

FORM APPROVED COUNTY COUNSEL 10/23/14  
 BY GREGORY P. PRIAMOS DATE  
 Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

124



**FROM:** Executive Office

**SUBMITTAL DATE:**  
October 23, 2014

**SUBJECT:** Letter of Credit Extension

**RECOMMENDED MOTION:** That the Board of Supervisors approve Resolution No. 2014-215, Authorizing and Approving the extension of a Letter of Credit through a Fourth Amendment to Amended and Restated Sublease and Option to Purchase relating to the County's 1990 Taxable Variable Rate Certificates of Participation (Monterey Avenue Project). (VOTE ON SEPARATELY)

**BACKGROUND:**

Summary

The County has a variable rate Certificates of Participation Issue outstanding, the 1990 Monterey Avenue Project. The Letter of Credit (LOC) for this issue is set to expire on December 31, 2014. State Street Bank, the provider of the LOC, has agreed to extend the LOC through the maturity of the bonds on November 1, 2020. The cost will reduce from 130 basis points to 50 basis points, a savings of approximately \$39,500 per year.

*Lani Sioson*

Lani Sioson  
Principal Management Analyst

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
<b>COST</b>	\$ 19,500	\$ 19,500	\$ 117,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0	

<b>SOURCE OF FUNDS:</b> Capital Finance Administration Fund #35900	<b>Budget Adjustment:</b>	No
	<b>For Fiscal Year:</b>	14-15

**C.E.O. RECOMMENDATION:**

**APPROVE**

BY: *Ivan M. Chand*  
Ivan M. Chand 10/27/2014

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

**Ayes:** Jeffries, Tavaglione, Stone and Ashley  
**Nays:** None  
**Absent:** Benoit  
**Date:** November 4, 2014  
**xc:** E.O.

Kecia Harper-Ihem  
 Clerk of the Board  
 By: *Kecia Harper-Ihem*  
 Deputy

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: \_\_\_\_\_ District: \_\_\_\_\_ Agenda Number: \_\_\_\_\_

**3-1**

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**FORM 11: Letter of Credit Extension**

**DATE: October 23, 2014**

**PAGE: 2 of 2**

**Impact on Citizens and Businesses**

No direct impact.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

None

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**RESOLUTION NO. 2014-215**

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE AUTHORIZING AND APPROVING THE EXTENSION OF A LETTER OF CREDIT THROUGH A FOURTH AMENDMENT TO AMENDED AND RESTATED SUBLEASE AND OPTION TO PURCHASE RELATING TO THE COUNTY'S 1990 TAXABLE VARIABLE RATE CERTIFICATES OF PARTICIPATION (MONTEREY AVENUE PROJECT)

WHEREAS, the County has previously caused to be executed and delivered its 1990 Taxable Variable Rate Certificates of Participation (Monterey Avenue Project) in the aggregate principal amount of \$8,800,000 and currently outstanding in the aggregate principal amount of \$3,900,000 (the "Certificates"), pursuant to a Trust Agreement, dated as of June 1, 1990, by and between the County and the Trustee as amended by that certain First Amendment to Trust Agreement, dated as of January 26, 1996, and that certain Second Amendment to Trust Agreement, dated as of May 1, 2003 (as so supplemented and amended and as it may be further supplemented and amended from time to time, the "Trust Agreement");

WHEREAS, in connection with the execution and delivery of the Certificates, the County and the Desert Facilities Corporation (predecessor in interest to the County of Riverside Asset Leasing Corporation) (the "Corporation") entered into the Ground Lease, dated as of June 1, 1990, as amended by that certain First Amendment to Ground Lease, dated as of January 26, 1996, that certain Second Amendment to Ground Lease, dated as of May 1, 2003, and that certain Third Amendment to Ground Lease, dated as of November 1, 2012 (as so supplemented and amended and as it may be further supplemented and amended from time to time, the "Ground Lease");

WHEREAS, in connection with the execution and delivery of the Certificates, the County, the Corporation and The Sanwa Bank, Limited entered into the Sublease and Option to Purchase, dated as of June 1, 1990, as subsequently supplemented and amended by that certain Amended and

