside and pledged in a special account created pursuant to the requirements of the Indenture to effect such payment or prepayment and defeasance of the Bonds, then upon such pledge, and provided that Tenant has fulfilled all other obligations under this Lease, including payment of any Additional Rent then due, Landlord shall convey unencumbered title to the Premises to Tenant (subject to Section 4.4), this Lease shall automatically terminate, no further payments need be made of any Rent under this Lease and Landlord shall not be entitled to any lien, benefit or security in the Premises, except the right to receive the funds so set aside and pledged, and neither Landlord nor Tenant shall have any further obligation to the other hereunder. Landlord shall apply such prepaid Base Rent to the defeasance or redemption of Bonds in accordance with the Indenture. In the event the Premises are conveyed to Tenant pursuant to this Section, the Ground Lease executed between the parties shall automatically terminate.

4.3 Options to Prepay Rent and Purchase Premises; Conveyance of Title.

(a) **Option to Purchase.** Tenant shall have the option to purchase the Premises and thereby terminate this Lease and the Ground Lease at any time on or after _____, 20____, subject to the provisions of Article VI of the Indenture. The purchase price of the Premises shall be the amount required to fully redeem or defease all outstanding Bonds, plus accrued interest, as set forth in Section 6.01 of the Indenture, plus all costs associated with such purchase.

(b) **Exercise of Option.** Tenant shall give Landlord not less than forty-five (45) days’ prior written notice of its irrevocable election to exercise its option to purchase under Section 4.3(a) in the form set forth on the attached **EXHIBIT G**. Within fifteen (15) days thereafter and in accordance with Section 4.3(f) hereof, Landlord shall provide Tenant with an accounting of the amounts necessary to complete the purchase on the date set forth in such notice. The purchase price shall be paid in cash or same-day available funds by 12:00 noon Pacific Time on the payment date specified in such notice (or such other earlier date as Tenant and Landlord may mutually agree).

(c) **Option to Partially Prepay Lease.** Tenant shall have the option to partially prepay the principal component of Base Rent, in \$5,000.00 increments for periods to be determined by Tenant (as represented by the principal components of Base Rent due each year as set forth on the attached **EXHIBIT B**). Notice of Tenant’s intent to prepay shall be given to Landlord in writing not less than forty-five (45) days in advance of the intended prepayment date. Such prepayment may be at any time on or after _____, 20____. The notice of partial prepayment shall be substantially in the form set forth on the attached **EXHIBIT H**. By 10:00 a.m. Pacific Time on the date set for such prepayment, Tenant shall pay to Trustee in cash or same-day available funds, an amount equal to the principal component of Base Rent to be prepaid, together with interest thereon to the date of prepayment, with instructions that such funds shall be used to optionally redeem Bonds. Upon such prepayment, **EXHIBIT B** attached hereto shall be amended to reflect the reduction in Base Rent resulting from such prepayment. Tenant shall be responsible for paying all costs associated with the partial prepayment.

(d) **Defeasance of a Portion of Bonds.** Tenant shall have the option to have Landlord defease a portion of the Bonds in accordance with the applicable requirements of the Indenture. Notice shall be given to Landlord in writing not less than forty-five (45) days in advance of the intended prepayment date. Upon written notice from Tenant and deposit by Tenant with Trustee of funds sufficient to accomplish the defeasance in accordance with the Indenture, Landlord shall take all reasonable steps in an expedited manner to effect such defeasance. Tenant shall be responsible for paying all costs associated with the defeasance. Upon such defeasance, **EXHIBIT B** attached hereto shall be amended to reflect the reduction in Base Rent resulting from such defeasance.

(e) **No Requirement to Purchase.** Nothing herein shall be construed to require Tenant to exercise the purchase option herein granted.

(f) **Accounting; Disputed Amounts.** Within fifteen (15) days of its receipt of the notice under Section 4.3(b), Landlord shall provide Tenant with an accounting of all Additional Rent then due and expected to be due on the purchase date set forth in the notice. Such accounting shall also include the amounts of money currently in any Capital Repairs Fund or other reserve account, and specifically itemize amounts in those accounts allocated to work already performed, and contracted to be performed. If Tenant does not dispute such accounting, Tenant shall pay all such Additional Rent and other amounts due and owing on the purchase date. If Tenant disputes the amounts set forth in the accounting provided by Landlord and an agreement cannot be reached within twenty (20) days of receipt of the accounting, then Tenant shall pay all undisputed amounts on the purchase date, and any amounts remaining in dispute are not waived by Landlord, and, notwithstanding the conveyance of the Premises, Landlord may seek those amounts per the Dispute Resolution Procedure in **EXHIBIT F**. It is contemplated that amounts remaining in controversy, if any, will relate to Additional Rent, including but not limited to operating costs, capital costs, prorations of expenses, Landlord management fees, capital expenditures, reserve accounts, ongoing or estimated expenses. Amounts paid by Tenant to defease the Bonds and cause conveyance of the Premises shall be used only for that purpose and shall not be first applied to Additional Rent. Payment may, to the extent permitted by the Indenture, be partially made by demand to use amounts remaining in any operating, capital, or replacement reserve accounts not already allocated to work actually performed or equipment purchased.

4.4 Conveyance of Premises. Landlord shall convey to Tenant unencumbered title to the Premises without recourse or warranty (except by assignment of warranties provided by Contractors and their equipment suppliers) and in its then condition, upon (i) the termination of this Lease, as a result of the full payment and retirement or defeasance of all outstanding Bonds pursuant to the terms of the Indenture and (ii) discharge of the Indenture. The deed by which Landlord conveys the Premises to Tenant may list as exceptions all covenants, conditions and restrictions then recorded against the Premises so long as such exceptions: (i) were approved by Tenant prior to the Substantial Completion Date; (ii) consist of non-delinquent real estate taxes and assessments or (iii) arise by reason of Tenant's activities. Tenant shall pay the cost for any owner's policy of title insurance it elects to obtain in connection with such conveyance. Landlord shall not be required to make any representations regarding the conditions of the Premises, and Tenant agrees to accept the Premises in an "as is" condition. Upon conveyance, the Ground Lease executed between the parties shall automatically

terminate, and, upon request by either party, the parties shall execute and record a termination of Ground Lease and this Lease in the real property records of Monterey County. In addition, prior to the conveyance, maintenance records, management records and records of contracts and payments with vendors for the entire Lease period shall be made available to Tenant, or transferred into the Tenant's possession. Complete transfer of records is not required until disputes, if any, are resolved.

4.5 Covenant to Budget for Rent. Tenant's obligation to pay Rent is a general fund obligation of Tenant, and Tenant hereby covenants to take such action as may be necessary to include the payment of all Rent due hereunder in its annual budget and to make the necessary annual appropriations for the payment of Rent, subject to the provisions of this Lease. Such covenants are deemed to be duties imposed by law, and it is the duty of each and every public official of Tenant to take such action and do such things as are required by law in the performance of the official duty of such official to enable Tenant to carry out and perform such covenants.

Subject to Abatement as provided herein, the obligation of Tenant to pay Rent and to perform its obligations hereunder will be absolute and unconditional, and payment of Rent will not be subject to setoff, counterclaim or recoupment.

Notwithstanding the foregoing, the obligation of Tenant to pay Base Rent and Additional Rent does not constitute an obligation of Tenant for which Tenant is obligated to levy or pledge any form of taxation or for which Tenant has levied or pledged any form of taxation. Neither the Bonds nor the obligation of Tenant to pay Base Rent or Additional Rent constitutes an indebtedness of the City of Salinas, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

5. Additional Rent; Payment of Operating Costs and Capital Costs.

5.1 Absolute Net Lease. Tenant acknowledges that this Lease is an absolute net lease. From and after the Substantial Completion Date, Landlord shall provide for and Tenant shall pay (i) all Operating Costs in accordance with Section 5.7 and (ii) Capital Repair Reserve Payments made in accordance with Section 5.11. Prior to the Substantial Completion Date, all Operating Costs relating to the Premises shall be paid by Landlord or as otherwise provided by the Development Agreement.

5.2 Operating Costs. Tenant shall pay as Additional Rent amounts sufficient to pay or reimburse Landlord for all Operating Costs incurred by Landlord pursuant to an Annual Operating Budget approved by Tenant pursuant to Section 5.7. In consideration of Tenant's payment of the Operating Costs, Landlord shall be responsible for all operations and all property management for the Premises which result in the Operating Costs as set forth in this Section. Landlord shall at all times use its best efforts to operate the Premises in an economically reasonable manner and control such Operating Costs in accordance with reasonable commercial standards prevailing in the market place for comparable premises. Operating Costs means any and all costs and expenses directly related to ownership, operation and maintenance of the Premises in connection with the following, in each case excluding costs described in Section 5.3:

(a) the repair, replacement (other than capital repairs and replacement), operation, and maintenance of the Premises, including, without limitation, interior and exterior maintenance, all exterior doors and windows, elevators, sidewalks, driveways, dock or pier, interior perimeter and interior partition walls and finishes (including periodic painting thereof), exterior wall finishes, broken glass in exterior and interior doors and windows, roof, floor covering, window frames, gutters and downspouts, HVAC system, electrical system, plumbing system, pest control, landscaping and all other areas used in connection with the Premises;

(b) the Asset Management Fee payable to Landlord pursuant to Section 10.2(d);

(c) the commercially reasonable property management fees paid to the entity managing the Premises under any property management contract entered into pursuant to, and terminable in accordance with, Section 10.2(b);

(d) the auditing fees incurred by Landlord in connection with the preparation of the financial statements required under Section 10.2(c);

(e) all costs of services provided by third parties (i.e., service providers other than Landlord) and benefiting the Premises, including parking management services; provided, however, that Landlord shall be required to obtain services at rates generally competitive in the marketplace. Such services shall include janitorial, security, gardening, together with related costs and expenses, licenses, permits, and inspection fees, the cost of supplies, materials, equipment, and tools used in connection therewith;

(f) Utilities until such time as the account for any such Utility is established in the name of Tenant with Tenant's Concurrence pursuant to Section 6, and security /fire alarm monitoring fees and related costs;

(g) Taxes;

(h) any damage to the Premises (but not to Tenant's Personal Property) caused by breaking and entering or other criminal act or any other event not covered by insurance;

(i) all costs of compliance with governmental laws or the board of fire underwriters (or similar organization) now or hereafter constituted as applicable to the Premises;

(j) all insurance premiums for insurance required to be carried under this Lease (including loss of rent insurance);

(k) amounts necessary to fund or restore any operating or maintenance reserve provided for in the Annual Operating Budget or as may otherwise be agreed by Landlord and Tenant;

(l) the amount of any deductible payable under any insurance policy described herein as a result of repairs or replacements attributable to fire or other casualty;

(m) following Final Acceptance, all attorneys' fees and other costs incurred by Landlord in efforts to enforce the provisions of the Development Agreement or the General Construction Contract as approved by Tenant, to enforce product or workmanship warranties given by Developer, General Contractor or other Contractors or suppliers of equipment or materials (unless Tenant desires that Landlord instead assign such warranties to Tenant in accordance with Section 5.8), but only to the extent that such costs have not been paid from the Project Contingency or reimbursed by or recovered from Developer, General Contractor, any other Contractor or any other party who may be obligated to Landlord;

(n) Administrative Fees and Expenses, any Rebatable Arbitrage payable with respect to the Bonds (as defined in the Indenture), and costs payable in connection with any prepayment of Base Rent and any defeasance or redemption of the Bonds;

(o) all other costs reasonably incurred by Landlord in connection with the ownership, maintenance, and upkeep of the Premises in order to: (i) prevent any dangerous or unsafe condition on the Premises that could result in liability to Landlord or its officers, employees, directors, or other agents or (ii) comply fully with and to avoid or to cure any default under the Indenture, Leasehold Mortgage and other documents relating to the Bonds and all Requirements of Law;

(p) all costs of compliance with federal, state or local laws, regulations or permits pertaining to storm water pollution, prevention plans ("SWPP") and all National Pollution Discharge Elimination System ("NPDES") laws or regulations adopted or to be adopted by the United States Environmental Protection Agency;

(q) the costs for a day porter for the Premises on such schedule as is mutually agreed by Landlord and Tenant;

(r) the costs for Building engineers for the Premises on such schedule as is mutually agreed by Landlord and Tenant; and

(s) the costs for security for the Premises on such schedule as is mutually agreed by Landlord and Tenant.

5.3 Exclusions from Operating Costs. Operating Costs shall exclude:

- (a) Project Costs;
- (b) Utilities except to the extent otherwise provided in Section 5.2(f);
- (c) political or charitable contributions made by Landlord;
- (d) fines, penalties and interest penalties incurred as a result of Landlord's negligence or unwillingness to make payments when due or take such other actions as may be required;
- (e) legal fees, accountant's fees and other expenses incurred in connection with (i) disputes with Tenant or associated with the interpretation of the terms of this

Lease (unless Tenant is otherwise required to pay such fees and expenses pursuant to Section 29 of this Lease) or (ii) legal proceedings arising out of Landlord's violation of the terms of this Lease;

(f) costs of any service provided to Tenant for which Landlord is reimbursed, or any other expense for which Landlord is or will be reimbursed by another source (i.e., expenses covered by insurance or warranties or the proceeds of any condemnation) or expenses which would be reimbursed if the Landlord maintained the insurance coverage required by Section 16;

(g) fees to Landlord for goods or services in excess of the fees that would typically be charged by unrelated, independent persons or entities for similar goods and services;

(h) repairs or replacements made to rectify or correct any latent defect(s) in the original design, materials or workmanship of the Project, as originally constructed, to the extent of and in the amount that the cost of such repairs or replacements are paid to Landlord (i) from the Project Contingency or (ii) by reimbursement or other recovery from Developer, General Contractor, any other Contractor, or any other party who may be obligated to Landlord to pay or reimburse for such repairs, including, but not limited to, warranty claims;

(i) repairs or replacements necessitated by the negligence or willful misconduct of Landlord, Landlord's employees, contractors or agents;

(j) repairs or replacements attributable to fire or other casualty to the extent covered by the proceeds of insurance required by Section 16;

(k) notwithstanding Section 5.2(f), any Utilities directly related to the completion of the Project following Substantial Completion of the Project in an amount determined by Landlord in the exercise of its reasonable discretion if not otherwise metered, all of which shall be payable as part of the Project Costs;

(l) any cost of repair, replacement, operation and/or maintenance of the Premises incurred as a direct result of the ongoing construction of the Project following Substantial Completion of the Project, all of which shall be payable as part of the Project Costs;

(m) Capital Expenditures;

(n) depreciation or amortization;

(o) debt service on loans with respect to the Premises not approved by Tenant;

(p) damages recoverable by Tenant due to violation by Landlord of any of the terms and conditions of this Lease;

(q) Except for the Asset Management Fee, Landlord's general corporate overhead and general administrative expenses not related to the operation of the Premises and all compensation to executives, officers or partners of Landlord or to any other person at or above the level of building manager, other than the building manager of the Premises (if any); and

(r) Costs associated with the operation of the business of the Landlord as the same are distinguished from the costs of operation of the Premises, including accounting and legal matters, costs of defending any lawsuits with any lender or any employee or vendor of Landlord that do not properly arise from Landlord's operation of the Premises.

