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## LEASE AGREEMENT

Dated as of May 1, 2012

by and between

the

NAPA COUNTY PUBLIC IMPROVEMENT CORPORATION,  
as sublessor

and

COUNTY OF NAPA,  
as sublessee

Relating to

\$(Principal Amount)  
County of Napa  
2012 Refunding Certificates of Participation

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## LEASE AGREEMENT

This Lease Agreement (the "Lease"), dated as of May 1, 2012, is by and between the NAPA COUNTY PUBLIC IMPROVEMENT CORPORATION, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California, as sublessor (the "Corporation"), and the COUNTY OF NAPA, a county duly organized and existing under the laws of the State of California, as sublessee (the "County");

### WITNESSETH:

WHEREAS, the County has previously financed the acquisition and construction of real property and improvements from the proceeds of the following issue of certificates of participation (the "Prior Certificates"): 2003 Certificates of Participation (Capital Projects and Refunding) dated March 5, 2003 and executed and delivered in the original principal amount of \$32,350,000; and

WHEREAS, the County has determined that it is in the best interests of the County at this time to provide for the refinancing of the Prior Certificates; and

WHEREAS, in order to provide funds for such purpose, the County has agreed to lease to the Corporation, and the Corporation has agreed to lease from the County, the land, including the improvements situated thereon, described on Exhibit A hereto and incorporated herein by reference (the "Leased Property") pursuant to a Site Lease, dated as of May 1, 2012, between the Corporation and the County (the "Site Lease"); and

WHEREAS, the Corporation has agreed to sublease the Leased Property back to the County pursuant to this Lease Agreement, and to assign its rights to receive lease payments payable by the County thereunder to U.S. Bank National Association, as trustee (the "Trustee"), and to enter into that certain Trust Agreement dated as of May 1, 2012, by and among the Corporation, the County and the Trustee (the "Trust Agreement") under which the Trustee agrees to execute and deliver County of Napa 2012 Refunding Certificates of Participation in the aggregate principal amount of \$[Principal Amount] (the "Certificates") representing the direct, undivided fractional interests of the owners thereof in such lease payments; and

WHEREAS, the County and the Corporation are authorized to enter into this Lease Agreement; and

WHEREAS, the Corporation and the County wish to enter into this Lease Agreement to provide the terms and conditions relating to the sublease of the Leased Property by the County from the Corporation;

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

## ARTICLE I

### DEFINITIONS

Section 1.1. Definitions. Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease shall have the respective meanings specified in Section 1.01 of the Trust Agreement. In addition, the following terms heretofore defined in this Lease and the following terms defined in this Section 1.1 shall, for all purposes of this Lease, have the respective meanings herein specified.

"AOC" means the Judicial Council of California, Administrative Office of Counts of the State of California.

"Court Facility" means the County's historic Courthouse Facility, located at 825 Brown Street in Napa.

"Event of Default" means any of the events of default defined as such in Section 8.1.

"Fiscal Year" means the twelve-month period beginning on July 1 of any year and ending on June 30 of the next succeeding year, or any other twelve-month period established by the County as its fiscal year pursuant to written notice filed with the Trustee.

"Lease Payment Date" means, with respect to any Interest Payment Date, the fifteenth (15th) calendar day of the month immediately preceding such Interest Payment Date; provided, that if the fifteenth (15th) day of said month is not a Business Day, then the Lease Payment Date shall be the Business Day preceding said fifteenth (15th) day.

"Lease Payments" means the amounts payable by the County pursuant to Section 4.4(a), including any prepayment thereof pursuant to Article IX and including any amounts payable upon a delinquency in the payment thereof, as more particularly set forth in Exhibit B hereto.

"Leased Property" means the real property described in Exhibit A hereto, including all improvements located thereon as of the Closing Date.

"Permitted Encumbrances" means, as of any time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the County may permit to remain unpaid pursuant to Article V; (b) the Site Lease, this Lease, the Assignment Agreement and any other agreement or document contemplated hereunder to be recorded against the Leased Property; (c) the various encumbrances, leases and other items shown of record against the Leased Property in the Preliminary Reports of \_\_\_\_\_ Title Company dated \_\_\_\_\_, 2012 for the \_\_\_\_\_, and \_\_\_\_\_, 2012 for the remainder of the Leased Property; (d) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; and (e) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the County certifies in writing will not materially impair the use of the Leased Property for its intended purposes.

*"Site Lease"* means the Site Lease dated as of May 1, 2012, by and between the County, as lessor, and the Corporation, as lessee, as originally executed or as thereafter amended pursuant to any duly authorized and executed amendments thereto.

*"Site Lease Payment"* means the amount of \$\_\_\_\_\_ which is payable by the Corporation to the County on the Closing Date as rental for the Leased Property pursuant to the Site Lease.

*"Term of this Lease"* means the time during which this Lease is in effect, as provided in Section 4.2.