FORM APPROVED COUNTY COUNSEL  
BY Dale A. Gardner 10/22/14  
DALE A. GARDNER DATE

1 Restated Sublease and Option to Purchase, dated as of January 26, 1996, that certain First  
2 Amendment to Amended and Restated Sublease and Option to Purchase, dated as of July 20, 2000,  
3 that certain Amended and Restated Sublease and Option to Purchase, dated as of May 1, 2003, that  
4 certain First Amendment to Amended and Restated Sublease and Option to Purchase, dated as of  
5 April 25, 2006, that certain Second Amendment to Amended and Restated Sublease and Option to  
6 Purchase, dated as of May 1, 2009, and that certain Third Amendment to Amended and Restated  
7 Sublease and Option to Purchase, dated as of November 1, 2012 (as so supplemented and amended  
8 and as it may be further supplemented and amended from time to time, the "Sublease");  
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10 WHEREAS, in connection with the execution and delivery of the Certificates, the  
11 Corporation and the Trustee entered into an Assignment Agreement, dated as of June 1, 1990, as  
12 subsequently supplemented and amended by that certain Amended and Restated Assignment  
13 Agreement, dated as of January 26, 1996 (the "Assignment Agreement") pursuant to which the  
14 Corporation assigned to the Trustee for the benefit of holders of the Certificates all of the  
15 Corporation's rights under the Ground Lease and the Sublease, excepting only certain rights to  
16 indemnification for losses and expenses;  
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18 WHEREAS, in June 2003, State Street Bank and Trust Company (the "Banks") issued, for the  
19 benefit of the Trustee for the account of the County, its Irrevocable Letter of Credit No. ILC-  
20 1305/BSN (the "Letter of Credit"), in the total stated amount set forth in the Letter of Credit, a  
21 portion of which supports the payment of principal evidenced by, or portion of the purchase price  
22 corresponding to the principal evidenced by, the Certificates, and a portion of which supports the  
23 payment of interest evidenced by, or portion of the purchase price corresponding to interest  
24 evidenced by, the Certificates;  
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26 WHEREAS, the current Stated Termination Date of the Letter of Credit is December 31,  
27 2014;  
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2           WHEREAS, the County has requested that the Banks extend the Stated Termination Date of  
3 the Letter of Credit to November 5, 2020, and the Banks have agreed to such extension on the  
4 condition of the execution and delivery of an amendment to the Sublease;  
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6           WHEREAS, the County and the Banks desire to amend the Sublease and, pursuant to the  
7 terms of the Sublease and the Assignment Agreement, the County, the Banks and the Agent, with the  
8 written consent of the Trustee, are permitted to amend the Sublease;

9           WHEREAS, the County is authorized to undertake all of the above pursuant to the laws of the  
10 State of California.

11           NOW, THEREFORE, the Board of Supervisors of the County of Riverside does hereby  
12 resolve, determine and order as follows:  
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14           Section 1. The proposed Fourth Amendment to Amended and Restated Sublease and Option  
15 to Purchase (the "Fourth Amendment to Sublease"), by and among the County and State Street Bank  
16 and Trust Company, as a Bank, the Banks and Agent, and consented to by the Trustee, in  
17 substantially the form on file with the Clerk of the Board, is hereby approved. The County Executive  
18 Officer, the Deputy County Executive Officer, the County Director of Finance and any other  
19 authorized officers of the County acting on behalf of the County Executive Officer (each an  
20 "Authorized Representative" and, collectively, the "Authorized Representatives") are, and each of  
21 them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the  
22 County, to execute and deliver the Fourth Amendment to Sublease in substantially the form on file  
23 with the Clerk of the Board, with such changes therein as the Authorized Representative executing  
24 and delivering such document may require or approve, such requirement or approval to be  
conclusively evidenced by the execution and delivery thereof.