5.4 Payment of Taxes by Tenant. Tenant shall be liable for Taxes that accrue from and after Commencement Date. Tenant shall pay all Taxes directly to the applicable governmental agency prior to delinquency and shall provide proof of such payment promptly to Landlord. To the extent Taxes or other charges can be paid in installments, Tenant may pay such Taxes in installments. With respect to any general or special assessments which may be levied against or upon the Premises, or which under the Laws then in force may be evidenced by improvement or other bonds or may be paid in annual installments, only the amount of such annual installment, and interest due thereon, shall be included within the computation of Taxes. Landlord and Tenant shall cooperate to minimize the amount of applicable Taxes where reasonably possible and to the extent consistent with applicable law.

5.5 Real and Personal Property Tax Statements. Landlord shall make appropriate arrangements to receive directly from the applicable governmental agency assessment notices and real and personal property tax statements for the current year and shall provide a copy thereof promptly to Tenant.

5.6 Right to Contest Taxes. If Landlord receives prior notice that an appraisal of the Premises, or any portion thereof, will be conducted for real property tax purposes, Landlord shall so notify Tenant and permit Tenant to be present during such appraisal if Tenant so elects. Tenant shall have the right in Landlord's name and stead, and at Tenant's sole expense, to contest the validity or amount of any real property taxes provided all such taxes are paid when and as due. Landlord shall cooperate with Tenant and provide reasonable assistance with respect to any such contest, including, without limitation, such information and supporting documents as may be reasonably requested by Tenant. Notwithstanding any provision of this Lease to the contrary, Tenant shall not be required, nor shall Landlord have the right, to pay, discharge or remove any such real property tax so long as no Event of Default has occurred and Tenant is contesting the existence, amount, applicability or validity thereof by appropriate proceedings conducted in good faith with due diligence. In the event Landlord shall obtain a tax refund as a result of any such tax appeal or other proceedings Tenant shall be entitled to, and Landlord shall promptly pay to Tenant, all such tax refunds.

5.7 Payment of Operating Costs. From and after the Substantial Completion Date Tenant shall pay the Operating Costs to Landlord in the following manner:

(a) **Annual Operating Budget.** Landlord shall develop an annual operating budget ("Annual Operating Budget") for the Premises and shall submit a copy of such

Budget to Tenant no later than ninety (90) days prior to the anticipated Substantial Completion Date and the commencement of each fiscal year thereafter for review and written approval by Tenant for the purpose of determining the amount of estimated Operating Costs expected to be incurred in connection with the Premises for the upcoming fiscal year. If Tenant does not approve the proposed Annual Operating Budget and Tenant and Landlord are unable to agree upon an Annual Operating Budget by the thirtieth (30th) day prior to the commencement of the following fiscal year, Landlord and Tenant will resolve the dispute per **EXHIBIT F**. Until such time as such dispute is resolved, Tenant shall continue to pay Operating Costs in accordance with the previously approved Annual Operating Budget.

(b) **Payment as Additional Rent.** Following the Substantial Completion Date, Tenant shall pay monthly, as Additional Rent, on the same day of each month during the Term as Base Rent is due, an amount equal to one-twelfth ($\frac{1}{12}$) of the Operating Costs for each fiscal year as reasonably estimated by Landlord and set forth in the Annual Operating Budget; provided, however, that the portion of Additional Rent representing Administrative Fees and Expenses and the Capital Repair Reserve Payment shall be paid by Tenant directly to the Trustee, to be held and applied as provided in the Indenture.

(c) **Tenant Review.** Operating Costs shall be subject to Tenant's review, and Tenant shall have the right to object to (i) any cost or expense which exceeds the prevailing price for such goods or services in the market; (ii) any cost or expense which has been improperly included under Section 5.2; or (iii) the failure of the Landlord to include costs or expenses for goods or services which Landlord is obligated to provide under this Lease.

(d) **Reconciliation.** Within ninety (90) days after the end of each fiscal year occurring during the Term (or, if applicable, the Expiration Date), Landlord shall furnish to Tenant a reconciliation statement of the actual Operating Costs for the preceding fiscal year and Tenant's actual payment of Operating Costs based upon the parties' approved Annual Operating Budget. The reconciliation statement shall be prepared, signed and certified to be correct by Landlord. If the actual Operating Costs for that fiscal year exceed the monthly payments of estimated Operating Costs made by Tenant, Tenant shall pay Landlord the deficiency within thirty (30) days after receipt of the reconciliation statement. If Tenant's payments of estimated Operating Costs made during that fiscal year exceed the actual Operating Costs, the excess shall be credited by Landlord to the Additional Rent next due and payable; provided, however, that such excess sum which is more than three (3) months of then estimated Operating Costs shall be paid to Tenant in cash via Landlord's check within thirty (30) days after the date of the reconciliation statement.

5.8 Warranties. During the Term, Landlord shall exert its good faith and diligent efforts to enforce any and all applicable warranties, express or implied, in connection with defects which may arise in the original design, materials or workmanship of the Premises as originally constructed. Landlord shall assess maintenance, repairs, and replacements for potential warranty coverage and comply with warranty requirements, including but not limited to notices to the warrantor and requests for warranty service. Prior to Final Acceptance, costs incurred by Landlord in enforcing any such warranties shall be deemed a Project Cost and not payable by Tenant. Thereafter, costs incurred by Landlord to enforce any warranties shall be an Operating Expense, subject to the provisions of Section 5.2(m). Notwithstanding the foregoing,

following Final Acceptance, Tenant may require Landlord to assign any such warranties to Tenant and Tenant shall thereafter be responsible for enforcement of such warranties.

If Landlord fails to take actions reasonably requested by Tenant to enforce or otherwise obtain the benefit of any such warranty, Tenant shall have the right, but not the obligation, to perform required work and shall have the right to be reimbursed by Landlord for the sum it actually expends in the performance of such work. If Landlord does not reimburse Tenant within thirty (30) days after demand from Tenant, Tenant shall have the right to pursue any and all remedies available at law or equity except that Tenant shall have no right to offset against Base Rent payable under this Lease.

5.9 Proration. Operating Costs for any partial month during the Term shall be prorated on a daily basis at the rate of one-thirtieth ($\frac{1}{30}$) of the Operating Costs for that month.

5.10 Right to Audit. Each Calendar Year, within that period expiring ninety (90) days after Tenant's receipt of the reconciliation statement provided under Section 5.7, Tenant shall have the right to audit Landlord's books and records pertaining to the accuracy of the computation of Operating Costs. Copies of such audit shall be delivered to Landlord and Trustee. If, after consultation with Landlord to determine such accuracy, any such audit, conducted in accordance with generally accepted accounting principles, reveals a discrepancy between Landlord's statement of the actual Operating Costs for a Calendar Year and the amount determined by such audit, then Landlord shall reimburse to Tenant the excess amount paid by Tenant (or Tenant shall pay to Landlord the deficiency), if any; and, if such discrepancy exceeds three percent (3%) or more, Landlord shall pay for the cost of such audit. The Trustee shall have no duty to review, verify or analyze such audits and shall hold such audits solely as a repository for the benefit of the Landlord and the holders of the Bonds. The Trustee shall not be deemed to have notice of any information contained therein or default or Event of Default which may be disclosed therein in any manner.

Tenant shall also have the right either before or after Final Acceptance to cause Landlord to undertake an audit of the books and records of Developer, or any Project contractor in accordance with Section 18 of the Development Agreement, in a method and at a budget approved by Tenant, and to submit the results of any such audit to Tenant. Similarly, Tenant shall have the right to cause Landlord to undertake an audit of the books and records of the property manager for the Project in accordance with the provisions of the agreement entered into between Landlord and such property manager. Costs incurred by Landlord in connection with any such audit shall be reimbursed by Tenant except to the extent otherwise reimbursed under Section 18 of the Development Agreement.

5.11 Annual Capital Repair Reserve Payment. Following the Substantial Completion Date and on the same day as Base Rent is due, Tenant shall pay to Trustee each month, as Additional Rent, one-twelfth ($\frac{1}{12}$) of the Annual Capital Repair Reserve Payment which has been established for the Premises. The Annual Capital Repair Reserve Payment shall be deposited by Trustee in the Capital Repairs Fund. The Annual Capital Repair Reserve Payment for the Premises for the first five (5) Calendar Years following the Substantial Completion Date is approximately \$_____ per year, but such amount is reviewable

annually and is subject to revision by mutual agreement of Landlord and Tenant. The annual payment for the initial year shall be prorated for any partial year.

On January 1 of the sixth (6th) Calendar Year following the Substantial Completion Date and on the first day of each and every month thereafter during the Term, Tenant shall pay to Trustee each month, as Additional Rent, one-twelfth ($\frac{1}{12}$) of the Annual Capital Repair Reserve Payment set forth in the Approved Work Plan for the Premises (as defined and described below). The Approved Work Plan for the Premises and the amount of the Annual Capital Repair Reserve Payment shall be re-determined every fifth (5th) Calendar Year following the Substantial Completion Date utilizing the procedures set forth in Section 5.11(a).

Landlord shall provide Trustee with written notice of the amount of each Annual Capital Repair Reserve Payment to be made by Tenant hereunder, including any modification of the initial Annual Capital Repair Reserve Payment, as soon as practicable after each calculation thereof but in no event later than the Substantial Completion Date and each January 1 thereafter. A copy of each such notice shall be provided to Tenant, and the Trustee shall be entitled to rely on the calculation set forth therein without independent investigation or verification.

(a) **Calculation of Annual Capital Repair Reserve Payment and Disbursements.** For the sixth (6th) Calendar Year following the Substantial Completion Date and each Calendar Year thereafter, the Annual Capital Repair Reserve Payment shall be determined in accordance with the following procedure: on or before September 1 of the fifth (5th) Calendar Year following the Substantial Completion Date, and every fifth (5th) September 1 thereafter, Landlord shall, following consultation with Tenant, retain an independent qualified structural engineering firm with at least five (5) years of experience inspecting buildings comparable to the Premises or other qualified construction professional mutually acceptable to Landlord and Tenant with comparable levels of expertise ("Inspecting Engineer") to conduct a physical inspection of the condition of the Premises (including all major building systems). Any contract for such services must specifically be transferrable to Tenant upon conveyance of the Premises, and terminable by the Tenant by written notice within forty-five (45) days of conveyance of the Premises with or without cause.

Within thirty (30) days following such inspection, the Inspecting Engineer shall deliver a copy of its report ("Inspection Report") to Landlord and Tenant, including a description of what Capital Expenditures, if any, need to be made to the Premises through the stated maturity date of the Bonds in order to maintain the Premises in substantially its present condition and state of repair as of Final Acceptance, normal wear and tear excepted (which may include recommendation for periodic maintenance or other preventive measures which should be taken to minimize Capital Expenditures and otherwise maintain the Premises in an economic and cost-effective manner), a recommended schedule of Capital Expenditures to be made during the next ten (10) year period, and cost estimates to implement such schedule.

Landlord, or Landlord's property manager, shall consult with Tenant to determine a proposed capital expenditure work plan ("Proposed Capital Expenditure Work Plan") based upon the Inspection Report and taking into account amounts already on deposit in the Capital Repairs Fund. Tenant shall not be required to make payments into a reserve for Capital Expenditures which do not need to be completed within the next ten (10) years unless the Tenant agrees

otherwise. Disputes between Landlord and Tenant regarding the Proposed Capital Expenditure Work Plan may, but are not required to be, submitted according to the independent dispute mediation process set forth in Section 5.11(d), and the Work Plan so approved by the parties or resolved by the independent dispute mediation process shall be deemed the “Approved Work Plan” for the next five (5) year period.

(b) **Disbursements from the Capital Repairs Fund.** Landlord, or Landlord’s property manager, shall from time to time as required by the Approved Work Plan prepare requests for disbursements from the Capital Repairs Fund for submission to the Trustee in accordance with Section 4.15 of the Indenture. Such requests shall be signed by both Landlord and Tenant. Disbursements made from the Capital Repairs Fund by Trustee pursuant to any such written request shall be presumed to be made properly and the Trustee shall not be required to verify (i) the propriety of any Capital Expenditure, (ii) the application of any disbursement made from the Capital Repairs Fund, (iii) the compliance of any party with any Approved Work Plan, (iv) the accuracy of any calculation of the Annual Capital Repair Reserve Requirement or (v) the purpose of any disbursement from the Capital Repairs Fund.

(c) **Determination of Capital Expenditure Amount.** The cost of a Capital Expenditure shall include construction and project management fees payable to Landlord and Landlord’s property manager as determined by Landlord and agreed to by Tenant in writing based upon the complexity of the Capital Expenditure project but not less than one percent (1%) and not to exceed a total of five percent (5%) of the hard construction costs associated with the Capital Expenditure. For reference, projects consisting of a purchase and installation by a single vendor, without separate design costs or other contractors may have a lower construction and project management fee; projects requiring several contractors, special inspections, round the clock access, coordination with existing service providers, other contractors, or design professionals may have a higher construction management fee. As defined in Section 1.8, Asset Management Fees shall not be assessed on payments into the Capital Repairs Fund. The acquisition of a prior non-existing asset requested by Tenant that is not part of the Approved Work Plan shall be paid for by Tenant as a tenant improvement at the time of such acquisition unless Landlord and Tenant agree that the acquisition of such asset can be paid for out of funds on deposit in the Capital Repairs Fund.

(d) **Mediation of Disputes.** Landlord and Tenant have the option, but not the obligation, to follow the independent dispute mediation process set forth in the attached **EXHIBIT F** to attempt to resolve disputes regarding the Proposed Capital Expenditure Work Plan in an economic and time efficient manner and without resorting to litigation so that the Proposed Capital Expenditure Work Plan conforms to the requirements of this Lease and any Capital Expenditures made to the Premises are made in a cost-effective, appropriate and timely manner so as to maintain the Premises in not less than substantially its condition and repair as of Final Acceptance, normal wear and tear excepted; provided, however, Tenant shall not be required to make payments into the Capital Repairs Fund for Capital Expenditures which do not need to be made during the next ten (10) years unless the Tenant agrees otherwise. Nothing in this Section prohibits either party from pursuing remedies in law or equity with courts of the County of Monterey consistent with Section 32.5.

(e) **Remaining Balance of Capital Repairs Fund.** Any balance remaining in the Capital Repairs Fund not specifically allocated to Capital Expenditures in progress or already completed at the time of conveyance of the Premises to Tenant pursuant to Section 4.3 and/or 4.4 will be, at the Tenant's option, and in accordance with the Indenture, returned to Tenant within forty-five (45) days following conveyance by either the Landlord or Trustee.