*"Transfer Agreement"* means that certain "Transfer Agreement between the Judicial Council of California, Administrative Office of the Courts, and the County of Napa For the Transfer of Responsibility for Court Facility, dated April 29, 2008, together with any amendments thereto,

*"Trust Agreement"* means the Trust Agreement dated as of May 1, 2012, by and among the Trustee, the Corporation and the County, together with any duly authorized and executed amendments thereto.

#### Section 1.2. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles", "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease Agreement; the words "herein", "hereof", "hereby", "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision hereof.

## ARTICLE II

### COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 2.1. Covenants, Representations and Warranties of the County. The County makes the following covenants, representations and warranties to the Corporation as of the date of the execution and delivery of this Lease:

(a) *Due Organization and Existence.* The County is duly organized and validly existing under the laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into this Lease, the Site Lease, and the Trust Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the County has duly authorized the execution and delivery of this Lease, the Site Lease and the Trust Agreement.

(b) *Due Execution.* The representatives of the County executing this Lease and the Trust Agreement have been fully authorized to execute the same pursuant to a resolution duly adopted by the Board of Supervisors of the County.

(c) *Valid, Binding and Enforceable Obligations.* This Lease, the Site Lease, and the Trust Agreement have been duly authorized, executed and delivered by the County and constitute the legal, valid and binding agreements of the County enforceable against the County in accordance with their respective terms.

(d) *No Conflicts.* The execution and delivery of this Lease, the Site Lease, the Trust Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the County is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the County, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease and the Trust Agreement or the financial condition, assets, properties or operations of the County or its properties.

(e) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of the County or of the voters of the County, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease, the Site Lease or the Trust Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation.* There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, educational or other governmental authority pending or, to the knowledge of the County after reasonable investigation, threatened against or affecting the County or the assets, properties or operations of the County which, if determined adversely to the County or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site Lease or the Trust Agreement, or upon the financial condition, assets, properties or operations of the County, and the County is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, educational or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease or the Trust Agreement or the financial conditions, assets, properties or operations of the County or its properties.

(g) *Essentiality of Leased Property.* The Leased Property is essential to the operation of the County.

(h) *Transfer Agreement.* The terms of the Transfer Agreement will not prevent the Corporation or the Trustee from exercising any of the remedies set forth in Article VIII of this Lease if an Event of Default occurs hereunder.

Section 2.2. Covenants, Representations and Warranties of the Corporation. The Corporation makes the following covenants, representations and warranties as the basis for its undertakings herein contained:

(a) *Due Organization and Existence.* The Corporation is a nonprofit public benefit corporation duly organized and existing under the laws of the State of California, has full legal right, power and authority to enter into this Lease, the Site Lease, the Trust Agreement and the Assignment Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the Corporation has duly authorized the execution and delivery of this Lease, the Site Lease, the Trust Agreement and the Assignment Agreement.

(b) *Due Execution.* The representatives of the Corporation executing this Lease, the Site Lease, the Trust Agreement and the Assignment Agreement are fully authorized to execute the same pursuant to official action taken by the Board of Directors of the Corporation.

(c) *Valid, Binding and Enforceable Obligations.* This Lease, the Site Lease, the Trust Agreement and the Assignment Agreement have been duly authorized, executed and delivered by the Corporation and constitute the legal, valid and binding agreements of the Corporation, enforceable against the Corporation in accordance with their respective terms.

(d) *No Conflicts.* The execution and delivery of this Lease, the Site Lease, the Trust Agreement and the Assignment Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms



and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Corporation is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Corporation, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Trust Agreement and the Assignment Agreement or the financial condition, assets, properties or operations of the Corporation or its properties.

(e) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of the Corporation, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease, the Site Lease, the Trust Agreement or the Assignment Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation.* There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, educational or other governmental authority pending or, to the knowledge of the Corporation after reasonable investigation, threatened against or affecting the Corporation or the assets, properties or operations of the Corporation which, if determined adversely to the Corporation or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site Lease, the Trust Agreement or the Assignment Agreement, or upon the financial condition, assets, properties or operations of the Corporation, and the Corporation is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, educational or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Trust Agreement or the Assignment Agreement or the financial conditions, assets, properties or operations of the Corporation or its properties.

### ARTICLE III

#### DEPOSIT OF MONEYS; SUBSTITUTION AND REMOVAL OF LEASED PROPERTY

Section 3.1. Deposit of Moneys. On the Closing Date, the Corporation shall cause the proceeds of sale of the Certificates to be deposited with the Trustee. Pursuant to Section 4.01 of the Trust Agreement, from the proceeds of sale of the Certificates, an amount necessary to fund the Reserve Requirement shall be deposited in the Reserve Fund, the estimated amount of the Costs of Issuance shall be deposited in the Costs of Issuance Fund, and the remainder of such proceeds shall be transferred to the Escrow Bank for application pursuant to the Escrow Agreement.