25           Section 2. All actions heretofore taken by any officer of the County in connection with or  
26 related to any of the agreements referred to herein are hereby approved, confirmed and ratified.  
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CERTIFICATE OF CLERK

I, Kecia Harper-Ihem, Clerk of the Board of Supervisors of the County of Riverside, do hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Board of Supervisors of the County of Riverside duly and regularly held at the regular meeting place thereof on November 4, 2014, of which meeting all of the members of said Board had due notice.

AYES: Supervisors Jeffries, Tavaglione, Stone and Ashley

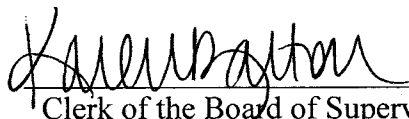
NAYS: Supervisors None

ABSENT: Supervisors Benoit

I do hereby further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

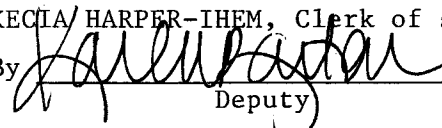
I do hereby further certify that an agenda for said meeting was posted at least seventy-two (72) hours before said meeting at 4080 Lemon Street, Riverside, California, a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

WITNESS my hand and the seal of the County of Riverside this 4th day of November 2014.

 Deputy  
Clerk of the Board of Supervisors  
Kecia Harper-Ihem

[SEAL]

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-IHEM, Clerk of said Board  
By  Deputy

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RECORDING REQUESTED BY AND )  
WHEN RECORDED MAIL TO: )

Nixon Peabody LLP )  
Gas Company Tower )  
555 West Fifth Street, 46<sup>th</sup> Floor )  
Los Angeles, CA 90013 )  
)

Attention: Charles C. Wolf, Esq.

(Space above for Recorder's use)

This document is recorded for the benefit of the County of Riverside and the recording is fee-exempt under Section 6103 of the Government Code.

**FOURTH AMENDMENT**

Dated as of November 1, 2014

to

**AMENDED AND RESTATED  
SUBLEASE AND OPTION TO PURCHASE  
(Monterey Avenue Project)**

Dated as of May 1, 2003

by and among

**COUNTY OF RIVERSIDE**

and

**STATE STREET BANK AND TRUST COMPANY,**  
as a Bank and the Banks and as the Agent

and consented to by

**U.S. BANK NATIONAL ASSOCIATION,**  
as assignee of certain rights of the Desert Facilities Corporation

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**FOURTH AMENDMENT TO AMENDED AND RESTATED  
SUBLEASE AND OPTION TO PURCHASE**

THIS **FOURTH AMENDMENT** dated as of November 1, 2014 (this "Amendment") to **AMENDED AND RESTATED SUBLEASE AND OPTION TO PURCHASE** dated as of May 1, 2003, as amended to date, is entered into by and among the **COUNTY OF RIVERSIDE** (the "County"), a political subdivision of the State of California (the "State"), **STATE STREET BANK AND TRUST COMPANY** (as more particularly defined in the Sublease (defined herein), a "Bank" and the "Banks") and **STATE STREET BANK AND TRUST COMPANY**, acting in the manner and to the extent described in Section 4.7 of the Sublease (in such capacity and as more particularly defined in the Sublease, the "Agent") and consented to by **U.S. BANK NATIONAL ASSOCIATION**, as successor trustee (the "Trustee"), and as assignee of certain rights of the Desert Facilities Corporation (predecessor in interest to the County of Riverside Asset Leasing Corporation) (the "Corporation");

**W I T N E S S E T H:**

**WHEREAS**, the County has previously caused to be executed and delivered its 1990 Taxable Variable Rate Certificates of Participation (Monterey Avenue Project) in the aggregate principal amount of \$8,800,000 and currently outstanding in the aggregate principal amount of \$3,900,000 (the "Certificates"), pursuant to a Trust Agreement, dated as of June 1, 1990, by and between the County and the Trustee, as amended by that certain First Amendment to Trust Agreement, dated as of January 26, 1996, and that certain Second Amendment to Trust Agreement, dated as of May 1, 2003 (as so supplemented and amended and as it may be further supplemented and amended from time to time, the "Trust Agreement");