(f) **Limit on Annual Capital Repair Reserve Payment.** Notwithstanding any other provision of this Lease to the contrary, in no event shall the Annual Capital Repair Reserve Payment for any year exceed an amount which, when added to the total Base Rent for such year, causes the aggregate of such amounts to exceed the Fair Market Rent of the Premises for such year.

6. Utilities. Landlord shall be solely responsible for and shall pay for all charges for Utilities used or consumed in the Premises from the Effective Date until the Substantial Completion Date, and Landlord shall make any necessary arrangements to have all such Utilities billed directly to and paid for directly by Landlord during this time. Upon written notice from Tenant following the Substantial Completion Date, Landlord shall arrange for the transfer of any specified Utility account into Tenant's name. Thereafter, Tenant shall be responsible for and shall pay for all charges for such Utility or Utilities used or consumed on the Premises. Notwithstanding anything to the contrary herein, until Substantial Completion of the Project has occurred, Landlord shall be solely responsible for and shall pay for all charges for Utilities used or consumed in the Premises.

7. Use. Tenant intends to use the Premises for the Permitted Use. Any sublease by Tenant to private persons as defined in the Code shall require that Landlord, Trustee and Tenant receive an opinion of nationally recognized bond counsel that any such sublease will not adversely affect the tax-exempt status of interest payable on the Bonds. Furthermore, no such sublease shall adversely affect the status of Landlord as a 501(c)(3) organization as defined in the Code. Tenant has determined to its satisfaction that the Premises can be used for the Permitted Use. Tenant's use of the Premises shall be in accordance with the following:

7.1 No Insurance Cancellation. Tenant shall not do, bring, or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises.

7.2 Compliance with Laws. From and after the Substantial Completion Date, Tenant shall comply with all Laws concerning the Premises and Tenant's use of the Premises, including without limitation, Environmental Laws. Tenant shall not use the Premises for the transportation, storage or generation of any Hazardous Substances in violation of Environmental Laws. From and after the Substantial Completion Date, and to the extent permitted by law, Tenant shall absolutely and unconditionally indemnify, defend and hold Landlord harmless from and against any and all debts, demands, obligations, liens, judgments, claims, liabilities, losses, damages, cleanup costs and expenses (including reasonable attorneys' fees) now or hereafter arising in connection with the presence, transportation, storage, disposal or handling of Hazardous Substances located in, on or about the Premises or Land which are proven to be caused by or resulting from the actions of Tenant, its agents or employees after the Substantial Completion Date, excluding (a) any Hazardous Substances introduced on the Land or the

Premises by Landlord or its agents prior to the Substantial Completion Date or which migrate onto the Land from property not owned by Tenant through any act or omission of Landlord or its agents; (b) any such debt, demand, obligation, lien, judgment, claim, liability, loss, damage, cleanup cost or expense resulting from the actions or omissions of Landlord, Developer, General Contractor and their respective agents, employees, contractors, subcontractors or invitees; or (c) any debt, demand, obligation, lien, judgment, claim, liability, loss, damage, cleanup cost or expense as a result of Landlord's violation of any contractual obligation under this Lease, the Indenture, or any other document executed by Landlord in connection with a Leasehold Mortgage incurred in connection with Section 11. This indemnification shall survive the Expiration Date.

7.3 No Waste, Nuisance or Damage. Tenant shall not use the Premises in any manner that will constitute waste of the Premises or nuisance and Tenant shall not do anything on the Premises that will cause damage to the Premises.

7.4 Tax Covenants. At all times from and after the Effective Date, Landlord (a) shall maintain its purposes and engage only in activities which are in furtherance of its purposes and which are permitted by the California Nonprofit Public Benefit Corporation Law; (b) will maintain its status as a nonprofit corporation and as an organization described in Section 501(c)(3) of the Code whose income does not inure to the benefit of any private person; (c) shall not encumber, pledge, hypothecate or grant a security interest in all or any part of the Premises (except for the Indenture and the Leasehold Mortgage which comply with the provisions of Section 11) or except as consented to in writing by (i) Tenant and (ii) Trustee, if so directed in writing by holders of a majority in aggregate principal amount of the Bonds; (d) shall not engage in any activities related to the Premises or the Leasehold Mortgage (except those specifically set forth in Sections 9 and 11) which would cause the transaction contemplated under this Lease to constitute an unrelated trade or business determined by applying Section 513(a) of the Code; and (e) will not take any action or omit to take any action which, if taken or omitted, would adversely affect the tax-exempt status of interest payable on the Bonds. Unless Landlord (i) is directed in writing by holders of a majority in aggregate principal amount of the Bonds or the Trustee, and (ii) has received an opinion of nationally recognized bond counsel to the effect that such assignment will not adversely affect the tax-exempt status of interest payable on the Bonds, at all times during the Term, Landlord shall not assign its rights under this Lease (except to Trustee pursuant to the Indenture and the Leasehold Mortgage) without (x) the prior written consent of Tenant (which may be granted or withheld at Tenant's sole and absolute discretion), and (y) complying with the Ground Lease. At all times from and after the Effective Date, Tenant covenants that it will not negligently or intentionally take any action or omit to take any action which, if taken or omitted, would adversely affect the tax-exempt status of interest payable on the Bonds.

8. Liens.

8.1 Covenant Against Liens. Except for the Indenture and the Leasehold Mortgage incurred by Landlord in compliance with the provision of Section 11 to secure the Bonds, Landlord covenants and agrees that it shall not during the Term suffer or permit any Liens to be attached to, upon or against the Premises, or any portion thereof or any Rent payable under this Lease for any reason, including without limitation, Liens arising out of the possession,

use, occupancy, acquisition, construction, repair, or rebuilding of the Premises or by reason of the furnishing of labor, services, materials, or equipment to the Premises or to Landlord. Tenant acknowledges that Landlord shall cause Developer to keep the Premises free and clear of all construction liens resulting from the construction of the Project (including the right to contest same by appropriate proceedings conducted in good faith with due diligence) under the terms of the Development Agreement prior to the Substantial Completion Date. If Developer shall fail to do so, Landlord shall protect, defend, indemnify and hold Tenant harmless against any such liens. Landlord agrees to indemnify, protect, defend and hold Tenant harmless from and against all liabilities, losses, damages, expenses and costs (including reasonable attorneys' fees and costs) incurred in connection with any such Lien. Landlord's obligations pursuant to this Section 8.1 shall survive the Expiration Date. Tenant covenants and agrees that, from and after the Substantial Completion Date, it shall not during the Term suffer or permit any Liens to be attached to, upon or against the Premises, or any portion thereof or its leasehold interest in the Premises for any reason, including without limitation, Liens arising out of the possession, use, occupancy, acquisition, maintenance, operation, repair, or rebuilding of the Premises or by reason of the furnishing of labor, services, materials, or equipment to the Premises or to Tenant.

8.2 Covenant to Remove Liens. Landlord will promptly, and in all events within thirty (30) days following the attachment of same, remove and discharge any and all Liens which attach to, upon or against the Premises or any portion thereof, or any leasehold interest of Tenant created under this Lease (other than liens or encumbrances arising through the actions of Tenant). Landlord reserves the right to contest the validity or amount of any such Lien in good faith provided that, within thirty (30) days after the filing of such Lien, Landlord discharges such Lien of record or records a bond which complies with the requirements of applicable law eliminating such Lien as an encumbrance against the Premises. In the event Landlord shall fail to so remove any such Lien, Tenant may take such action as Tenant shall reasonably determine to remove such Lien and all costs and expenses incurred by Tenant including, without limitation, amounts paid in good faith settlement of such Lien and attorneys' fees and costs shall be paid by Landlord to Tenant together with interest thereon at the rate of twelve percent (12%) interest per annum from the date advanced until paid. Landlord's obligations pursuant to this Section 8.2 shall survive the Expiration Date and, unless properly incurred under other provisions of this Lease, the costs of such obligations shall not be included as Operating Costs hereunder.

8.3 Tenant's Disclaimer. Notwithstanding the consent or request of Tenant, express or implied, for the performance of any labor or services or for the furnishing of any materials or equipment for any construction, alteration, addition, or repair to the Premises (or any part thereof), Landlord and Tenant agree and notice is hereby given that Tenant will not be liable for any labor, services, materials or equipment furnished or to be furnished to Landlord, Developer or anyone holding an interest in the Premises (or any part thereof) through or under Landlord or Developer, and that no construction or other liens for any such labor, services, materials or equipment shall attach to or affect the interest of Tenant in the Premises. Nothing in this Section shall relieve Tenant of its obligation to pay Rent hereunder.

9. Construction of Project. Tenant would not have entered into this Lease but for the agreement by Landlord to undertake the Project, including without limitation (i) the obtaining of financing for the Project, (ii) the acquisition of a leasehold interest in the Land by way of the Ground Lease, and (iii) the construction and equipping of the Premises for use by Tenant for the

Permitted Use. It is of critical importance to Tenant that the construction of the Project be completed in a timely manner and within the Project Budget. Accordingly, Landlord shall diligently cause the Project to be designed, permitted and constructed in a good and workmanlike manner and delivered to Tenant Substantially Complete by the date set forth in the approved Project Schedule. Upon Final Acceptance, the Project shall be free of patent or latent defects, free and clear of all Liens and otherwise in accordance with the requirements of this Lease. In order to assure timely communications between Landlord and Tenant during the construction process, any notice to Tenant requiring or permitting a response by Tenant shall specify the outside date by which Tenant's response must be received to be effective, which response date shall not be less than three (3) Business Days.

9.1 Development Agreement. To meet the requirements of this Lease for completion of the Project, Landlord shall, simultaneously with the execution of this Lease by the parties, enter into the Development Agreement with Developer, that has received Tenant's Concurrence. Landlord shall also cause Developer to procure and maintain, at a minimum, for the duration of the Development Agreement, insurance as more particularly described in the attached **EXHIBIT I**, against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work pursuant to the Development Agreement by Developer, its agents, representatives, employees and/or subcontractors. The cost of such insurance shall be paid by the Developer or its subcontractors.

9.2 Schedule for Design and Construction. The dates set forth in the initial Project Schedule attached hereto as **EXHIBIT D-1** and by this reference incorporated herein, and as revised from time to time, with Tenant's Concurrence, shall serve as target dates for achieving the matters set forth therein. Landlord shall require Developer to agree that time is of the essence and Substantial Completion of the Project must occur by the date set forth in the approved Project Schedule, subject to Unavoidable Delays as defined in the Development Agreement. In order to ensure to the greatest extent practicable that the Project is designed, permitted and completed on or before the dates set forth in the Project Schedule, Landlord and Tenant shall each proceed with all necessary due diligence and in good faith to complete such matters as require action or approval on the part of Tenant and Landlord. Landlord shall, following consultation with Tenant's Construction Representative, promptly and diligently respond to all questions and concerns raised by Developer or by the Architect, Contractors, engineers or other consultants.

(a) **Notices from Developer to Landlord.** To ensure that Tenant is fully apprised of decisions required of Landlord pursuant to the Development Agreement, Landlord shall require Developer (if specifically requested by Tenant in writing) to simultaneously provide to Tenant a copy of notices, plans and specifications or other documents required to be delivered by Developer to Landlord under the Development Agreement and Landlord shall also simultaneously provide to Tenant a copy of notices, plans and specifications or other documents required to be delivered by Landlord to Developer under the Development Agreement. In addition, Tenant shall have the right, but not the obligation, to attend design meetings with Developer, Architect, and other design professionals as appropriate in the course of development of Construction Documents.

(b) **Notices by Tenant to Landlord and Developer.** To ensure that Developer is fully apprised of Tenant's position on Project decisions to be made by Landlord, Tenant shall have the right to simultaneously provide to Developer a copy of any notice Tenant issues to Landlord hereunder. Such notice shall be sent to Developer at the following address by messenger or fax:

Griffin Swinerton
c/o Griffin Structures, Inc.
1850 Washburton Avenue, Suite 120
Santa Clara, CA 95050
Attention: _____

(c) **Tenant's Construction Representative.** Landlord shall, and shall direct Developer to, direct all notices and submittals required to be sent to Tenant hereunder to the attention of Tenant's Construction Representative.

9.3 Plans and Specifications.

(a) **Preliminary Plans.** As of the date of this Lease, Tenant has reviewed and accepted the Project Requirements for the Project to be constructed on the Land, including the Preliminary Plans, a list of which is attached to this Lease as **EXHIBIT C**. In addition, Tenant has reviewed and accepted the Project Budget, which is attached as **EXHIBIT D-2**, which sets forth a detailed itemization by line item and category for all Project Costs.

(b) **Construction Drawings and Detailed Specifications.** Landlord will cause the preparation by Architect of Construction Drawings and Detailed Specifications for the Project and plans and specifications for Tenant Improvements, in each case for review and acceptance by Tenant. Landlord shall, following consultation with Tenant, cooperate in good faith with Developer to cause a completed design which meets all Requirements of Law and is consistent with all Project Requirements and the building quality reflected therein, in an amount not to exceed the Project Budget, as expeditiously as possible to ensure the Substantial Completion of the Project by the date set forth in the approved Project Schedule. Accordingly, as provided above, Developer will provide Tenant a copy of all submittals requiring Landlord's review and approval pursuant to the Development Agreement, as and when such submittals are provided to Landlord. Tenant shall only have the right to withhold Tenant's Concurrence to interim and final sets of such Construction Drawings and Detailed Specifications which (i) do not meet the Project Requirements, or (ii) do not comply with Requirements of Law, or (iii) do not comply with previous iterations of the Construction Drawings and Detailed Specifications in all material respects, or (iv) propose changes in work or materials that would result in a material change in appearance or diminution in quality of the Project. Tenant shall have the right to give notice to Landlord disapproving any such iterations of the Construction Drawings and Detailed Specifications and Landlord shall notify Developer in the manner and within the time period set forth in the Development Agreement. Tenant's written Concurrence, objection or comments shall be provided within five (5) Business Days of receiving iterations of the Construction Drawings and Detailed Specifications. Tenant's failure to respond within such time period shall be deemed a Concurrence. The final Construction Drawings and Detailed Specifications setting

forth in detail the requirements for the construction of the entire Project which have been approved by Landlord, with Tenant's Concurrence, are called the Construction Documents.

(c) **Changes to Construction Documents.** Landlord has directed that Developer provide Tenant a copy of all proposed changes in the Construction Documents requiring Landlord's review and/or approval pursuant to the Development Agreement, as and when such proposed changes are provided to Landlord. Tenant shall have the right to give notice to Landlord disapproving any such proposed change in the Construction Documents within the time period set forth in the notice of any such proposed change, but in no event shall the time period be less than seven (7) days. If Tenant fails to issue such notice so as to allow Landlord to make timely objection or comment, any such change shall be deemed approved by Tenant. If Tenant timely disapproves any such proposed change, Tenant shall notify Landlord in writing specifying the reason for its disapproval and Landlord shall so notify Developer. Tenant shall only have the right to disapprove changes which (i) are not a consistent development of the Project Requirements, (ii) do not meet Project Requirements, (iii) do not comply with Requirements of Law, (iv) would violate the terms of any permits for the Project, (v) would cause the Project Schedule to be adversely impacted or the Project Budget to be exceeded, or (vi) involve proposed changes in work or materials which would result in a material change in appearance or diminution in quality of the Project. Disputes regarding a proposed change in the Construction Documents shall be subject to the dispute resolution process set forth in Section 9.5.