Section 3.2. Substitution of Leased Property. (i) The County shall have, and is hereby granted, the option at any time and from time to time during the Term of this Lease, to substitute other land, facilities, improvements or other property (a "Substitute Property") for the Leased Property or any portion thereof (a "Former Property"), provided that the County shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such substitution:

(a) No event of default has occurred and is continuing under this Lease Agreement;

(b) The County shall take all actions and shall execute all documents required to subject such Substitute Property to the terms and provisions of this Lease, including the filing with the Corporation and the Trustee an amended Exhibit A which adds thereto a description of such Substitute Property and deletes therefrom the description of such Former Property, and including the recordation of this Lease or a memorandum hereof with respect to such Substitute Property in the office of the Napa County Recorder;

(c) The County shall certify in writing to the Corporation and the Trustee, such certification to be accompanied by an appraisal prepared by a qualified appraiser that the value of such Substitute Property is at least equal to the value of such Former Property, and that the combined fair market rental value of such Substitute Property and the portion of the Leased Property remaining after the removal of the Former Property is at least equal to the combined fair market rental value of the Leased Property;

(d) The County has caused to be filed with the Trustee an opinion of Bond Counsel substantially to the effect that such substitution will not affect the obligation of the County to continue to pay Lease Payments in the amounts and at the times and in the manner required by this Lease Agreement; and

(e) With respect to the Substitute Leased Property, evidence of ownership of, or, at the option of the County, insurance naming the Trustee as the insured and insuring, the fee or leasehold estate of the County in such Substitute Leased Property subject only to such exception as do not substantially interfere with the County's right to use and

,occupy such Substitute Leased Property and as will not result in an abatement of Lease Payments payable by the County under this Lease Agreement.

(ii) From and after the date on which all of the foregoing conditions precedent to such substitution are satisfied, the Term of this Lease shall cease with respect to the Former Property and shall be continued with respect to the Substitute Property, and all references herein to the Former Property shall apply with full force and effect to the Substitute Leased Property. The County shall not be entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such substitution.

Section 3.3. Removal of Property from Leased Property. The County shall have, and is hereby granted, the option at any time and from time to time during the Term of this Lease, to remove any property from the description of the Leased Property, provided that the County shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such removal:

- (a) No event of default has occurred and is continuing under the Lease;
- (b) The County shall file with the Corporation and the Trustee an amended Exhibit A, which deletes therefrom the description of the property to be removed;
- (c) The County shall obtain a report of a qualified appraiser certifying that the appraised value of the Leased Property which will remain following such removal is not less than the aggregate principal amount of the Outstanding Certificates; and
- (d) The County shall obtain and cause to be filed with the Trustee an opinion of Bond Counsel stating that such removal is permitted hereunder and does not cause interest with respect to the Certificates to become includable in the gross income of the Certificate Owners for federal income tax purposes.

From and after the date on which all of the foregoing conditions precedent to such removal are satisfied, the Term of this Lease shall cease with respect to the property which is so removed. The County shall not be entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such removal.

## ARTICLE IV

### LEASE OF LEASED PROPERTY; TERM OF THIS LEASE; LEASE PAYMENTS

Section 4.1. Lease. The Corporation hereby subleases the Leased Property to the County, and the County hereby subleases the Leased Property from the Corporation, upon the terms and conditions set forth in this Lease.

Section 4.2. Term. The Term of this Lease shall commence on the Closing Date and shall end on the earliest of the date on which the Trust Agreement shall be discharged pursuant to and in accordance with Section 13.01 thereof, but under any circumstances not later than June 1, 2034. The provisions of this Section 4.2 are subject to the provisions of Section 6.2 relating to the taking of the Leased Property in eminent domain proceedings or under the threat thereof.

Section 4.3. Possession of the Leased Property. As of the Closing Date, the County has possession of the Leased Property, or the right to the use and possession of the Leased Property, in the case of the Courthouse, subject to the rights of the AOC with respect to the Courthouse, as specified in the Transfer Agreement.

#### Section 4.4. Lease Payments.

(a) *Obligation to Pay*. Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX hereof, the County agrees to pay to the Corporation the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in Exhibit B hereto, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in Exhibit B, and to be deposited by the County with the Trustee on each of the Lease Payment Dates specified in Exhibit B. Any amount held in the Lease Payment Fund on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole pursuant to Article IX and other than amounts required for payment of past due principal or interest represented by any Certificates not presented for payment) shall be credited towards the Lease Payment then required to be paid hereunder; and no Lease Payment need be deposited with the Trustee on any Lease Payment Date if the amounts then held in the Lease Payment Fund are at least equal to the Lease Payment then required to be deposited with the Trustee. The Lease Payments payable in any Fiscal Year shall be for the use of the Leased Property during such Fiscal Year.

(b) *Effect of Prepayment*. In the event that the County prepays all Lease Payments in full pursuant to Sections 9.2 or 9.3, the County's obligations under this Lease shall thereupon cease and terminate, including but not limited to the County's obligation to pay Lease Payments under this Section 4.4. In the event that the County prepays the Lease Payments in part but not in whole pursuant to Sections 9.2 or 9.3, the principal components of the remaining Lease Payments shall be reduced in integral multiples of \$5,000 as determined by the County (and in the absence of such determination, pro rata

among principal components of Lease Payments); and the interest component of each remaining Lease Payment shall be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Certificates thereby prepaid pursuant to Sections 3.01(a) or 3.01(b) of the Trust Agreement, as the case may be.