**WHEREAS**, in connection with the execution and delivery of the Certificates, the County and the Corporation entered into the Ground Lease, dated as of June 1, 1990, as amended by that certain First Amendment to Ground Lease, dated as of January 26, 1996, that certain Second Amendment to Ground Lease, dated as of May 1, 2003, and that certain Third Amendment to Ground Lease, dated as of November 1, 2012 (as so supplemented and amended to date and as it may be further supplemented and amended from time to time, the "Ground Lease");

**WHEREAS**, in connection with the execution and delivery of the Certificates, the County, the Corporation and The Sanwa Bank, Limited entered into the Sublease and Option to Purchase, dated as of June 1, 1990, as subsequently supplemented and amended by that certain Amended and Restated Sublease and Option to Purchase, dated as of January 26, 1996, that certain First Amendment to Amended and Restated Sublease and Option to Purchase, dated as of July 20, 2000, that certain Amended and Restated Sublease and Option to Purchase, dated as of May 1, 2003 (the "Amended and Restated Sublease"), that certain First Amendment to Amended and Restated Sublease and Option to Purchase, dated as of April 25, 2006, that certain Second Amendment to Amended and Restated Sublease and Option to Purchase, dated as of May 1, 2009, and that certain Third Amendment to Amended and Restated Sublease and Option to Purchase, dated as of November 1, 2012 (as so supplemented and amended to date, the "Existing

Sublease” and as it may be further supplemented and amended from time to time, including as supplemented and amended by this Amendment, the “Sublease”);

**WHEREAS**, in connection with the execution and delivery of the Certificates, the Corporation and the Trustee entered into an Assignment Agreement, dated as of June 1, 1990, as subsequently supplemented and amended by that certain Amended and Restated Assignment Agreement, dated as of January 26, 1996, and as amended by that certain First Amendment to Assignment Agreement, dated as of November 1, 2012 (as so supplemented and amended to date, and as it may be further supplemented and amended from time to time, the “Assignment Agreement”) pursuant to which the Corporation assigned to the Trustee for the benefit of holders of the Certificates all of the Corporation’s rights under the Ground Lease and the Sublease, excepting only certain rights to indemnification for losses and expenses;

**WHEREAS**, the Banks issued, for the benefit of the Trustee for the account of the County, its Irrevocable Letter of Credit No. ILC-1305/BSN (the “Letter of Credit”), in the total stated amount set forth in the Letter of Credit, a portion of which supports the payment of principal evidenced by, or portion of the purchase price corresponding to the principal evidenced by, the Certificates, and a portion of which supports the payment of interest evidenced by, or portion of the purchase price corresponding to interest evidenced by, the Certificates;

**WHEREAS**, the current Stated Termination Date of the Letter of Credit is December 31, 2014;

**WHEREAS**, the County has requested that the Banks extend the Stated Termination Date of the Letter of Credit to November 5, 2020, and the Banks have agreed to such extension pursuant to a written notice thereof (the “Notice of Extension”) on the condition of the execution and delivery of this Amendment by the parties hereto;

**WHEREAS**, the County and the Banks desire to amend and, pursuant to the terms of the Sublease, the County, the Banks and the Agent, with the written consent of the Trustee, are permitted to amend the Sublease;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**Section 1. Definitions.** Unless the context clearly otherwise requires, capitalized terms used herein without definition shall have the meanings given to such terms in the Sublease or the Letter of Credit.

**Section 2. Amendments to Existing Sublease.** The Existing Sublease is hereby amended as follows:

(a) The definition of “Bank Rate” set forth in Section 1 of the Existing Sublease is hereby amended by deleting it in its entirety and replacing it with the following:

“**Bank Rate**” means, with respect to each unreimbursed drawing under the Letter of Credit, an interest rate based upon a 360-day year for actual days elapsed until repaid equal to (i) the Alternative Base Rate plus 0.5% per annum

from the date of such drawing to and including the 30th day after such drawing, (ii) the Alternative Base Rate plus 1.0% per annum from and including the 31st day after such drawing to and including the 90th day after such drawing, and (iii) the Alternative Base Rate plus 2.0% per annum from and including the 91st day after such drawing and for each day thereafter; provided that during an Event of Default and from and after the Termination Date all unreimbursed drawings will bear interest at the Default Rate; and provided, further, that in no event shall any such rate per annum (including the Default Rate) be less than the Adjustable Interest Rate on the Certificates that are not Bank Certificates.