9.4 Tenant Improvements. The Fixed Price shall include the design, permitting and construction of Tenant Improvements. As is the case for the Project in general, the aspects of the Construction Documents, the Project Schedule and the Project Budget that relate to the Tenant Improvements shall be subject to Tenant's Concurrence. Final plans for the Tenant Improvements must be completed within the applicable period set forth in the Project Schedule. The Tenant Improvements must not exceed the amount budgeted in **EXHIBIT D-2**.

9.5 Dispute Resolution Process. Tenant and Landlord have the option to follow the independent resolution process set forth in this Section 9.5 to resolve disputes regarding preparation of the Construction Drawings and Detailed Specifications and changes to Construction Documents in an economic and time efficient manner so that such documents conform to the requirements of this Lease, the Project Schedule is not adversely impacted, and the Project as constructed will satisfy the Project Requirements. In the event that a dispute arises between Tenant and Landlord during the design or construction of the Project regarding the adequacy of any Drawings or Specifications or the responsibility for any costs associated with any design development, addition or change (e.g., whether any design development is consistent with and reasonably inferable from the Project Requirements), the parties shall attempt to resolve such dispute as expeditiously as possible and shall cooperate so that the progress of the design and construction of the Project is not delayed. If, however, the parties are unable to resolve the dispute within three (3) Business Days, either party may, by delivering written notice to the other and Trustee, refer the matter to a dispute resolution mediator as set forth on the attached **EXHIBIT F**.

9.6 Project Contingency. To the extent the actual Project Costs in any line item of the Project Budget exceed the amount shown for such line item, Developer shall first

allocate amounts in other line items, in which the actual known Project Costs will be less than the amount of the Project Budget, to the line item in which the excess Project Costs have been incurred. However, Developer must first provide a written explanation to Landlord and Tenant explaining why, with documentary support, the budgeted amount was exceeded. Following the allocation by Developer as set forth in the preceding sentence with respect to all line items, Developer is entitled to draw upon the Project Contingency for such excess Project Costs; provided, however, Developer must first provide a written explanation to Landlord and Tenant explaining why, with documentary support, the Project Contingency must be drawn upon. If the Project Contingency is not sufficient to pay such excess Project Costs, Developer shall be responsible therefor in accordance with Sections 2(a) and 9(g) of the Development Agreement.

9.7 Permits; Costs; Compliance with Legal Requirements. Landlord shall cause Developer to secure all permits for the Project, licenses, permissions, consents and approvals required to be obtained from governmental agencies or third parties in connection with construction of the Project pursuant to Requirements of Law. Tenant shall join in the application for such permits or authorizations whenever such joinder is required; provided, however, Tenant shall incur no expense or liability in connection therewith. Landlord shall cause all work on the Project to be performed in accordance with (i) the Development Agreement, and (ii) all Requirements of Law and all directions and regulations of all governmental agencies and the representatives of such agencies having jurisdiction over the Project and/or the Premises.

9.8 Construction Contracts. Landlord intends to contract for the construction of the Project directly with the General Contractor and to cause Developer to serve as construction manager in connection therewith pursuant to the provisions of the Development Agreement. Prior to its execution, Landlord shall provide Tenant with a copy of the General Construction Contract for Tenant's Concurrence. In addition, Tenant shall have the right to view, for its own information, all Construction Contracts and the bids submitted by potential Contractors and subcontractors.

(a) **General Contractor's Insurance.** By the date of the execution of the General Construction Contract, Landlord shall cause the General Contractor to procure and maintain, at a minimum, for the duration of that General Construction Contract the insurance more particularly described in the attached **EXHIBIT J** against claims for injuries to persons or damages to property which may arise from, or in connection with the performance of work thereunder by the General Contractor, its agents, representatives, employees and/or subcontractors. The cost of such insurance shall be paid by the General Contractor or its subcontractor.

(b) **No Assumption of Risk.** By requiring such minimum insurance, Landlord shall not be deemed to, or construed to, have assumed the risks that may be applicable to the General Contractor in the General Construction Contract.

9.9 Construction of Project. Landlord shall use its reasonable best efforts to commence initial construction of the Project following receipt of the clearing and grading permits. Thereafter, following receipt of the building permits for the Project, Landlord shall use its best efforts to cause construction of the Project to be diligently and continuously prosecuted. All work shall be performed in a good and workmanlike manner, shall be free of defects in the

work and materials and shall be constructed in substantial accordance with the Contract Documents, the requirements of this Lease and Requirements of Law. Landlord shall use its best efforts to cause Substantial Completion of the Project in accordance with the Project Schedule attached hereto as **EXHIBIT D-1**. In addition, Landlord shall use its best efforts to cause all Project Costs to be paid within the Fixed Price; provided, however, that (i) Landlord shall have no obligation to pay Project Costs in excess of the Fixed Price, and (ii) Tenant, whose only payment obligation hereunder is the payment of Rent and other amounts specifically set forth herein, shall have no obligation for the payment of any Project Costs. As reflected in **EXHIBIT N**, Tenant may directly procure certain Financed FF&E. In such event, upon written request by Tenant (including such supporting documentation as Landlord may reasonably require), Landlord shall reimburse Tenant as a Project Cost for Tenant's costs of procuring such Financed FF&E; provided that such reimbursement shall not exceed the amount of the Financed FF&E Allowance as set forth in the Project Budget, and any costs in excess of such FF&E Allowance shall be borne by Tenant and are not part of the Fixed Price.

9.10 Payment of Project Costs and Other Costs Associated with the Project. Throughout the course of construction of the Project, Developer shall submit to Landlord on a monthly basis Project Applications for Payment, as defined in, and in the manner, and with all supporting documentation described in, the Development Agreement. Pursuant to Section 9.2(a) above, Landlord shall require Developer to simultaneously provide Tenant with a copy of all such Project Applications for Payment and supporting documentation. Tenant shall have the right, but not the obligation, to give notice to Landlord objecting to any aspect of such submittals and Landlord shall notify Developer in the manner and within the time period set forth in the Development Agreement. If Tenant fails to give such notice so as to allow Landlord to make timely objection, Landlord shall be free to approve or to take such other action as it deems appropriate with respect to any such submittal. Any dispute with respect to Project Applications for Payment may be subject to dispute resolution pursuant to Section 9.5 above. In no event shall Landlord approve any Project Application for Payment unless and until the Project is in balance in accordance with Section 9(g) of the Development Agreement.

9.11 Savings. Upon Final Acceptance, Landlord shall provide Tenant and Trustee notice of the unexpended amounts, if any, of the Tenant Contingency and the Project Contingency. Any unexpended amount of Tenant Contingency shall be applied as provided in the Indenture. Subject to the payment to Developer of the incentive fee specified in Section 12(g)(ii) of the Development Agreement, the unexpended amount in the Project Contingency shall be used, at the direction of the Tenant with approval from bond counsel and consistent with the Indenture, to finance other capital improvements related to the Project or to pay or redeem Bonds, which shall result in a corresponding reduction to the Base Rent due from the Tenant.

9.12 Substantial Completion of Project. Substantial Completion of the Project shall have occurred when all of the events described in Section 1.62 have occurred.

9.13 Final Acceptance. Final Acceptance shall have occurred when all of the events set forth in Section 1.30 have occurred.

9.14 As-Constructed Plans and Specifications; Manuals; Warranties; Permits and Licenses; and Survey. On or before Final Acceptance, Landlord shall provide Tenant with a complete and detailed set of “as constructed” plans and specifications for the Project (Tenant Improvements to be provided in a CAD—computer-aided design—format), together with copies of all other materials received from Developer pursuant to the Development Agreement including manuals, warranties, permits and licenses and a survey. Landlord shall ensure that Tenant has the right and irrevocable license to use the Construction Documents for repairs and additions to the Project following Final Acceptance.

9.15 Inspection by Tenant. Tenant shall have the right to inspect the ongoing construction of the Project and the Contract Documents upon reasonable prior notice to Landlord.

9.16 No Amendment of Documents. In the event Landlord desires to amend the agreement with the Architect, the General Construction Contract, any Contract Document, the Development Agreement, the Indenture, the Leasehold Mortgage, or any other document, contract or agreement entered into in connection with the Project or the Bonds, Landlord shall submit a copy of such proposed amendment to Tenant. In the event Tenant notifies Landlord within fifteen (15) days following receipt of such proposed amendment of its objection to such proposed amendment, stating any conditions for assent and reasons for the objections, Landlord shall not enter into the proposed amendment unless Landlord first (i) responds to the concerns expressed by Tenant, (ii) determines that any such amendment does not materially and adversely affect the Project, and (iii) confirms that any such amendment complies with the provisions of the Indenture. Landlord agrees not to enter into any amendment without Tenant’s Concurrence.

9.17 Tenant’s Construction Representative. Tenant’s Construction Representative shall have the right, but not the obligation, to (i) review and suggest revisions to the Construction Contracts prior to their execution, (ii) review and suggest revisions to the Construction Documents prior to or during construction in order to clarify, correct or properly reflect the intent of design (as defined below), (iii) review, comment on, or suggest actions with respect to all submittals and change orders concurrently with the Architect’s review and with a reasonable time for such comments prior to final approval of the change order or submittal, and (iv) provide written notice to Landlord of any known or suspected failure of the Project to comply with the Construction Documents, or any other construction related defects in the Project or construction means and methods.

(a) **Copies of Review Items.** Landlord shall require Developer to provide, or make available, to the Tenant’s Construction Representative copies of all potential Construction Contracts, Construction Documents, submittals and change orders. Tenant Construction Representative’s efforts shall be coordinated with Landlord and Developer so as to not interfere with or delay design, development or construction of the Project.

(b) **Notices to Landlord.** If during the course of such construction Tenant Construction Representative notifies Landlord that it believes that the Project is not proceeding in accordance with the Contract Documents, Landlord shall provide a copy of such notice to Developer for review and response and Landlord shall thereafter require Developer to take, or cause to be taken, any steps necessary to correct any deficiency or omission that is

determined to exist. The failure of Tenant's Construction Representative or Tenant to give such notice or to take advantage of such rights listed above shall not give rise to any liability for Tenant and shall not be considered a waiver of any right of Tenant under this Lease.

(c) **Intent of Design.** As of the Effective Date of this Lease, the Construction Documents are in development and are not complete. Accordingly, to the extent such Contract Documents are silent or internally inconsistent as to various design and construction matters, Tenant Construction Representative may issue notice to Landlord and Developer as to what it considers to be the intent of design. For purposes of this Section, "intent of design" shall mean what would be naturally and reasonably inferable from the Contract Documents by an experienced professional in the construction industry accustomed to projects similar to the Project as being necessary for the construction of a fully complete and operational project.

10. Maintenance, Management, Alterations, and Janitorial Services

10.1 Maintenance and Repair. Landlord shall, at Landlord's sole cost and expense (but only to the extent of funds in the Annual Operating Budget or available operating or maintenance reserves (with respect to Operating Costs), the Capital Repairs Fund (with respect to Capital Expenditures), or as otherwise made available by Tenant), and in accordance with this Lease, maintain, repair and replace in an attractive condition, good order and function throughout the Term the Premises, including but not limited to the following: (a) the structural portions of the Premises (understood to include the roof, foundation and load bearing walls); (b) the non-structural portions of the Premises (understood to include the roof covering and membrane), including but not limited to all improvements, alterations and fixtures, but excluding furnishings; (c) all systems and equipment, including but not limited to electrical, plumbing, fire sprinkler, fire suppression system, fire/life/safety system, elevators, security systems, flooring, ceiling, doorways, windows, hardware, fixtures, lighting, heating, ventilating and air conditioning system ("HVAC"), and loading doors; (d) the exterior of the Premises including, but not limited to, landscaping, Parking, driveways, sidewalks, lighting facilities, and storm water maintenance servicing the Premises. Landlord shall take all action and will perform all interior and exterior, structural and non-structural, foreseen and unforeseen, ordinary and extraordinary, maintenance and repairs required to keep all parts of the Premises in good repair and condition, subject only to ordinary wear and tear. It is the intent of this Section that Landlord, to the extent of available funds as set forth above, agrees to perform all maintenance and make all repairs to the Premises that may become necessary by reason of industry standard for age, wear and tear, deferred maintenance or defects in any construction thereof by Landlord. In determining a maintenance and repair program for the Premises, Landlord shall determine the most cost-effective program of maintenance and repair.

(a) **Time for Repairs.** Repairs shall be made promptly when appropriate to keep the applicable portion of the Premises and other items in the condition described in this Section 10. Landlord understands certain response time is required to ensure Tenant's operations continue with minimal interruption and to ensure the safety of employees and delivery of services. Landlord agrees to use its best efforts to include in any property management contract for the Premises a requirement that the property manager commence repairs within eight (8) hours from written notice with respect to electrical power, HVAC operations and certain essential daily

custodial services, and within thirty (30) days for all other repairs and maintenance (unless, due to the nature of the particular repair or maintenance obligation, more than thirty (30) days are reasonably required to complete it, in which case the property manager shall not be in default if it begins the work within this thirty (30) day period and diligently pursues it to completion).

(b) **Tenant's Right to Make Repairs.** If Tenant provides notice to Landlord of an event or circumstance that requires the action of Landlord with respect to the replacement, repair, or maintenance to the Premises as set forth in Section 10.1 and Landlord fails to provide such action as required by the terms of this Lease within the time period specified in Section 10.1(a), Tenant may (but shall not be obligated to do so) take the required action if: (1) Tenant delivers to Landlord an additional written notice advising Landlord that Tenant intends to take the required action if Landlord does not begin the required repair or maintenance within twenty four (24) hours, after the written notice; and (2) Landlord fails to begin the required work within the twenty four (24) hour period.

(c) **Tenant's Right to Reimbursement.** If such action was required under the terms of this Lease to be taken by Landlord, Tenant shall be entitled to prompt reimbursement within thirty (30) days of invoice by Tenant to Landlord, which invoice shall include reasonable supporting documentation with respect thereto.

(d) **Emergency Repairs.** An "Emergency Repair Situation" is defined as the existence of any condition that requires prompt repair, replacement or service to minimize the impact of an event or situation which affects Tenant's ability to conduct business in a neat, clean, safe and functional environment. If Tenant notifies Landlord of an Emergency Repair Situation which occurs in or about the Premises which is the responsibility of Landlord to repair or maintain, then Landlord shall commence appropriate repairs or maintenance immediately after notice of the condition is given by Tenant, which notice may be via telephone, facsimile, email, personal contact or any other means, and Landlord shall thereafter diligently pursue to completion said repairs or maintenance.