(c) *Rate on Overdue Payments.* In the event the County should fail to make any of the payments required in this Section 4.4, the payment in default shall continue as an obligation of the County until the amount in default shall have been fully paid, and the County agrees to pay the same with interest thereon, from the date of default to the date of payment at a rate equal to the highest rate payable with respect to the Certificates.

(d) *Fair Rental Value.* The Lease Payments during each Fiscal Year shall constitute the total rental for the Leased Property for such Fiscal Year, and shall be paid by the County in each Fiscal Year for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Fiscal Year. The parties hereto have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making such determination, consideration has been given to the estimated fair market value of the Leased Property, other obligations of the parties under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the County and the general public.

(e) *Source of Payments; Budget and Appropriation.* The Lease Payments shall be payable from any source of available funds of the County, subject to the provisions of Sections 6.2, 6.3 and 9.1. The County covenants to take such action as may be necessary to include all Lease Payments in each of its annual budgets during the Term of this Lease and to make the necessary annual appropriations for all such Lease Payments. The covenants on the part of the County herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the County to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the County to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the County.

(f) *Assignment.* The County understands and agrees that all Lease Payments have been assigned by the Corporation to the Trustee in trust, pursuant to the Assignment Agreement, for the benefit of the Owners of the Certificates, and the County hereby assents to such assignment. The Corporation hereby directs the County, and the County hereby agrees to pay to the Trustee at its Office, all payments payable by the County pursuant to this Section 4.4 and all amounts payable by the County pursuant to Article IX.

Section 4.5. Quiet Enjoyment. From and after the Closing Date, and continuing throughout the Term of this Lease, the Corporation shall provide the County with quiet use and enjoyment of the Leased Property and the County shall peaceably and quietly have and hold and enjoy the Leased Property, without suit, trouble or hindrance from the Corporation, except as expressly set forth in this Lease. The Corporation will, at the request of the County

and at the County's cost, join in any legal action in which the County asserts its right to such possession and enjoyment to the extent the Corporation may lawfully do so. Notwithstanding the foregoing, the Corporation shall have the right to inspect the Leased Property as provided in Section 7.2.

Section 4.6. Title; No Merger. At all times during the term of the Site Lease and subject to all of the terms and provisions thereof, the County shall hold title to the Leased Property. Upon the termination of this Lease, other than upon the termination hereof pursuant to Section 8.2(b), all right, title and interest of the Corporation hereunder in and to the Leased Property shall be transferred to and vested in the County. Upon the payment in full of all Lease Payments, or upon the deposit by the County of security for such Lease Payments as provided in Section 9.1, all interest of the Corporation hereunder in and to the Leased Property shall be terminated. The Corporation agrees to take any and all steps and execute and record any and all documents reasonably required by the County to consummate the termination of its interests hereunder.

Section 4.7. Additional Payments. In addition to the Lease Payments, the County shall pay when due all costs and expenses incurred by the Corporation to comply with the provisions of the Trust Agreement, including without limitation all Costs of Issuance (to the extent not paid from amounts on deposit in the Costs of Issuance Fund), indemnification and annual compensation due to the Trustee and all of its reasonable costs payable as a result of the performance of and compliance with its duties under the Trust Agreement, and all costs and expenses of attorneys, auditors, engineers and accountants. Such costs and expenses shall be payable as additional amounts of rental hereunder in consideration of the right of the County to the use and occupancy of the Leased Property.

## ARTICLE V

### MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments. Throughout the Term of this Lease, as part of the consideration for the rental of the Leased Property, all improvement, repair and maintenance of the Leased Property shall be the responsibility of the County, and the County shall pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the County or any assignee or lessee thereof. In exchange for the Lease Payments herein provided, the Corporation agrees to provide only the Leased Property, as hereinbefore more specifically set forth. The County waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver shall not limit any of the rights of the County under the terms of this Lease.

The County shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Corporation or the County affecting the Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the County shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

The County may, at the County's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Corporation shall notify the County that, in its reasonable opinion, by nonpayment of any such items the interest of the Corporation in the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the County shall promptly pay such taxes, assessments or charges or provide the Corporation with full security against any loss which may result from nonpayment, in form satisfactory to the Corporation.

Section 5.2. Modification of Leased Property. The County shall, at its own expense, have the right to remodel the Leased Property, or to make additions, modifications and improvements thereto. All additions, modifications and improvements to the Leased Property shall thereafter comprise part thereof and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto pursuant to this Section, shall be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements. The County will not permit any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the County pursuant to this Section; provided that if any

such lien is established and the County shall first notify or cause to be notified the Corporation of the County's intention to do so, the County may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Corporation with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Corporation. The Corporation will cooperate fully in any such contest, upon the request and at the expense of the County.