(b) Section 1 of the Existing Sublease is hereby amended by adding the following definitions thereto in alphabetical order thereof:

**“Affiliate”** means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

**“Amortization End Date”** means the first to occur of (a) the fifth anniversary of the Amortization Start Date and (b) November 1, 2020.

**“Anti-Terrorism Laws”** shall have the meaning ascribed to such term in Section 4.4(o) hereof.

**“Executive Order”** shall have the meaning ascribed to such term in Section 4.4(o) hereof.

**“Governmental Authority”** means any federal, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including any zoning authority, the Federal Deposit Insurance Corporation or the Federal Reserve Board, any central bank or any comparable authority), or any arbitrator with authority to bind a party at law.

**“Laws”** means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

**“Monthly Amortization Amount”** means, with respect to Bank Certificates held by the Banks for a period in excess of 180 days, a monthly amount sufficient to pay in full by the Amortization End Date the outstanding principal amount of such Bank Certificates as of such 180<sup>th</sup> day in consecutive monthly installments of principal approximately equal in amount, with the entire unpaid balance due and payable in full on the Amortization End Date.

**“OFAC”** shall have the meaning ascribed to such term in Section 4.4(o) hereof.

**“Patriot Act”** shall have the meaning ascribed to such term in Section 12(a) hereof.

**“Person”** means any individual, for-profit or non-profit corporation, partnership, joint venture, association, joint-stock company, estate, trust, unincorporated organization, governmental body or any agency or political subdivision thereof, or other legal entity.

**“Taxes”** shall have the meaning ascribed to such term in Section 4.2(g) hereof.

(c) The lead-in sentence of Section 3.1(b) and all of Section 3.1(b)(i)(A) of the Existing Sublease are hereby amended by deleting it in its entirety and replacing it with the following:

(b) **Additional Base Rental.** (i) In the event the Banks hold Bank Certificates for a period in excess of 180 days (such 180<sup>th</sup> day being the “Amortization Start Date”), then, and until such time as there are no Bank Certificates:

(A) the County shall pay to the Banks on the first Business Day of each month to and including the Amortization End Date and on the Amortization End Date, the lesser of (x) the Monthly Amortization Amount as of Amortization Start Date and (y) the sum of the total Excess Amounts and the Additional Base Rental due for such month; and

(d) Section 4.2(b) of the Existing Sublease is hereby amended by adding the following at the end thereof:

The County shall cause the Remarketing Agent to have a CUSIP number assigned to any such Bank Certificates within one (1) Business Day of any such purchase of such Bank Certificates by the Banks (such CUSIP number to be distinct from the CUSIP number assigned to the Certificates). If requested by the Banks, the County shall apply for within ten (10) Business Days of such request, and utilize its best efforts to obtain as soon as practicable, at its sole cost and expense, a long-term unenhanced rating on the Bank Certificates from at least one nationally recognized securities rating agency of at least investment grade (i.e. “Baa3” or “BBB-” or its equivalent) and as otherwise required for the Banks to

assign and pledge such Bank Certificates to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank.”