(e) **Tenant's Right to Cure.** If Landlord fails to commence repairs within twenty-four (24) hours of the aforementioned notice, or if the Tenant is unable to contact the Landlord or any designated agent within a reasonable time based upon the seriousness of the event or situation, Tenant may, but shall not be obligated to, cause said repairs or replacements to be made or such maintenance to be performed. Within ten (10) days following demand and invoice by Tenant accompanied by reasonable supporting documentation with respect thereto, Landlord shall reimburse Tenant the actual cost and expenses thereof, provided said costs and expenses are reasonable and funds are available therefor.

(f) **Tenant's Right to Consent.** Landlord and Tenant shall consult as to whether a particular expenditure under this Section 10.1 is properly chargeable as an Operating Cost or Capital Expenditure, and no withdrawals from the Capital Repairs Fund shall be made without Tenant's written consent (either at the time or in advance by means of approval of a budget providing for such expenditure).

10.2 Management of Premises; Accounting.

(a) **Standard of Operation.** Landlord shall cause the Premises to be operated and managed, and services provided, in a manner consistent with that of a reasonably prudent building owner of comparable institutional public safety facilities located in the business districts of Monterey County, California, and in a manner which is efficient and reasonably controls expenses.

(b) **Property Management.** Following Substantial Completion of the Project, Landlord shall at all times cause the Premises to be operated by a professional property management company selected and managed by Landlord. Such property manager shall have experience in managing public safety facilities of comparable size and quality to the Premises at a management fee which shall not be in excess of the management fee charged by property management companies managing public safety facilities of comparable size and quality in Monterey County. The property management contract shall include the provisions set forth in **EXHIBIT L** attached hereto, and shall comply with Revenue Procedure 97-13 or any successor revenue procedure issued by the Internal Revenue Service governing management, operation or other service contracts in connection with the issuance of tax-exempt obligations. Such property manager shall at all times operate the Premises in compliance with the requirements of all laws and in compliance with the terms and provisions of this Lease. Contracts with property management firms should be terminable upon not less than six (6) months' notice beginning five (5) years after the Substantial Completion Date.

Beginning five (5) years after the Substantial Completion Date, Tenant may, upon not less than six (6) months' written notice to Landlord, elect to operate and maintain the Premises itself or by a property manager of its choosing; provided, however, that if Tenant elects to do so, Landlord shall have no further rights or obligations with respect to the operation and maintenance activities specifically set forth in Tenant's notice as being assumed by Tenant; and, provided, further, that if Tenant makes such an election, Tenant shall operate and maintain the Premises to a standard equal to or better than that of Landlord.

(c) **Financial Statements.** As soon as reasonably possible and in any event within ninety (90) days after the close of each fiscal year of Landlord, Landlord shall deliver to Tenant and Trustee the (i) consolidated balance sheet of Landlord and the Premises as at the end of such fiscal year setting forth in comparable form the corresponding figures as at the end of the preceding fiscal year, certified as to accuracy by an officer of Landlord; (ii) statements of income, retained earnings and changes in financial position for such fiscal year of Landlord and the Premises setting forth in comparable form the corresponding figures for the previous fiscal year prepared in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year or containing disclosure of the effect on financial position or results of operations of any change in the application of accounting principles during the year certified as to accuracy by an officer of Landlord; (iii) operating statement for the Premises for the preceding Calendar Year certified as to accuracy by an officer of Landlord; and (iv) certificate executed by an officer of Landlord certifying compliance by Landlord with the requirements of this Lease, the Leasehold Mortgage, the Indenture and the Bonds. Such year-end balance sheet and income statements of the Premises shall be accompanied by an unqualified report and audit opinion of independent public accountants of recognized standing selected by

Landlord and not objected to by Tenant, which report and opinion shall be in accordance with generally accepted auditing standards relating to reporting, or, if qualified, the opinion shall not be qualified due to any departure from any generally accepted accounting principles, and shall be accompanied by a statement of such accountants that in making the audit necessary for the certification of such financial statements and any such report, such accountants have obtained no knowledge of any default under this Lease, the Leasehold Mortgage, the Indenture, the Bonds or any other evidence of indebtedness or of any event which, with notice or lapse of time, or both, would constitute an event of default under this Lease, the Leasehold Mortgage, the Indenture, the Bonds or any other evidence of indebtedness or, if in the opinion of such accountants any such event of default or other event shall exist, shall include a statement as to the nature and status thereof.

Notwithstanding anything to the contrary contained herein, Trustee shall have no duty to review any such audited or unaudited financial statements or reports, including the balance sheet, income, retained earnings, and changes in financial position statements and operating statements described above (collectively, "Financial Statements") or inquire into the underlying facts and circumstances of any certificate or notice delivered by Landlord. Trustee shall not be considered to have notice of the contents of any such financial statements or of any default or Event of Default hereunder or under any Bond Document or Other Document (as defined in the Indenture) based upon such content. Further, Trustee has no duty to verify the accuracy of any such Financial Statements or any such notice or certificate.

(d) **Asset Management Fee.** As compensation for its services in overseeing the management of the Premises, the preparation of financial statements and the preparation of an Annual Operating Budget for the Premises, Tenant shall pay Landlord the Asset Management Fee as an Operating Expense pursuant to Section 5.2.

10.3 Tenant's Remedies. If Landlord does not perform its obligations under Section 10.1 of this Lease within the time limitations set forth therein, or if Landlord does not reimburse Tenant as required under Section 10.1 after demand from Tenant, Tenant may resort to the mediation procedure in **EXHIBIT F**. Tenant shall also have the right to pursue any and all remedies available at law or equity, except that Tenant shall have no right to offset against Base Rent payable under this Lease.

10.4 Alterations by Landlord. From and after the Substantial Completion Date, Tenant may require Landlord to complete alterations of the Premises and Landlord shall provide a written cost estimate of the requested alterations with complete line item breakdown for each component of the requested alterations for Tenant's review and approval. In the event Tenant approves the cost, and the total cost is \$25,000 or less, Landlord shall proceed to complete the requested alterations. Upon completion of the alterations, Landlord shall submit an invoice for payment to Tenant including a detailed breakdown on the costs for the alteration(s), and Tenant shall pay said invoice within forty-five (45) days of receipt of invoice. In the event the cost of the alterations exceeds \$25,000 and Tenant approves the costs, Landlord shall proceed to complete the requested alterations subject to the availability of funds, or, Tenant's undertaking to reimburse Landlord for such costs prior to the due date for payment to contractors, architects, or other third parties in connection with such alterations, provided said due date is not less than forty-five (45) days from each invoice for completion of the alterations. Such alterations and

additions shall not decrease the value of the Premises, and such modifications, alterations, and additions shall be expeditiously completed in a good and workmanlike manner and in compliance with all applicable laws and the requirements of all insurance policies required to be maintained by Landlord. Any alterations completed by Landlord pursuant to this Section shall be maintained by Landlord during the term of this Lease.

10.4.1 To the extent required, Landlord shall comply and stay current with all applicable local, state, and federal building codes and laws as from time to time amended, including, but not limited to, the Americans with Disabilities Act requirements in providing Tenant with any requested alterations.

10.4.2 Landlord shall cause all alterations to be lien free, completed in a workmanlike manner and in compliance with all applicable Laws.

10.5 Alterations by Tenant. Any alterations or Tenant Improvements to be undertaken by Tenant shall have the prior written consent of Landlord. Such consent shall not be unreasonably withheld, conditioned or delayed. Any alterations or Tenant Improvements made by Tenant shall remain Tenant property and may be removed by Tenant at or prior to the expiration of this Lease; provided, however, that such removal does not cause injury or damage to the Premises beyond normal wear and tear. Landlord shall, upon reasonable notice, have access to all plans and specifications relating to alterations or Tenant Improvements made by Tenant to Premises.

10.5 Communications Equipment. Tenant may, from time to time, install, maintain, replace and/or remove any satellite dishes, links, duct bank or antennas on the grounds, roof and/or exterior walls or parapet of the Premises as Tenant deems reasonably necessary or desirable, provided Tenant shall first obtain Landlord's approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Upon the removal by Tenant of any such satellite dishes, links, or antennas, Tenant shall repair any damage incurred in connection with such removal. Any work by Tenant pursuant to this Section shall be subject to compliance with the Landlord's reasonable requirements, including, without limitation, the requirement that any work affecting the roof of the Public Safety Facility be undertaken in a manner so as not to affect any roof warranty then in effect.

10.6 Janitorial Services. Landlord shall provide, or cause to be provided, as an Operating Cost, all janitorial services in connection with the Premises, consistent with the requirements set forth on **EXHIBIT M** attached hereto.

10.7 Termination of Contracts. All third-party contracts entered into by Landlord with respect to the maintenance and operation of the Premises shall include a provision allowing Tenant to terminate such contracts upon not less than forty-five (45) days' written notice following the conveyance of the Premises to Tenant pursuant to Section 4.4 above. Such termination shall be in Tenant's sole discretion and with or without cause. **Landlord Financing of Project.** Landlord shall not have the right to mortgage, pledge, encumber or assign the Premises in whole or in part except in connection with its financing of the Project through the Bonds issued by Landlord. Copies of the Indenture and the Leasehold Mortgage securing the Bonds shall be provided to and shall be approved by Tenant, which approval shall not be

unreasonably withheld. Pursuant to a subordination, non-disturbance and attornment agreement entered into by Landlord and Tenant with the Trustee as the beneficiary under the Leasehold Mortgage, so long as Tenant is not in default under any of the terms, covenants or conditions of this Lease, the beneficiary under the Leasehold Mortgage shall not disturb Tenant's possessory rights in the Premises in the event such beneficiary should foreclose the Leasehold Mortgage.

12. Construction Liens. From and after the Substantial Completion Date, Tenant shall pay all costs for modifications, alterations and additions done by it or caused to be done by it on the Premises as permitted or required by this Lease (other than the construction of the Project) and Tenant shall keep the Premises free and clear of all Liens resulting from modifications, alterations and additions done by or for Tenant; provided, however, Tenant shall have the right to contest the correctness or validity of any such Lien by appropriate proceedings conducted in good faith with due diligence. Within thirty (30) days following written notice from Landlord, Tenant shall discharge such Lien of record or record a bond which complies with the requirements of law for eliminating such Lien as an encumbrance against the Premises if in the reasonable exercise of Landlord's judgment the protection of the Premises or Landlord's interest therein shall require such payment. In the event Tenant shall fail to so remove any such Lien, Landlord may take such action as Landlord shall reasonably determine to remove such Lien and all costs and expenses incurred by Landlord including, without limitation, amounts paid in good faith settlement of such Lien and attorneys' fees and costs shall be paid by Tenant to Landlord. Tenant's obligations pursuant to this Section shall survive the Expiration Date.

13. Indemnity and Hold Harmless.

13.1 Indemnification by Landlord. Landlord shall indemnify, defend and hold harmless Tenant and its elected and appointed officers, officials, employees, and agents (the "Indemnified Tenant Parties") from and against any and all liability, demands, liens, damages, claims, causes of action, expenses, and fees (including reasonable attorneys' fees and costs and expert witness fees) for bodily injury, property damage, and death (hereinafter collectively referred to as "Liabilities"), arising out of or relating to the negligence, acts, errors, or omissions of Landlord including, without limitation, any breach of this Lease except to the extent that such Liabilities are caused by the negligence or willful misconduct of Tenant.

Landlord shall require the Developer, General Contractor and Contractors to agree to and abide by the indemnification requirements set forth in this Section in favor of Tenant, subject to the provisions of California Civil Code sections 2782 *et seq.*, as such may be applicable to the work and/or services being provided by Landlord's contractors and consultants.

13.2 Indemnification by Tenant. Tenant shall indemnify, defend and hold harmless Landlord and its officers, representatives, employees, and agents (the "Indemnified Landlord Parties") from and against any and all Liabilities (as defined in Section 13.1), arising out of or relating to the negligent acts, errors, or omissions of Tenant including, without limitation, any breach of this Lease except to the extent that such Liabilities are caused by the negligence or willful misconduct of Landlord, Developer, the General Contractor, or their consultants, agents or employees.

13.3 Survival. The indemnification provisions of this Section shall remain in full force and effect and survive the termination and/or expiration of this Lease.

14. Minimum Scope of Insurance Coverage for Landlord. After the Effective Date, Landlord shall at a minimum maintain insurance coverage of the type and amount specified on the attached **EXHIBIT K**.

15. Minimum Scope of Insurance Coverage for Tenant.

15.1 General Liability. After the Substantial Completion Date, Tenant shall have the right to self-insure under Section 15.2 or, at its sole cost and expense, shall obtain and keep in force throughout the Term a Commercial General Liability insurance policy on an occurrence basis insuring Tenant against claims for injuries to persons and property damage liability. "Commercial General Liability" insurance shall mean Insurance Services Office form number (CG00 001) with a limit of not less than \$1,000,000 combined single limit per occurrence, \$5,000,000 aggregate. Tenant agrees to add Landlord and Trustee as additional insureds to any Commercial General Liability insurance policy.

15.2 Self-Insurance by Tenant. Notwithstanding anything herein to the contrary, Tenant may self-insure for general liability coverage. Upon request by Landlord or Trustee (the Trustee having no obligation to make such request) to Tenant's Risk Manager, Tenant shall provide Landlord and Trustee with at least thirty (30) days' prior written notice of any change in Tenant's self-insured status and will provide Landlord and Trustee with a certificate of self-insurance as adequate proof of insurance. If Tenant elects to self-insure as set forth in this Section, Tenant acknowledges and agrees that Landlord shall have no liability for such losses or damage which would otherwise have been covered by the general liability insurance which Tenant could have provided in accordance with Section 15.1, nor shall Tenant's failure to obtain commercial general liability insurance have any effect on Tenant's obligations under this Lease.

15.3 Workers' Compensation. Tenant is self-insured for all of its workers' compensation liability exposure. Tenant shall, at its own expense, maintain through its self-insurance program coverage for its workers' compensation liability exposure for the duration of the Term. Tenant shall provide Landlord and Trustee with at least thirty (30) days' prior written notice of any change in the Tenant's self-insured status and will provide Landlord and Trustee with a certificate of self-insurance as adequate proof of insurance.