Section 5.3. Comprehensive General Liability Insurance. The County shall maintain or cause to be maintained, throughout the Term of this Lease Agreement, a standard comprehensive general insurance policy or policies in protection of the Corporation, County, and their respective members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Said policy or policies shall provide coverage in the minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event and in a minimum amount of \$150,000 for damage to property resulting from each accident or event, subject to a deductible of \$300,000 or less. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the minimum amount of \$3,000,000 covering all such risks. Such liability insurance may be maintained as self-insurance or as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the County. The proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the proceeds of such insurance shall have been paid.

Section 5.4. Fire and Extended Coverage Insurance. The County shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease Agreement, insurance against loss or damage to any structures constituting any part of the Leased Property by fire and lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount equal to the lesser of one hundred percent (100%) of the replacement cost of the structures located on the Leased Property, or the outstanding principal amount of the Certificates of Participation, and must apply exclusively to the Leased Property. If the County elects to provide property and casualty insurance in an amount that is equal to the par amount of the Certificates but less than the replacement cost of the structures located on the Leased Property, the proceeds of such casualty insurance must be paid to the Trustee and applied to the redemption of the Certificates in accordance with the Trust Agreement, unless such proceeds, together with any additional funds deposited with the Trustee, are sufficient to fully rebuild or repair the structures located on the Leased Property. Full payment of insurance proceeds up to the required policy dollar limit in connection with damage to the Leased Property shall, under no circumstances, be contingent on the degree of damage sustained at other facilities owned or leased by the County. Such insurance may be maintained as self-insurance or as part of or in conjunction with any other fire and extended coverage insurance carried or required to be carried by the County.



Section 5.5. Rental Interruption Insurance. The County shall procure and maintain throughout the Term of this Lease Agreement, rental interruption or use and possession insurance to cover loss, total or partial, of the use of any structures constituting any part of the Leased Property during the Term of this Lease Agreement as a result of any of the hazards covered in the insurance required by Section 5.4 hereof in an amount at least equal to Lease Payments due during a 24-month period. The proceeds of such insurance shall be paid to the Trustee and deposited in the Lease Payment Fund, and shall be credited towards the payment of the Lease Payments as the same become due and payable. The County may not satisfy the requirement for rental interruption or use and occupancy insurance by self insurance.

Section 5.6. Recordation Hereof; Title Insurance. On or prior to the Closing Date, the County shall, at its expense, (a) cause this Lease, or a memorandum thereof in form and substance approved by Bond Counsel, the Site Lease, and the Assignment Agreement to be recorded in the office of the Napa County Clerk-Recorder with respect to the Leased Property; and (b) obtain one or more CLTA title insurance policies insuring the County's leasehold estate hereunder in the Leased Property, subject only to Permitted Encumbrances, in an amount equal to the principal amount of the Certificates of Participation. All Net Proceeds received under any such title insurance policy shall be deposited with the Trustee in the Lease Payment Fund and shall be credited towards the prepayment of the remaining Lease Payments pursuant to Section 9.3.

Section 5.7. Insurance; Form of Policies;. Each policy of insurance required by Sections 5.4 and 5.5 hereof shall provide that all proceeds thereunder shall be payable to the Trustee and applied as provided in Section 6.2. The County shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease Agreement, and shall promptly furnish or cause to be furnished evidence of such payments to the Corporation. All such policies shall provide that the Trustee shall be given thirty (30) days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The Trustee shall not be responsible for the sufficiency of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Trustee. The County shall cause to be delivered to the Trustee a written certificate executed by a County Representative that the insurance policies required by this Lease Agreement are in full force and effect. All policies shall name the County and the Corporation as insureds, and the Trustee as loss payee.

Section 5.8. Installation of County's Equipment. The County may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items shall remain the sole property of the County, in which neither the Corporation nor the Trustee shall have any interest, and may be modified or removed by the County at any time, provided that the County shall repair and restore any and all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent the County from purchasing or leasing items to be installed pursuant to this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Leased Property.

Section 5.9. Liens. The County shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than as herein contemplated and except for such encumbrances as the County shall certify in writing to the Trustee do not adversely affect the leasehold estate in the Leased Property hereunder. Except as expressly provided in this Article, the County shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The County shall reimburse the Corporation for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.10. Advances. If the County shall fail to perform any of its obligations under this Article V, the Corporation shall take such action as may be necessary to cure such failure, including the advancement of money, and the County shall be obligated to repay all such advances as additional rental hereunder, with interest at a rate of interest equal to the Trustee's cost of funds.

## ARTICLE VI

### DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.1. Application of Net Proceeds. The Net Proceeds of any insurance award resulting from any damage to or destruction of the Leased Property by fire or other casualty, or from any title insurance award, shall be paid to the Trustee, as assignee of the Corporation under the Assignment Agreement, and deposited in the Insurance and Condemnation Fund to be applied as set forth in Section 6.01 of the Trust Agreement. The Net Proceeds of any eminent domain award with respect to the Leased Property resulting from any event described in Section 6.2 shall be paid by the County to the Trustee and deposited in the Insurance and Condemnation Fund to be applied as set forth in Section 6.01 of the Trust Agreement.