(e) Section 4.2(d) of the Existing Sublease is hereby amended by deleting the second sentence thereof in its entirety and replacing it with the following:

The County hereby agrees to pay, as Additional Rental and from such other moneys as may be legally available for such purposes, an annual Letter of Credit fee (for the actual number of days elapsed, computed on the basis of a 360-day year) (i) at the rate of 0.53% per annum for the period commencing on June 3, 2003 and through and including June 11, 2006, (ii) at the rate of 0.47% per annum for the period commencing on June 12, 2006 and through and including June 11, 2009, (iii) at the rate of 1.30% per annum for the period commencing on June 12, 2009 and through and including December 31, 2014, and (iv) at the rate of 0.50% per annum for the period commencing on January 1, 2015, and thereafter, of the average Stated Amount in effect from time to time, payable to the Banks quarterly in arrears, commencing on July 31, 2003 and thereafter on the last day of April, July, October and January of each year with a final payment on the Termination Date of the Letter of Credit, or such earlier date as the Letter of Credit expires in accordance with its terms, and an annual administrative fee, in the amount of \$0, payable to the Agent on the Date of Issuance and on each anniversary thereof.

(f) Section 4.2(f) of the Existing Sublease is hereby amended by deleting it in its entirety and replacing it with the following:

(f) If, on or after November [ ], 2014, the adoption of any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any change in the interpretation, promulgation, implementation or administration thereof by any governmental or quasi-governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, including, notwithstanding the foregoing, all requests, rules, guidelines or directives in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act regardless of the date enacted, adopted or issued, or compliance by a Bank or any participant with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency: (i) subjects such Bank or any participant to any Taxes, or changes the basis of taxation of payments (other than with respect to Excluded Taxes) [this does not seem to be defined] to such Bank or any participant in respect of the Letter of Credit or participations therein, or (ii) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, such Bank or any participant (other than reserves and assessments taken into account in determining the applicable interest rate), or (iii) imposes any other condition the result of which is to increase the cost to such Bank or any participant of making,

funding or maintaining any amount advanced under the Letter of Credit, or of issuing or participating in the Letter of Credit, or reduces any amount receivable by such Bank or any participant in connection with the Letter of Credit or participations therein, or requires such Bank or any participant to make any payment calculated by reference to the amount of the Letter of Credit or participations therein held or interest or Letter of Credit fees received by it, by an amount deemed material by such Bank or such participant, as the case may be, and the result of any of the foregoing is to increase the cost to such Bank or such participant, as the case may be, of making or maintaining any amount advanced under the Letter of Credit or of issuing or participating in the Letter of Credit or to reduce the return received by such Bank or such participant, as the case may be, in connection with the Letter of Credit or participations therein, then, within 45 days of demand by such Bank or any participant, as the case may be, the County shall pay such Bank or such participant, as the case may be, such additional amount or amounts as will compensate such Bank or such participant, as the case may be, for such increased cost or reduction in amount received. A certificate of a Bank or any participant claiming compensation under this Section 4.2(f) and setting forth the additional amount or amounts to be paid to it hereunder (accompanied by a statement specifying the reasons therefor) shall be conclusive in the absence of manifest error.

(g) Section 4.2(h) of the Existing Sublease is hereby amended by deleting it in its entirety and replacing it with the following:

If a Bank or any participant determines the amount of capital required or expected to be maintained by such Bank or such participant, or any corporation controlling such Bank or such participant, is increased as a result of a Change, then, within 45 days of demand by such Bank or such participant, the County shall pay such Bank or such participant the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which such Bank or such participant determines is attributable to this Sublease or the Letter of Credit or participation therein, as the case may be, hereunder (after taking into account such Bank's or such participant's policies as to capital adequacy). "Change" means (x) any change after November [ ], 2014 in the Risk-Based Capital Guidelines or (y) any adoption of or change in any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) or in the interpretation, promulgation, implementation or administration thereof after the November [ ], 2014 which affects the amount of capital required or expected to be maintained by such Bank or any participant or any corporation controlling such Bank or any participant. Notwithstanding the foregoing, for purposes of this Sublease, all requests, rules, guidelines or directives in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act shall be deemed to be a Change regardless of the date enacted, adopted or issued and all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or the United States financial regulatory authorities

shall be deemed to be a Change regardless of the date adopted, issued, promulgated or implemented. "Risk-Based Capital Guidelines" means (i) the risk-based capital guidelines in effect in the United States on November [ ], 2014, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States including transition rules, and any amendments to such regulations adopted prior to November [ ], 2014. A certificate of a Bank or any participant claiming compensation under this Section 4.2(h) and setting forth the additional amount or amounts to be paid to it hereunder (accompanied by a statement specifying the reasons therefor) shall be conclusive in the absence of manifest error.