16. Property Insurance.

16.1 Coverage for Premises. From and after the Substantial Completion Date, Landlord shall cause the Premises to be insured for fire and other perils currently covered by a special causes of loss commercial property insurance form. Such coverage shall include eighteen (18) months of rental interruption coverage for the costs of Base Rent and Additional Rent, with Extra Expense coverage and shall name Trustee and Tenant as loss payee as each of their interests may appear. Landlord shall further cause the Premises to be insured against the perils of earth movement and flood, either as part of the aforementioned commercial property policy, or under a separate policy or policies. Such earth movement and flood insurance shall include

eighteen (18) months of rental interruption coverage and shall name Trustee as loss payee as its interests may appear. Landlord shall cause coverage to be maintained against loss arising from earth movement and flood so long as such coverage is available at a commercially reasonable cost and in coverage amounts which are commercially available, but shall not be in default under this Lease if coverage is no longer written, is unavailable for properties comparable to the Premises or is not available at commercially reasonable premium amounts. Landlord will provide Tenant and Trustee with thirty (30) days' prior written notification of material changes in coverage. Landlord will, upon request, furnish Tenant and Trustee with satisfactory evidence that such coverage is in effect.

16.2 Coverage for Tenant's Personal Property. Landlord shall have no obligation to insure any of Tenant's Personal Property.

17. Waiver of Subrogation. Landlord and Tenant shall cause their respective property insurance carriers to release and waive all rights of subrogation against the other to the extent a loss is covered by property insurance in force. Landlord and Tenant hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage endorsements hereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of Landlord or Tenant.

18. [Intentionally Omitted.]

19. Destruction.

19.1 Insured Damage. If during the Term, the Premises are partially or totally destroyed by any casualty that is covered by insurance described in Section 16, rendering the Premises partially or totally inaccessible or unusable, Landlord shall restore the Premises to substantially the same condition as they were in immediately before such destruction, if (i) the insurance proceeds available to Landlord equal or exceed the cost of such restoration, (ii) such restoration can be completed within a period which is not longer than eighteen (18) months from date of such destruction, and (iii) such restoration is permitted under then existing Laws to be done in such a manner as to return the Premises to substantially the same condition as it was immediately before the destruction. Landlord will advise Tenant and Trustee with respect to the preceding conditions and, accordingly, whether such restoration of the Premises can proceed, on or before that date which is ninety (90) days after the date of destruction. If the foregoing conditions cannot be met, such destruction shall be treated as "Underinsured Damage" in accordance with the provisions of Section 19.2. The insurance proceeds shall be retained by Trustee who shall disburse same to Landlord from time to time as the restoration work progresses, provided, however, that Landlord shall complete such restoration as soon as reasonably practical, but in any event not longer than that period which is eighteen (18) months from the date of such destruction.

19.2 Underinsured Damage. If during the Term the Premises are partially or totally destroyed by any casualty and the conditions set forth in Section 19.1, captioned "Insured Damage" cannot be met, Landlord shall provide written notice to Tenant and Trustee within ninety (90) days after the date of destruction. Such notice shall describe the extent of the

destruction, which of the conditions(s) cannot be met, and the estimated time necessary for restoration of the Premises. Within thirty (30) days of Tenant's receipt of Landlord's notice, Tenant shall notify Landlord in writing whether Tenant will proceed to satisfy the conditions which cannot be met, including the deposit of funds with the Trustee sufficient to restore any Underinsured Damage.

(a) If Tenant so fulfills such conditions, then Landlord shall proceed to restore the Premises in accordance with the terms agreed between Landlord and Tenant. In that event, the insurance proceeds shall be retained by Trustee who shall disburse same to Landlord from time to time as the restoration work progresses.

(b) If Tenant elects not to fulfill such conditions and the Premises are totally destroyed, this Lease shall terminate and the entire amount of the insurance proceeds held by Trustee shall be used to repay or defease Bonds and to reimburse Trustee for any costs incurred by Trustee for which it is entitled to reimbursement under the Indenture.

(c) If Tenant elects not to fulfill such conditions and the Premises are partially destroyed, this Lease shall not terminate, Tenant shall continue to pay Rent subject to Abatement and the amount of the insurance proceeds held by Trustee shall be disbursed to Landlord to complete such restoration as Landlord reasonably determines to be practicable to allow for Tenant's partial use of the Premises for its intended purposes. Any insurance proceeds not disbursed for such restoration shall be used to repay or defease Bonds and to reimburse Trustee for any costs incurred by Trustee for which it is entitled to reimbursement under the Indenture.

(d) If any monies deposited by Tenant in connection with any restoration pursuant to this Section 19.2 remain after the Premises have been restored, those monies shall be returned to Tenant.

19.3 Extent of Landlord's Obligation to Restore. If Landlord is required or elects to restore the Premises or such portion thereof which has been destroyed as provided in this Section 19, Landlord shall not be required to restore Tenant's Personal Property, such excluded items being the sole responsibility of Tenant to restore.

19.4 Abatement of Rent. In the event that (i) the Premises are (i) damaged or destroyed by fire or other casualty following the Rent Commencement Date resulting in substantial interference with Tenant's right to the use and occupancy of the Premises or (ii) a defect in Landlord's title occurs, other than a defect that results from Tenant's ownership of the Land resulting in substantial interference with Tenant's right to the use and occupancy of the Premises, this Lease shall not terminate (except as provided in Section 19.2), but the Rent otherwise payable by Tenant hereunder (other than Additional Rent for payment of Operating Costs) shall be subject to Abatement during the period of such interference.

19.5 Waiver of Certain Rights. In recognition of the specifically negotiated provisions in this Lease with respect to Tenant's rights in the event of damage, destruction or condemnation of the Premises, Tenant hereby waives its rights pursuant to California Civil Code §§ 1932(2) and 1933(4).

20. Condemnation.

20.1 Total Condemnation. If there is a taking or damaging of all or any portion of the Premises by the exercise of any governmental power, whether by legal proceedings or otherwise, by a governmental agency with jurisdiction over the Premises or a transfer by Landlord either under threat of condemnation or while legal proceedings for condemnation are pending (a “Condemnation”) such that there can be no reasonable use of the Premises by Tenant, as reasonably determined by Tenant, this Lease shall terminate on the date the condemnor has the right to possession of the Premises. The entire award with respect to a taking of the Premises (including Tenant’s leasehold estate under this Lease) shall be paid to Trustee and applied at Tenant’s direction to repay or defease Bonds or to reimburse Trustee for any costs incurred by Trustee for which it is entitled to reimbursement under the Indenture. Any Condemnation proceeds remaining after Bonds have been paid in full shall be paid to Tenant.

20.2 Partial Condemnation. If, prior to Substantial Completion of the Project, there is a partial taking of the Premises by Condemnation but the Project can be completed substantially in accordance with the Project Requirements, such condemnation proceeds shall be paid to Trustee who shall deposit such condemnation proceeds into the Non-Bond Proceeds Account established under the Indenture for purposes of paying Project Costs. Following Substantial Completion of the Project, if there is a partial taking of the Premises by Condemnation, and Tenant determines that restoration is possible or a reasonable use can be made of the Premises without restoration, then the condemnation proceeds shall be paid to Trustee who shall, as applicable, (i) deposit such condemnation proceeds into the Capital Repairs Fund and shall disburse such condemnation proceeds to Landlord from time to time as restoration progresses, or (ii) deposit such condemnation proceeds in the Bond Fund to be used to repay or defease Bonds. In no event shall this Lease terminate as a result of a partial taking (except a partial taking which results in no reasonable use of the Premises by Tenant as determined pursuant to Section 20.1), but Rent hereunder (other than Additional Rent for payment of Operating Costs) shall be subject to Abatement to the extent and during the period that the partial condemnation results in substantial interference with Tenant’s right to the use and occupancy of the Premises.

21. Assignment of Project; Subletting. Except as provided in the Indenture including as described in Section 32.13 below, Landlord shall not sell, transfer, convey or assign all or any portion of its interest in this Lease or in the Premises (except to Trustee) without the prior written consent of Tenant and, at the written direction of the holders of a majority in aggregate principal amount of the Bonds, Trustee and a written opinion from nationally recognized bond counsel that any such sale, transfer, conveyance or assignment will not have an adverse effect on the tax exempt status of interest payable on the Bonds. Tenant shall not sell, transfer, convey or assign all or any portion of its interest in this Lease or in the Premises without the prior written consent of Landlord and, at the written direction of the holders of a majority in aggregate principal amount of the Bonds, Trustee together with an opinion of nationally recognized bond counsel that any such sale, transfer, conveyance or assignment will not adversely affect the tax exempt status of interest payable on the Bonds. Notwithstanding the foregoing sentence, Tenant may sublease the Premises or any portion thereof without the consent of Landlord or Trustee, to the extent and on the terms and conditions set forth under Section 7 so long as the execution of such sublease would not violate the provisions of Section 7; provided,

however, that under no circumstances shall Tenant be released or relieved from any of its obligations hereunder.

Any sale, transfer, conveyance, assignment or sublease permitted under this Section shall be in writing and shall require the purchaser, transferee, grantee, assignee or subtenant to comply fully with the terms of this Lease, including, without limitation, the provisions of Section 7 regarding use of the Premises. Tenant shall provide Landlord and Trustee with written notice of any such sale, transfer, conveyance, assignment or sublease and a copy of all documentation relating thereto. Any attempted sale, transfer, conveyance, assignment or sublease in material violation of the requirements set forth in this Section 21 shall be null and void and shall constitute an event of default under the Indenture.

22. Default by Tenant. The occurrence of any of the following shall constitute an Event of Default by Tenant under this Lease:

22.1 Payment. Failure (a) to make any Base Rent payments due under this Lease if the failure to pay is not cured within seven (7) Business Days after written notice of such failure has been given by Trustee or Landlord to Tenant, or (b) failure to make any other payment required if the failure to pay is not cured within ten (10) Business Days after written notice of such failure has been given by Landlord to Tenant.

22.2 Other Failure to Perform. Failure to materially perform any other provision of this Lease if the failure to perform is not cured within thirty (30) days after written notice of such default has been given by Trustee or Landlord to Tenant. If the default cannot reasonably be cured within thirty (30) days, then such default shall not constitute an Event of Default if Tenant commences to cure the default within thirty (30) days and diligently and in good faith continues to cure the default within one hundred eighty (180) days from the delivery of such default notice.

22.3 Remedies for Tenant Default. If Tenant commits an Event of Default under this Section 22 and fails to cure such default within the time period provided therein, then Landlord shall have the right to pursue any and all remedies available at law or in equity, including without limitation, the right to (i) terminate this Lease or, with the consent of Tenant, which consent shall not be unreasonably withheld, to keep this Lease in full force and effect and, in either event, to re-enter the Premises and eject all parties in possession therefrom and re-let the Premises as the agent and for the account of Tenant upon such terms and conditions as Landlord may deem advisable, in which event the rents received on such re-letting will be applied first to the expenses of re-letting and collection, including expenses necessary for repair or restoration of the Premises to its condition as of the Rent Commencement Date (taking into account normal wear and tear), reasonable attorneys' fees and any real estate commissions actually paid, and second to the Revenue Fund for the payment of Base Rent and to Landlord for the payment of Additional Rent, both in accordance with this Lease and the Indenture; or (ii) in lieu of the above, so long as Landlord or its assignee does not terminate Tenant's right to possession, this Lease shall continue in effect and Landlord or its assignee shall have the right enforce all of its rights and remedies under this Lease, including the right to recover Base Rent payments as they become due hereunder pursuant to Section 1951.4 of the California Civil Code.

Notwithstanding the foregoing, in no event shall Landlord have the right to accelerate any payments owing by Tenant under this Lease.

Notwithstanding anything to the contrary herein, in the event Tenant commits an Event of Default under Section 5.11 and fails to cure such default within the time period provided herein, Landlord shall have no right to cancel and terminate this Lease or evict Tenant and re-enter the Premises through an unlawful detainer action or otherwise.

23. Default by Landlord. Landlord shall be in default if Landlord fails to perform its obligations (i) within five (5) Business Days after notice by Tenant specifying the obligation which Landlord has failed to perform if such failure occurs prior to the Substantial Completion Date and (ii) within thirty (30) days after notice by Tenant specifying the obligation which Landlord has failed to perform if such failure occurs after the Substantial Completion Date; provided, that if the nature of Landlord's obligation is such that more than five (5) Business Days or thirty (30) days, as applicable, are required for performance, Landlord shall not be in default if Landlord commences diligent performance within such period following Tenant's notice and thereafter completes performance within a reasonable time. Landlord agrees to include in any property management contract for the Premises a requirement that, if the nature of the obligation presents a hazard or emergency, the property manager shall commence performance within 8 to 24 hours, depending on the scope and nature of the hazard or emergency, and shall thereafter pursue such cure with diligence. In the event that Landlord fails to cure any such default within the time periods permitted, Tenant shall have the right to pursue any and all remedies available at law or in equity, or have the option to pursue such remedies after resort to the procedure in **EXHIBIT F**; provided, however, that Tenant shall have (i) no right to offset against Rent payable under this Lease and (ii) no right to terminate this Lease or the Ground Lease so long as the Bonds remain outstanding.

In light of the specific agreements in this Lease with regard to Landlord's obligations to maintain the Premises, Tenant hereby waives its rights under California Civil Code §§ 1941 and 1942.

24. Signs. Tenant shall have the right to place identification signage, other signage, advertisements, awnings, banners or other exterior decorations on the exterior of the Premises without any further consent or approval from Landlord. Any sign that Tenant has the right to place, construct and maintain shall comply with all laws, and Tenant shall obtain any approval required by such laws. Landlord makes no representation with respect to Tenant's ability to obtain such approval.

25. Landlord's Right to Enter the Premises. Landlord shall have the right to enter the Premises at reasonable times during Tenant's normal business hours for the purposes listed below; provided, however, Landlord acknowledges and agrees to comply with Tenant's requests regarding security. Landlord shall conduct its activities on the Premises as allowed in this Section in a manner that will cause the least possible inconvenience, annoyance or disturbance to Tenant. Should any disturbance or security violation occur, then Tenant may require that all future entries into the Premises be only during working hours after twenty-four (24) hours' written notice from Landlord to Tenant. This does not affect Landlord's right to enter in case of emergency. Landlord shall not be liable in any manner for any inconvenience, annoyance, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the

Premises as provided in this Section, except damage resulting from the negligent acts, willful misconduct or omissions of Landlord. Tenant shall not be entitled to an abatement or reduction of Rent if Landlord exercises any right reserved in this Section.

25.1 Condition. To determine whether the Premises are in good condition, whether Tenant is complying with its obligations under this Lease and to perform any maintenance, repair or replacement obligations of Landlord pursuant to Section 10.

25.2 Notices. To serve, post or keep posted any notices required or allowed under the provisions of this Lease.

26. No Encumbrances by Landlord. Except to the extent expressly authorized in Sections 11 and 21, Landlord shall not at any time during the Term sell, transfer, lease (other than to Tenant pursuant to this Lease), convey, encumber (other than to Trustee pursuant to the Leasehold Mortgage), pledge (other than to Trustee pursuant to the Indenture), hypothecate or otherwise grant a security interest in the Premises or any portion thereof.