Section 6.2. Termination or Abatement Due to Eminent Domain. If the Leased Property shall be taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease shall cease with respect thereto as of the day possession shall be so taken. If less than all of the Leased Property shall be taken permanently, or if the Leased Property shall be taken temporarily, under the power of eminent domain, (a) this Lease shall continue in full force and effect with respect thereto and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (b) there shall be a partial abatement of Lease Payments allocated thereto, in an amount to be agreed upon by the County and the Corporation such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.2 to the extent that rental interruption insurance proceeds or amounts in the Reserve Fund are available to pay Lease Payments which would otherwise be abated under this Section 6.2, it being hereby declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

Section 6.3. Abatement Due to Damage or Destruction. The amount of Lease Payments shall be abated during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the County of the Leased Property or any portion thereof. The parties agree that the amount of the Lease Payments under such circumstances shall not be less than the amount of the unpaid Lease Payments required to pay principal and interest with respect to the Certificates, as scheduled, unless such unpaid amounts are determined to be greater than the fair rental value of the portions of the Leased Property not damaged or destroyed (giving due consideration to the factors identified in the last sentence of Section 4.4(d)), based upon the opinion of an MAI appraiser with expertise in valuing such properties, or other appropriate method of valuation, in which event the Lease Payments shall be abated such that they represent said fair rental value. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease shall continue in full force and effect, and the County waives any right to terminate this Lease by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that the proceeds of hazard insurance, rental interruption insurance or amounts in the Reserve Fund, are available to pay Lease

Payments which would otherwise be abated under this Section 6.3, it being hereby declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

## ARTICLE VII

### DISCLAIMER OF WARRANTIES; OTHER COVENANTS OF THE COUNTY

Section 7.1. Disclaimer of Warranties. THE CORPORATION MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE COUNTY OF THE LEASED PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. THE COUNTY ACKNOWLEDGES THAT THE CORPORATION IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, THAT THE COUNTY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE COUNTY. In no event shall the Corporation be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease or the Trust Agreement for the existence, furnishing, functioning or County's use of the Leased Property.

Section 7.2. Access to the Leased Property. The County agrees that the Corporation and any Corporation Representative, and the Corporation's successors or assigns, shall have the right at all reasonable times to enter upon and to examine and inspect the Leased Property or any portion thereof. The County further agrees that the Corporation, any Corporation Representative and the Corporation's successors or assigns shall have such rights of access to the Leased Property or any portion thereof as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the County to perform its obligations hereunder.

Section 7.3. Release and Indemnification Covenants. The County shall and hereby agrees to indemnify and save the Corporation and the Trustee and their respective officers, agents, successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses (including the allocated costs of in-house counsel), arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the County, including but not limited to the presence on, under or about, or the release from, the Property of any substances, materials or wastes which are or which become regulated or classified as hazardous or toxic under state, federal or local law, (b) any breach or default on the part of the County in the performance of any of its obligations under this Lease, (c) any negligence or willful misconduct of the County or of any of its agents, contractors, servants, employees or licensees with respect to the Property, or (d) any intentional misconduct or negligence of any lessee of the County with respect to the Property. No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or negligence, under this Lease by the Corporation or the Trustee, or their respective officers, agents, employees, successors, (other than a successor Trustee) or assigns.

Section 7.4. Assignment by the Corporation. The Corporation's rights under this Lease, including the right to receive and enforce payment of the Lease Payments, have been assigned to the Trustee pursuant to the Assignment Agreement, to which assignment the County hereby consents.

Section 7.5. Assignment and Subleasing by the County. This Lease may not be assigned by the County. The County may sublease the Leased Property, or any portion thereof, but only with the written consent of the Corporation (which consent shall not be unreasonably withheld), and subject to all of the following conditions:

(a) This Lease and the obligation of the County to make Lease Payments hereunder shall remain obligations of the County.

(b) The County shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Corporation and the Trustee a true and complete copy of such sublease.

(c) No such sublease by the County shall cause the Leased Property to be used for a purpose other than as may be authorized under the provisions of the laws of the State of California.

(d) The County shall furnish the Corporation and the Trustee with a written opinion of Bond Counsel stating that such sublease does not cause the interest components of the Lease Payments to become includable in gross income for purposes of federal or State of California personal income taxation.

Section 7.6. Amendment of Lease Agreement. The Corporation and the County may at any time amend or modify any of the provisions of this Lease, without the consent of the Trustee or any of the Certificate Owners, but only if such amendment or modification is for any one or more of the following purposes:

(i) to add to the covenants and agreements of the County contained in this Lease, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the County;

(ii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein, or in any other respect whatsoever as the Corporation and the County may deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments shall not materially adversely affect the interests of the Owners of the Certificates;

(iii) to amend any provision thereof relating to the Tax Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest represented by the Certificates under the Tax Code, in the opinion of Bond Counsel;

(iv) to amend the description of the Leased Property set forth in Exhibit A hereto to reflect accurately the property originally intended to be included therein, or to amend the description in connection with a substitute Leased Property pursuant to Section 3.2 hereof; or

(v) to obligate the County to pay additional amounts of rental hereunder for the use and occupancy of the Leased Property, provided that (A) such additional amounts of rental do not cause the total rental payments made by the County hereunder to exceed the fair rental value of the Leased Property, as set forth in a certificate of a County Representative filed with the Trustee and the Corporation, (B) the County shall have obtained and filed with the Trustee and the Corporation an appraisal of the Leased Property showing that the estimated fair market value thereof is not less than the aggregate unpaid principal components of the Lease Payments and the aggregate principal components of such additional amounts of rental, and (C) such additional amounts of rental are pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which shall be applied to finance the construction or acquisition of land, facilities or other improvements which are authorized pursuant to the applicable laws of the State of California.