(h) Section 4.4 of the Existing Sublease is hereby amended by adding the following at the end thereof:

(o) Anti-Terrorism Laws.

(1) Neither the County nor any Affiliate thereof is in violation of any Laws relating to terrorism or money laundering ("Anti-Terrorism Laws"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "Executive Order"), and the Patriot Act;

(2) Neither the County nor any Affiliate thereof is any of the following: (A) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order; (B) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order; (C) a Person with which a Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; (D) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or (E) a Person that is named as a "specially designated national and blocked person" on the most current list published by the Office of Foreign Asset Control ("OFAC") or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list; and

(3) To the best of the County's knowledge neither the County nor any Affiliate thereof (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in Section 4.4(o)(2) above, (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (C) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(i) Section 12 of the Existing Sublease is hereby amended by deleting it in its entirety and replacing it with the following:

**“Section 12. USA Patriot Act Notice; No Advisory or Fiduciary Relationship; Redactions; Survival of Representations, Warranties and Covenants.”**

(a) **USA Patriot Act Notice.** The Banks are subject to the Patriot Act (as hereinafter defined) and the Banks hereby notify the County that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Patriot Act”), it is required to obtain, verify and record information that identifies the County, which information includes the name and address of the County and other information that will allow each such Bank to identify the County in accordance with the Patriot Act.

(b) **No Advisory or Fiduciary Relationship.** In connection with any aspect of the transactions contemplated by this Sublease or the Related Documents (including in connection with any amendment, waiver or other modification hereof or of any Related Document), the County acknowledges and agrees that (1)(A) the Letter of Credit issued by the Banks pursuant to this Sublease was negotiated in arm’s-length commercial transactions between the County, on the one hand, and the Banks, on the other hand, (B) the County has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the County is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Sublease; (2)(A) in connection with the issuance of the Letter of Credit by the Banks pursuant to this Sublease and with the discussions, undertakings and procedures leading up to the consummation of the transactions contemplated by this Sublease, each Bank is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the County or any other Person in connection with the transactions contemplated by this Sublease or the discussions, undertakings and procedures leading thereto and (B) no Bank has any obligation to the County with respect to the transactions contemplated by this Sublease except those obligations expressly set forth in the Letter of Credit and this Sublease; and (iii) each Bank may be engaged in a broad range of transactions that involve interests that differ from those of the County, and no Bank has any obligation to disclose any of such interests to the County.

(c) **Redactions.** In the event on or subsequent to November [ ], 2014, the County delivers or causes to be delivered to the Remarketing Agent for delivery to the Municipal Securities Rulemaking Board, or directly to the Municipal Securities Rulemaking Board, in either instance pursuant to Rule G-34 (“CUSIP Numbers, New Issue, and Market Information Requirements”), a copy of this Sublease (including without limitation any amendments hereto), the County shall only provide or cause to be provided a copy of this Sublease (including without limitation any amendments hereto), in the form provided by the Banks, that redacts such confidential information contained in this Sublease (including without limitation any amendments hereto) which could be used in a fraudulent manner, such as any VRDO liquidity bank routing or account numbers,



staff names and contact information and fees assessed by the Banks, which redaction is consistent with MSRB Notice 2011-17 (February 23, 2011). The Agent shall provide such redacted copies of this Sublease (including without limitation any amendments hereto) upon request by the County. The County shall cause the Remarketing Agent to deliver only such redacted copies of this Sublease (including without limitation any amendments hereto), in the form provided by the Banks, to the Municipal Securities Rulemaking Board pursuant to said Rule G-34.

(d) **Survival of Representations, Warranties and Covenants.** All representations, warranties and covenants made by the County herein and in any document delivered pursuant hereto shall survive the delivery of this Sublease, the Letter of Credit and any advances under the Letter of Credit, and the agreements contained in Sections 4.2(c)(ii), 4.2(f), 4.2(h) and 11 hereof shall survive payment in full of all sums owing hereunder and the termination of this Sublease.