27. Right to Estoppel Certificates. Each party, within fifteen (15) days after notice from the other party, shall, unless it is in default hereunder, execute and deliver to the other party, in recordable form, a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified and stating the modifications. Unless the party requested to provide such a certificate is in default, failure to deliver the certificate within such fifteen (15) day period shall be conclusive upon the party failing to deliver the certificate for the benefit of the party requesting the certificate and any successor to the party requesting the certificate, that this Lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

28. Limitation on Landlord's Liability. Notwithstanding any provision in this Lease to the contrary, Tenant shall look solely to the estate and property of Landlord in the Land and buildings constituting the Premises, any insurance proceeds or condemnation proceeds payable to Landlord under this Lease, any sums paid to Landlord under the Development Agreement and any amounts payable to Landlord under any warranty or other contract with respect to the Project for the collection of any judgment requiring the payment of money by Landlord or for the enforcement of any other judgment or remedy against Landlord and no other assets of Landlord shall be subject to levy, execution or other procedure for the satisfaction of Tenant's remedies.

29. Attorneys' Fees. In the event suit is brought by Landlord or Tenant relating to this Lease, including for the breach of any covenant or condition of this Lease, the party prevailing on a majority of the issues shall be entitled to a reasonable sum for attorney's fees, witness fees, and court costs, including costs of appeal.

30. Surrender. Tenant shall, on the Expiration Date, surrender and deliver up the Premises, including all improvements then located thereon and the appurtenances thereto, into the possession of Landlord, in good order, condition and repair, free and clear of all lettings and occupancies, and free and clear of all liens and encumbrances other than those existing on the date of this Lease and those, if any, created by Landlord, without any payment or allowance

whatsoever by Landlord, unless Tenant exercises the Option to Purchase as set forth in Section 4.3 and 4.4 of this Project Lease Agreement. Tenant shall execute, acknowledge and deliver to Landlord such instruments of further assurance as in the opinion of Landlord are necessary or desirable to confirm or perfect Landlord's right, title and interest in and to all of the above-described property.

30.1 Conveyance of Premises. Notwithstanding Tenant's obligation to surrender the Premises on the Expiration Date, Landlord shall nonetheless be obligated to convey the Premises to Tenant pursuant to Sections 4.3 and 4.4 above.

30.2 Survival. The provisions of this Section shall survive the expiration or termination of this Lease.

31. Broker. Landlord and Tenant each represent to the other that neither is represented by any broker, agent or finder with respect to this Lease in any manner. Each party agrees to indemnify and hold the other party harmless from and against any and all liability, costs, damages, causes of action or other proceedings instituted by any other broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying party in any manner whatsoever in connection with this Lease.

32. Miscellaneous Provisions.

32.1 Entire Agreement. This Lease sets forth the entire agreement of the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them. This Lease may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized officer or representative of each party hereto and the consent of the Bondholders if required pursuant to the provisions of Section 32.13. Furthermore, Landlord shall not assign nor amend the Development Agreement without the Tenant's prior approval, which approval shall not be unreasonably withheld.

32.2 Quiet Enjoyment Landlord covenants that Tenant shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the use of the Premises.

32.3 Governing Law. This Lease shall be governed by and construed and enforced in accordance with the laws of the State of California.

32.4 Severability/Construction of Lease. Should any of the provisions of this Lease be found to be invalid, illegal, unconstitutional or unenforceable by any court of competent jurisdiction, such provision shall be stricken and the remainder of this Lease shall nonetheless remain in full force and effect unless striking such provision shall materially alter the intention of the parties. The parties hereby acknowledge and agree that each was represented by counsel and this Lease was negotiated and drafted at arms' length. Accordingly, the judicial rule of construction that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Lease. The provisions of this Lease shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Lease.

32.5 Jurisdiction/Venue. In the event any action is brought to enforce any of the provisions of this Lease, the parties agree to be subject to exclusive in personam jurisdiction in the Monterey County Superior Court for the State of California and agree that in any such action venue shall lie exclusively in the County of Monterey, California.

32.6 Waiver. No waiver of any right under this Lease shall be effective unless contained in writing signed by a duly authorized officer or representative of the party sought to be charged with the waiver and no waiver of any right arising from any breach or failure to perform shall be deemed to be a waiver of any future right or of any other right arising under this Lease.

32.7 Captions. Section captions contained in this Lease are included for convenience only and form no part of the agreement between the parties.

32.8 Notices. All notices or requests required or permitted under this Lease shall be in writing, shall be (i) personally delivered, (ii) sent by certified or registered mail, return receipt requested, postage prepaid, or (iii) by nationally recognized overnight courier and shall be deemed given when so delivered or received. All notices or requests to any party shall be sent to all other parties as follows:

If to Landlord:

Salinas Public Safety Facilities Inc.
c/o Public Facilities Group
1414 Fourth Avenue
Seattle, WA 98101
Attention: John Finke

With a copy to:

Hillis Clark Martin & Peterson P.S.
999 Third Avenue, Suite 4600
Seattle, WA 98104
Attention: Michelle Gail

If to Tenant:

City of Salinas
200 Lincoln Avenue
Salinas, CA 93901
Attention: City Manager

With a copy to:

City of Salinas
200 Lincoln Avenue
Salinas, CA 93901
Attention: City Attorney

If to Trustee:

Attention: _____

Any party may change the address to which notices shall be sent by notice to the other party in the manner and with the effect set forth in this Section.

32.9 Binding Effect. Subject to the provisions of Sections 11 and 21, this Lease shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. No permitted assignment of this Lease or Tenant's rights hereunder shall be effective against Landlord unless and until an executed counterpart of the instrument of assignment shall have been delivered to Landlord and Landlord shall have been furnished with the name and address of the assignee. The term "Tenant" shall be deemed to include the assignee under any such permitted assignment. The term "Landlord" shall include any successors to or assigns of the Landlord's interest in the Premises following any foreclosure of the Leasehold Mortgage, including Trustee (except with respect to the Landlord's obligations and representations hereunder) or any purchaser at a trustee's or sheriff's sale of the Premises.

Notwithstanding anything to the contrary herein, Landlord and Tenant agree that Trustee, in acting under this Lease, acts not in its individual capacity but solely as Trustee under the Indenture and Trustee shall be entitled to the same rights, protections and immunities hereunder to which it is entitled as Trustee under the Indenture. In furtherance and not in limitation of the foregoing, the exercise of the rights of Trustee and the duties of Trustee hereunder, or under any assignment hereof to Trustee, shall be, in each and every case, subject to the express provisions

of Articles VII and VIII of the Indenture; provided, that the Indenture shall not operate to limit Trustee's rights to compensation and indemnification provided hereunder.

32.10 Gender and Number. As used in this Lease, the masculine shall include the feminine and neuter, the feminine shall include the masculine and neuter, the neuter shall include the masculine and feminine, the singular shall include the plural and the plural shall include the singular, as the context may require.

32.11 Nondiscrimination. Tenant covenants by and for itself, its successors and assigns, and all persons claiming under or through it, and this Lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased nor shall Tenant, or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises herein leased.

32.12 Recording; Memorandum of Lease. Neither Landlord nor Tenant shall record this Lease without the written consent of the other; provided, however, that a Memorandum of this Lease in the form attached hereto as **EXHIBIT E** and by this reference incorporated herein shall be recorded upon the Effective Date.

32.13 Amendment of Lease. So long as the Bonds remain outstanding, any amendment of this Lease must comply with applicable provisions of the Indenture. Without limitation, Landlord and Tenant may, from time to time, amend this Lease to exclude any surplus portion of the Land in accordance with Section 9.06 of the Indenture.

32.14 Time Is of the Essence. Time is of the essence in the performance of each party's obligations under this Lease. Each party will carry out its obligations under this Lease diligently and in good faith.

33. Prevailing Wage. Landlord shall require that General Contractor and its subcontractors comply with the prevailing wage requirements and be subject to restrictions and penalties in accordance with Section 1770 of the California Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts. The Landlord shall require that the General Contractor furnish all subcontractors/employees a copy of the Department of Industrial Relations prevailing wage rates which Landlord will post at the job site. All prevailing wages shall be obtained by the Landlord/Contractor from the California Department of Industrial Relations, Division of Labor Statistics and Research.

Landlord shall require that General Contractor comply with the payroll record keeping and availability requirement of Section 1776 of the Labor Code. In addition, Landlord shall require that General Contractor make travel and subsistence payments to workers needed for

performance of work in accordance with Section 1773.8 of the Labor Code. Prior to commencement of work, Landlord shall require that General Contractor contact the Division of Apprenticeship Standards and comply with Sections 1777.5, 1777.6 and 1777.7 of the Labor Code and applicable regulations.

Landlord shall indemnify, hold harmless, and defend Tenant and shall be responsible for any fine, penalty or fee levied against the Premises arising out of any violations by Landlord of this Section.

34. Authority. By execution of this Lease, Landlord and Tenant represent that they have authority to enter into this Lease. This Lease shall not be effective until approved of by ordinance passed by the City of Salinas City Council with at least thirty (30) days between the first and second readings of such ordinance.

35. Force Majeure. Landlord and Tenant shall not be deemed in default with respect to the performance of any of the terms, conditions and covenants of this Lease (other than the payment of Rent or other amounts due hereunder) if Landlord's or Tenant's failure to perform shall be due to any strike, lockout, war, sabotage, governmental action, Unavoidable Delays as defined in the Development Agreement, or act of God or other cause beyond the reasonable control of Landlord or Tenant, providing such cause is not due to the willful act or neglect of Landlord or Tenant. In the event either party is delayed or prevented from performing any of its respective obligations under this Lease (other than the payment of Rent or other amounts due hereunder) due to force majeure, then the time period for performance of such obligations shall be extended for the period of such delay. Nothing contained in this Section 35 shall be deemed to extend the Rent Commencement Date nor to excuse Tenant's obligation to pay Rent as and when required by the terms of this Lease.

36. Failure to Achieve Substantial Completion of Project by Developer Obligation Date. In the event that Substantial Completion of the Project is not achieved by the Developer Obligation Date (as defined in the Development Agreement), the following provisions shall apply until such time as Substantial Completion is achieved.

36.1 Enforcement of Development Agreement. Landlord shall vigorously enforce the provisions of the Development Agreement, including, without limitation, Section 7(b) thereof, with regard to the failure of the Developer to cause Substantial Completion of the Project to occur by the Developer Obligation Date. Amounts received from Developer thereunder for the payment of debt service on the Bonds shall be deposited with the Trustee as provided under the Indenture.

36.2 Enforcement of General Construction Contract. Landlord shall vigorously enforce the provisions of the General Construction Contract including, without limitation, provisions requiring the payment of liquidated damages in the event General Contractor fails to achieve completion of construction of the Project by the date set forth therein. Amounts received from General Contractor and available for payment of debt service on the Bonds shall be deposited with the Trustee as provided under the Indenture.

DATED the date first above written.

TENANT:

CITY OF SALINAS, a municipal corporation and charter city under the Constitution of the State of California

By: _____
Name: Ray Corpuz
Title: City Manager

Approved as to form:

By: _____
Name: Chris Callihan
Title: City Attorney

LANDLORD:

SALINAS PUBLIC SAFETY FACILITIES INC., a California nonprofit public benefit corporation

By: _____
Name: John Finke
Title: President

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 _____

}

ss.

On _____ before me, _____ personally appeared RAY CORPUZ, the City Manager of the City of Salinas, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 _____ (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

COUNTY OF _____

}

ss.

On _____ before me, _____
personally appeared JOHN FINKE, the President of Salinas Public Safety Facilities Inc., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 _____ (Seal)

EXHIBIT A

LAND

EXHIBIT B

SCHEDULE OF BASE RENT

NOTE: Base Rent shall be determined based upon the attached pro forma Bond Debt Service Schedule.

Following the pricing of the Bonds and prior to execution of this Lease, a final Schedule of Base Rent as approved by Tenant will be attached hereto, and the payment date for each installment of Base Rent shall be at least fifteen (15) days in advance of the date on which each Bond payment is due.

EXHIBIT C

PRELIMINARY PLANS

EXHIBIT D-1

PROJECT SCHEDULE

[See attached.]

EXHIBIT D-2

PROJECT BUDGET

[See attached.]

EXHIBIT E

MEMORANDUM OF PROJECT LEASE

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

Hillis Clark Martin & Peterson P.S.
Attention: Steven R. Rovig
999 Third Ave, Suite 4600
Seattle, WA 98104

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE *ONLY*.

Assessor's Parcel Nos.

This instrument is exempt from recording fees (California Government Code Section 27383) and from Documentary Transfer Tax (California Revenue and Tax Code Section 11922).

MEMORANDUM OF PROJECT LEASE

THIS MEMORANDUM OF PROJECT LEASE (this "Memorandum") is dated for reference purposes _____, 2018 and is made by and between **SALINAS PUBLIC SAFETY FACILITIES INC.**, a California nonprofit public benefit corporation ("Landlord"), and **CITY OF SALINAS**, a municipal corporation and charter city under the Constitution of the State of California ("Tenant").

1. Ground Lease. Landlord is the lessee under that certain Ground Lease Agreement dated for reference purposes _____, 2018 ("Ground Lease"), with Tenant as lessor, pursuant to which Landlord leases that certain real property located in the City of Salinas, County of Monterey, California ("Land"), more specifically described on the attached **EXHIBIT A**.

2. Project Lease. Landlord leases to Tenant certain Premises in the County of Monterey, State of California, located on and including the Land, at a rent and on the terms and conditions set forth in that certain Project Lease Agreement dated _____, 2018 as amended (as so amended, the "Project Lease") which is made part of this Memorandum as though fully set forth herein. The Project Lease is for a term commencing on the date it is fully executed, acknowledged and delivered, and expiring _____, 20__ unless the Term is sooner terminated or extended pursuant to the terms of the Project Lease; provided, however, that Tenant's duty to pay Base Rent shall not commence until the Rent Commencement Date as defined in the Project Lease.

3. Definition of Terms. All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Project Lease.

4. Purpose of Memorandum. This Memorandum is prepared for purposes of recordation only and to provide constructive notice of the rights of Landlord and Tenant under the Project Lease to all third parties, and does not set forth all of the terms and conditions set forth in the Project Lease. In the event there is any conflict between the terms and conditions of the Lease and this Memorandum, the Project Lease shall control.

DATED the date first above written.

TENANT:

CITY OF SALINAS, a municipal corporation and charter city under the Constitution of the State of California

By: _____
Name: Ray Corpuz
Title: City Manager

LANDLORD:

SALINAS PUBLIC SAFETY FACILITIES INC., a California nonprofit public benefit corporation

By: _____
Name: John Finke
Title: President

Approved as to form:

By: _____
Name: Chris Callihan
Title: City Attorney

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 _____

}

ss.

On _____ before me, _____
personally appeared RAY CORPUZ, the City Manager of the City of Salinas, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 _____ (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

COUNTY OF _____

}

ss.