**ARTICLE VIII  
EVENTS OF DEFAULTS AND REMEDIES**

Section 8.1. Events of Default Defined. Any one or more of the following events shall constitute an Event of Default hereunder:

(a) Failure by the County to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.

(b) Failure by the County to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in the preceding clause (a), for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the County by the Corporation or the Trustee; *provided, however*, that if in the reasonable opinion of the County the failure stated in the notice can be corrected, but not within such (30) day period, such failure shall not constitute an Event of Default if the County shall commence to cure such failure within such thirty (30) day period and thereafter diligently and in good faith shall cure such failure in a reasonable period of time.

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

Section 8.2. Remedies on Default. Whenever any Event of Default shall have happened and be continuing, it shall be lawful for the Corporation to exercise any and all remedies available pursuant to law or granted pursuant to this Lease; *provided, however*, that notwithstanding anything herein or in the Trust Agreement to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the County is expressly made a condition and upon the breach thereof the Corporation may exercise any and all rights granted hereunder; *provided*, that no termination of this Lease shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Corporation shall have and is granted each and every one of the following remedies.

(a) Enforcement of Payments Without Termination. In the event the Corporation does not elect to terminate this Lease in the manner hereinafter provided for in subparagraph (b) of this Section, the County agrees to and shall remain liable for the payment of all Lease Payments and other amounts payable hereunder, and the performance of all conditions herein contained, and shall reimburse the Corporation for any deficiency arising out of the re-leasing of the Leased Property; or, in the event the Corporation is unable to re-lease the Leased Property, then for the full amount of all



Lease Payments and such other amounts to the end of the Term of this Lease, but the Lease Payments and such other amounts and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of the Lease Payments and such other amounts hereunder, notwithstanding such entry or re-entry by the Corporation or any suit in unlawful detainer, or otherwise, brought by the Corporation for the purpose of effecting such re-entry or obtaining possession of the Leased Property or the exercise of any other remedy by the Corporation. The County hereby irrevocably appoints the Corporation as the agent and attorney-in-fact of the County to enter upon and re-lease the Leased Property in the event of default by the County in the performance of any covenants herein contained to be performed by the County and to remove all personal property whatsoever situated upon the Leased Property to place such property in storage or other suitable place in the County for the account of and at the expense of the County, and the County hereby exempts and agrees to save harmless the Corporation from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of such property by the Corporation or its duly authorized agents in accordance with the provisions herein contained. The County agrees that the terms of this Lease constitute full and sufficient notice of the right of the Corporation to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Corporation in effecting such re-leasing shall constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the County the right to terminate this Lease shall vest in the Corporation to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) of this Section. The County further waives the right to any rental obtained by the Corporation in excess of the Lease Payments and hereby conveys and releases such excess to the Corporation as compensation to the Corporation for its services in re-leasing the Leased Property.

(b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Corporation at its option may terminate this Lease and re-lease all or any portion of the Leased Property. In the event of the termination of this Lease by the Corporation at its option and in the manner hereinafter provided on account of default by the County (and notwithstanding any re-entry upon the Leased Property by the Corporation in any manner whatsoever or the re-leasing of the Leased Property), the County nevertheless agrees to pay to the Corporation all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments and other amounts payable hereunder. Any surplus received by the Corporation from such re-leasing shall be deposited in the Lease Payment Fund. Neither notice to pay rent or to deliver up possession of the premises given pursuant to law nor any proceeding in unlawful detainer taken by the Corporation shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the County shall be or become effective by operation of law, or otherwise, unless and until the Corporation shall have given written notice to the County of the election on the part of the Corporation to terminate this Lease. The County covenants and agrees that no surrender of the Leased Property, or of the remainder of the Term hereof or any termination of this Lease shall

be valid in any manner or for any purpose whatsoever unless stated or accepted by the Corporation by such written notice.

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

Section 8.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article VIII it shall not be necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

Section 8.4. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

Section 8.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 8.6. Application of Proceeds. All net proceeds received from the re-lease of the Leased Property under this Article VIII, and all other amounts derived by the Corporation or the Trustee as a result of the occurrence of an Event of Default, shall be transferred to the Trustee promptly upon receipt thereof and shall be deposited by the Trustee and applied as set forth in Section 12.03 of the Trust Agreement.

Section 8.7. Trustee and Certificate Owners to Exercise Rights. Such rights and remedies as are given to the Corporation under this Article VIII have been assigned by the Corporation to the Trustee under the Assignment Agreement. Such rights and remedies shall be exercised by the Trustee and the Owners of the Certificates as provided in the Trust Agreement.

## ARTICLE IX

### PREPAYMENT OF LEASE PAYMENTS

Section 9.1. Security Deposit. Notwithstanding any other provision of this Lease, the County may on any date secure the payment of the Lease Payments in whole or in part by depositing with the Trustee an amount of cash which, together with other available amounts on deposit in the funds and accounts established under the Trust Agreement, is either (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Exhibit B, or (b) invested in whole or in part in non-callable Federal Securities in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Lease Payments when due pursuant to Section 4.4(a) or when due on any optional prepayment date pursuant to Section 9.2, as the County shall instruct at the time of said deposit. In the event of a security deposit pursuant to this Section with respect to all unpaid Lease Payments, and notwithstanding the provisions of Section 4.2, (a) the Term of this Lease shall continue, (b) all obligations of the County under this Lease, and all security provided by this Lease for said obligations, shall thereupon cease and terminate, excepting only the obligation of the County to make, or cause to be made all of the Lease Payments from such security deposit, and (c) pursuant to Section 4.6, title to the Leased Property shall vest in the County on the date of said deposit automatically and without further action by the County or the Corporation. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

Section 9.2. Optional Prepayment. The County shall have the option to prepay the principal components of the Lease Payments in whole, or in part in any integral multiple of \$5,000, on any day on or after June 1, 20\_\_, by paying a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payment required to be paid on such date and together with a premium equal to the amount of premium (if any) required to be paid upon the corresponding prepayment of the Certificates pursuant to Section 3.01(a) of the Trust Agreement. Such prepayment price shall be deposited by the Trustee in the Lease Payment Fund to be applied to the prepayment of Certificates pursuant to Section 3.01(a) of the Trust Agreement. The County shall give the Trustee written notice of its intention to exercise its option not less than sixty (60) days in advance of the date of exercise.

Section 9.3. Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain. The County shall be obligated to prepay the principal components of the Lease Payments in whole or in part on any date, from and to the extent of any Net Proceeds of insurance award or eminent domain award with respect to the Leased Property theretofore deposited in the Lease Payment Fund for such purpose pursuant to Article VI hereof and Article VI of the Trust Agreement. The County and the Corporation hereby agree that such Net Proceeds, to the extent remaining after payment of any delinquent Lease Payments, shall be credited towards the County's obligations under this Section 9.3.

## ARTICLE X

### MISCELLANEOUS

Section 10.1. Notices. Any notice, request, complaint, demand or other communication under this Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below with an original forwarded by first class mail, postage prepaid on the next business day. Notice shall be effective either (a) upon transmission by telecopier or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Corporation, the County or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the County:	County of Napa 1195 Third Street Napa, CA 94559 Attention: County Executive Officer Facsimile: (707) 253-4176
If to the Corporation:	Napa County Public Improvement Corporation 1195 Third Street Napa, CA 94559 Attention: Secretary Facsimile: (707) 253-4176
If to the Trustee:	U.S. Bank National Association 1420 5 <sup>th</sup> Avenue, 7 <sup>th</sup> Floor Seattle, WA 98101 Attention: Corporate Trust Facsimile: (206) 344-4630

Section 10.2. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Corporation and the County and their respective successors and assigns.

Section 10.3. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.4. Net-net-net Lease. This Lease shall be deemed and construed to be a "net-net-net lease" and the County hereby agrees that the Lease Payments shall be an absolute net return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever.

Section 10.5. Further Assurances and Corrective Instruments. The Corporation and the County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the

Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

Section 10.6. Execution in Counterparts. This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.7. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

Section 10.8. Corporation and County Representatives. Whenever under the provisions of this Lease the approval of the Corporation or the County is required, or the Corporation or the County is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by an Corporation Representative and for the County by a County Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 10.9. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease.

IN WITNESS WHEREOF, the Corporation and the County have caused this Lease to be executed in their respective names by their duly authorized officers, all as of the date first above written.

NAPA COUNTY PUBLIC IMPROVEMENT  
CORPORATION, as sublessor

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

[S E A L]

Attest:

\_\_\_\_\_  
Secretary

COUNTY OF NAPA,  
as sublessee

By: \_\_\_\_\_  
County Executive Officer

[S E A L]

Attest:

\_\_\_\_\_  
Clerk of the Board of Supervisors

## **EXHIBIT A**

### **GENERAL DESCRIPTION OF LEASED PROPERTY**

The Leased Property consists of the County Courthouse, located at 825 Brown Street, and the County's Sheriff's Facility, located at 1535 Airport Boulevard.

### **LEGAL DESCRIPTION OF LEASED PROPERTY**

**The land referred to herein is situated in the State of California, County of Napa, City of Napa, and is described as follows:**

[to come]

**EXHIBIT B**

**SCHEDULE OF LEASE PAYMENTS**

<u>Lease Payment Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Aggregate Lease Payment</u>
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