On _____ before me, _____
personally appeared JOHN FINKE, the President of Salinas Public Safety Facilities Inc., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 _____ (Seal)

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT F

DISPUTE RESOLUTION PROCEDURE

In the event a dispute or claim in law or equity shall arise between the parties to this Lease, the parties have the option to participate in neutral, non-binding mediation prior to the filing of litigation or any other legal action or any other proceeding before a trier of fact. Landlord or Tenant shall provide 30 days written notice to the other party of the desire to mediate. The mediation shall be conducted in Monterey County, California. Landlord and Tenant shall choose a mutually agreeable mediator within fifteen days of notice of the desire to mediate and shall thereafter attend the mediation in good faith. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Mediation fees will be divided evenly between parties. By entering into this agreement, the parties are not waiving their right to a jury trial or to bypass the mediation process and directly pursue remedies in law or equity.

The parties recognize that mediation proceedings are settlement negotiations, and that all offers, promises, conduct and statements, whether written or oral, made in the course of the proceedings, are inadmissible in any arbitration or court proceeding, to the extent allowed by applicable state law. The parties agree to not subpoena or otherwise require the mediator to testify or produce records, notes or work product in any future proceedings, and no recording or stenographic record will be made of the mediation session. Evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation session. In the event the parties do reach a settlement agreement, the terms of that settlement will be admissible in any court or arbitration proceedings required to enforce it, unless the parties agree otherwise. Information disclosed to the mediator in a private caucus shall remain confidential unless the party authorizes disclosure.

If mediation is unsuccessful, either the Landlord or the Tenant may file litigation or any other legal action or proceeding pursuant to California law.

EXHIBIT G

FORM OF NOTICE OF ELECTION OF OPTION TO PURCHASE

To: Landlord

You are hereby notified that **CITY OF SALINAS** ("Tenant") has elected to exercise on _____, 20__ its option to purchase the public safety facility and related improvements ("Premises") currently leased by Tenant pursuant to the Project Lease Agreement ("Lease") by and between Tenant and Landlord dated _____, 20__. This purchase option is being exercised pursuant to Section 4.3 of the Lease. Tenant is now, and on the date set forth above for payment will be, in full compliance with all terms and conditions of the Lease. On or after _____, 20__, the purchase price of the Premises shall be an amount equal to the total outstanding principal components of Base Rent set forth on Exhibit A of the Lease, plus interest accrued thereon to the date of prepayment at the applicable rate(s) set forth on the attached Exhibit B of the Lease, plus an option exercise fee of One Dollar (\$1.00). Prior to _____, 20__, the purchase price of the Premises shall be an amount equal to the total outstanding principal components of Base Rent set forth on Exhibit B of the Lease, plus interest accrued thereon to the date of prepayment at the applicable rate(s) set forth on Exhibit B of the Lease, plus an option exercise fee of One Dollar (\$1.00), plus the amount, if any, required to fully defease the outstanding Bonds in accordance with the Lease and the Indenture.

TENANT:

CITY OF SALINAS, a municipal
corporation and charter city under the
Constitution of the State of California

By: _____

Name: Ray Corpuz

Title: City Manager

Approved as to form:

By: _____

Name: Chris Callihan

Title: City Attorney

EXHIBIT H
FORM OF NOTICE OF ELECTION
TO
PARTIALLY PREPAY BASE RENT

To: Landlord

You are hereby notified that **CITY OF SALINAS** (“Tenant”) has elected to exercise its option to prepay a portion of the Base Rent due under that certain Project Lease Agreement (“Lease”) by and between Tenant and Landlord dated _____, 20____. In accordance with Section 4.3(c) of the Lease, the date of prepayment shall be _____, 20____ and the principal components of Base Rent to be prepaid on such date are _____, representing the maturities (or portions thereof) set forth below. By 10:00 a.m. Pacific Time on such date, Tenant shall pay to Trustee in cash or same-day available funds, an amount equal to the principal components of Base Rent to be prepaid, together with interest thereon accruing to such date, together with any other amounts payable under the Lease on such date. In accordance with that certain Indenture of Trust dated _____, 2018 between Landlord and _____, N.A., as Trustee, Landlord shall direct Trustee to cause an optional redemption of the Bonds in principal amounts and maturities corresponding to the principal components of Base Rent set forth below.

TENANT:

CITY OF SALINAS, a municipal
corporation and charter city under the
Constitution of the State of California

By: _____
Name: Ray Corpuz
Title: City Manager

Approved as to form:

By: _____
Name: Chris Callihan
Title: City Attorney

**Schedule of Principal Components of Base Rent
to Be Prepaid and Bonds to Be Redeemed**

Date Principal Component (of Base Rent) Due	Amount of Principal Component to be Prepaid*

*Principal may be prepaid only in increments of \$5,000.00.

EXHIBIT I

MINIMUM INSURANCE AND INDEMNIFICATION REQUIREMENTS FOR DEVELOPER

Developer's Insurance. Without limiting or diminishing any indemnification contained within the Agreement, Developer and/or its authorized representatives shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage during the term of the Development Agreement:

Workers' Compensation. Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of Salinas Public Safety Facilities Inc. ("Owner") in this Exhibit I and the City of Salinas.

Commercial General Liability. Commercial General Liability Insurance coverage, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury, and cross liability coverage covering bodily injury, property damage, and personal injury arising out of or relating, directly or indirectly, to the maintenance, repair, alteration and ownership of the Premises and all areas appurtenant thereto including claims which may arise from or out of Developer's operations, use, and management of the Premises, or the performance of its obligations hereunder. Policy shall name Owner and the City of Salinas, [its Special Districts, Agencies, Districts and Departments, their respective Directors, Officers, Board of Supervisors], elected and appointed officials, employees, agents, independent contractors or representatives as an Additional Insured as per the indemnity obligations of the Developer in the Development Agreement. Policy limits shall not be less than \$5,000,000 per occurrence and can be maintained through any combination of primary and excess. If such insurance contains a general aggregate limit, it shall apply separately to the Development Agreement or be no less than two (2) times the occurrence limit.

Developer is required to maintain employment practices coverage if it has any employees.

Vehicle Liability. Developer shall maintain auto liability insurance for all owned, non-owned or hired automobiles in an amount not less than \$1,000,000 per occurrence combined single limit. Policy shall name Owner and the City of Salinas, its [Special Districts, Agencies, Districts, and Departments, their respective Directors, Officers, Board of Supervisors], elected and appointed officials, employees, agents, independent contractors or representatives as an Additional Insured as per the indemnity obligations of the Developer in the Development Agreement.

General Insurance Provisions – All Lines.

(a) Any insurance carrier providing Developer's insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A-:VIII (A-:8) unless such requirements are waived, in writing, by the City Risk Manager. If the City's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

(b) At the inception of the Development Agreement and annually at the Developer's insurance policy renewal date(s), the Developer shall cause their insurance carrier(s) to furnish Owner and the City of Salinas with a properly executed original Certificate(s) of Insurance and Endorsements effecting coverage as required herein. Further, Developer shall provide no less than thirty (30) days written notice be given to Owner and the City of Salinas prior to any cancellation of such insurance. In the event of a material modification or cancellation of coverage, City of Salinas shall have all rights and remedies provided under the Development Agreement to Owner to enforce this obligation, unless the City of Salinas receives, prior to such effective date, another properly executed original Certificate of Insurance and endorsements evidencing coverage and the insurance required herein is in full force and effect. The term of the Development Agreement shall not commence until Owner and the City of Salinas have been furnished Certificates(s) of Insurance and endorsements required by such Agreement.

EXHIBIT J

**MINIMUM INSURANCE REQUIREMENTS
FOR
GENERAL CONTRACTOR**

EXHIBIT K

MINIMUM INSURANCE REQUIREMENTS FOR LANDLORD

Landlord's Insurance. Without limiting or diminishing any indemnification contained within this Lease, Landlord and/or their authorized representatives, including, if any, a property management company, shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage during the term of this Lease:

Workers' Compensation. If Landlord has any employees, Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The City of Salinas.

Commercial General Liability. Commercial General Liability Insurance coverage, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury, and cross liability coverage covering bodily injury, property damage, and personal injury arising out of or relating, directly or indirectly, to the maintenance, repair, alteration and ownership of the Premises and all areas appurtenant thereto including claims which may arise from or out of Landlord's operations, use, and management of the Premises, or the performance of its obligations hereunder. Policy shall name the City of Salinas, its Special Districts, Agencies, Districts and Departments, their respective Directors, Officers, Board of Supervisors, elected and appointed officials, employees, agents, independent contractors or representatives as an Additional Insured. Policy limits shall not be less than \$1,000,000 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Lease or be no less than two (2) times the occurrence limit.

Landlord is required to maintain employment practices coverage if it has any employees.

Vehicle Liability. If Landlord has any employees, Landlord shall maintain auto liability insurance for all owned, non-owned or hired automobiles in an amount not less than \$1,000,000 per occurrence combined single limit. Policy shall name the City of Salinas, [its Special Districts, Agencies, Districts, and Departments, their respective Directors, Officers, Board of Supervisors], elected and appointed officials, employees, agents, independent contractors or representatives as Additional Insured.

Property (Physical Damage).

(a) All-Risk real property insurance coverage, including earthquake and flood, as and to the extent provided in Section 16.1 of this Project Lease, for the full replacement cost value of buildings, structures, fixtures, all improvements therein, and building systems on the Premises as the same exists at each early anniversary of the term. Policy shall include Business Interruption, Extra Expense, and Expediting Expense coverage as well as coverage for off-premises power failure. Policy shall name the City as a Loss Payee as their interests may appear.

(b) Boiler and Machinery insurance providing coverage for at least, but not limited to, all high voltage electrical and rotating mechanical equipment on a full replacement cost value basis. Policy shall provide Business Interruption, Extra Expense, and Expediting Expense coverage as well as coverage for off-premises power failure. Policy shall name the City as a Loss Payee as their interests may appear.

(c) During such time, prior to the commencement of this Lease while Landlord is preparing the Premises for occupancy, Landlord shall keep or require its Contractor to keep in full force and effect, a policy of Course of Construction Insurance covering loss or damage to the Premises for the full replacement value of such work. The Named Insured shall include the Landlord, City and Contractor as their interests appear. Landlord or their Contractor shall be responsible for any deductible payments that result from a loss at the Premises under this coverage. If, at the time of any loss to the property described on Exhibit "B," it is determined that the insurance has not been carried or the insurance does not cover the loss of property being installed, the Landlord shall be responsible to pay the loss without contribution from the City.

General Insurance Provisions – All Lines.

(a) Any insurance carrier providing Landlord's insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A:VIII (A:8) unless such requirements are waived, in writing, by the City Risk Manager. If the City's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

(b) The Landlord or Landlord's insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000.00 per occurrence such deductibles and/or retentions shall have the prior written consent of the City Risk Manager before the commencement of the Lease term. Upon notification of deductibles or self insured retentions which are deemed unacceptable to the City, at the election of the City's Risk Manager, Landlord's carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions as respects this Lease with the City, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) At the inception of this Lease and annually at the Landlord's insurance policy renewal date(s), the Landlord shall cause their insurance carrier(s) to furnish the City of Salinas with 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by the City Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) shall provide no less than thirty (30) days written notice be given to the City of Salinas prior to any cancellation of such insurance. In the event of a material modification or cancellation of coverage, City of Salinas shall have all rights and remedies provided under this Project Lease, unless the City of Salinas receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage and the insurance

required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance. The Lease term shall not commence until the City of Salinas has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Section.

(d) It is understood and agreed by the parties hereto and the Landlord's insurance company(s) that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the City's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

EXHIBIT L

PROPERTY MANAGEMENT CONTRACT REQUIREMENTS

NOTE: The property management contract for the Project shall be subject to such reasonable requirements as may be proposed by Tenant in a written notification to Landlord delivered not later than _____, 20____, which requirements shall be subject to Landlord's approval, such approval not to be unreasonably denied or delayed.

EXHIBIT M

JANITORIAL SERVICES CONTRACT REQUIREMENTS

[to be modified as necessary to include any Public Safety Facilities requirements]

1. Background checks shall be performed, in a manner specified by Tenant, of all qualified permanent and temporary employees.
2. Provide all required services and supplies.
3. Perform services five days a week during the hours of 5:00 pm to 1:00 am only.
4. Provide and replace all light tubes and light bulbs using only those types of tubes and bulbs that are energy efficient as indicated by manufacturer. Fixture reflectors shall be wiped clean with each relamping.
5. Landlord and custodial staff shall be responsible for key control. Issuing keys to workers, collecting said keys at shift end and retrieving keys at the end of custodian's employment.
6. **SPECIFIC SERVICES** – Frequency and coverage:

A. Daily:

1. Rest Rooms:

Empty all trash containers, refill dispensers, damp mop floors, clean, sanitize and polish all plumbing fixtures, chrome fittings, flush rings, drain and overflow outlets, clean and polish mirrors, clean wall adjacent to hand basins/urinals, dust metal partitions, remove finger prints from walls, switches, etc.

2. Lobby Area – Main Corridors – Stairways:

Remove trash, vacuum, vacuum/damp mop tile, clean lobby and entrance doors, clean and sanitize drinking fountains.

3. Employee Break Rooms/Kitchen:

Remove trash from building and deposit in dumpster, vacuum rugs and carpet, wipe spills, mop tile floor, remove fingerprints from doors, light switches, etc., and refill dispensers.

4. General and Private Areas:

Remove trash, vacuum carpets, mop tile floors, spot clean interior partition glass, clean counter tops and blackboards, dust desks, conference tables, credenza/file cabinets and bookcases.

5. Building Security:

- a. Turn off all lights (except security and night lights).
- b. Close windows.
- c. Reset alarms and lock all doors.

B. **Weekly – All Areas:**

Polish buff hard resilient floors in traffic areas, spot clean carpeted areas.

Dust all high and low horizontal surfaces, including sills, ledges, moldings, shelves, locker tops, frames and file cabinets, damp wipe plastic and leather furniture.

Remove fingerprints from doors, elevator walls and controls, frames and light switches in office areas, clean and polish bright metal to 70” height, clean and sanitize waste containers in rest rooms and break rooms.

C. **Monthly – All Areas:**

Clean interior glass partitions/doors, dry dust wood paneling, remove dust/cobwebs from ceiling areas.

Spray buff resilient/hard floor areas, detail vacuum carpet edges, under desk/office furniture.

D. **Quarterly – All Areas:**

Spray buff resilient and hard surface floors and apply floor finish.

Clean interior/exterior windows, clean/polish office furniture, damp clean diffuser outlets in ceiling/wall, wash waste containers, clean/dust blinds, wash sanitize.

E. **Semi-Annually – All Areas:**

1. All Areas:
 - a. Clean and polish all baseboards.
 - b. Damp clean lobby and reception chairs.
 - c. Clean carpeted surfaces-use a water extraction method.

F. **Annually – All Areas:**

1. All resilient and hard surface floors:

- a. Move furniture, strip, seal and apply floor finish to all resilient and hard surface floors.

EXHIBIT N
FINANCED FF&E