(j) The addresses for notices to the Agent and the Banks set forth in Section 16 of the Amended and Restated Sublease are hereby amended by deleting in its entirety the addresses set forth therein for the Agent and the Banks and replacing both with "State Street Bank and Trust Company, One Lincoln Street, Boston, Massachusetts 02111, Attention: Darren Carmon."

(k) Section 21 of the Existing Sublease is hereby amended by adding the following at the end thereof:

Any Bank may assign and pledge all or any portion of the obligations owing to it hereunder or under the other Related Documents to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank, provided that any payment in respect of such assigned obligations made by the County to such Bank in accordance with the terms of this Sublease shall satisfy the County's obligations hereunder in respect of such assigned obligation to the extent of such payment. No such collateral assignment shall release any such Bank from its obligations under the Letter of Credit.

(l) Section 22 of the Existing Sublease is hereby amended by adding the following at the end thereof:

In the event the waiver of jury trial as set forth in this Section shall be declared void or unenforceable, the County agrees to refer the dispute to a judicial referee in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure.

**Section 3. Conditions Precedent.** The effectiveness of this Amendment and the issuance by the Banks of the Notice of Extension shall be subject to the fulfillment of the

following conditions precedent on or before November [ ], 2014 (the "Amendment Effective Date"), in a manner satisfactory to the Banks and their counsel:

(a) The Banks shall have received a conformed copy of this Amendment, by the County and consented to by the Trustee, as assignee of certain rights of the Corporation, in form and substance satisfactory to the Banks and their counsel;

(b) The Banks shall have received a certified copy of the authorizing resolution of the Board of Supervisors of the County, including records of proceedings of the County, instruments, governmental approvals, third party approvals, opinions and incumbency certificates as the Banks and their counsel may reasonably request, such documents where appropriate to be certified by proper officials;

(c) The Banks shall have received a certificate of the County certifying the names and true signatures of the representatives of the County authorized to sign this Amendment and any other documents to be delivered by the County on the Amendment Effective Date;

(d) The Banks shall have received a certificate signed by a County Representative, and dated the Amendment Effective Date, stating that (i) the representations and warranties contained in the Sublease and in each certificate, letter, other writing or instrument furnished or delivered by the County to the Banks pursuant thereto and specified in such certificate are true and correct in all material respects at and as of the Amendment Effective Date as though made on and as of such date, (ii) no event has occurred and is continuing, or would result from the execution and delivery of this Amendment which constitutes a Default or an Event of Default, and (iii) true, complete (including all exhibits, attachments, schedules, amendments or supplements thereto) and executed counterparts of this Amendment have been delivered to the Banks and except as provided in this Amendment and the transcripts previously delivered to the Banks, the Related Documents have not been modified, amended or rescinded, and are in full force and effect as of the Amendment Effective Date;

(e) The Banks shall have received the opinion of Nixon Peabody LLP, special counsel, dated the Amendment Effective Date and addressed to the Banks, as to (A) the due authorization, execution and delivery with respect to the County of this Amendment and the validity and enforceability with respect to the County of the Sublease and the Ground Lease, (B) that the execution of this Amendment by the County, the Banks and the Agent, with the consent of the Trustee, is authorized under and in compliance with the provisions of the Sublease; (C) that the Sublease and the Ground Lease remain in full force and effect; (D) that the federal and state tax exemption on the portion of the Base Rental comprising interest and received by the owners of the Certificates are not negatively affected by this Amendment, and (E) addressing such other matters as the Banks may reasonably request, in form and substance satisfactory to the Banks and their counsel;

(f) The Banks shall have received the opinion of the Office of County Counsel, as counsel to the County, dated the Amendment Effective Date and addressed to the Banks, in form and substance satisfactory to the Banks and their counsel;

(g) The Banks shall have received a certificate executed by an authorized officer of the Trustee and of the Tender Agent evidencing the signatures and office of officers of each executing this Amendment and authorized to draw on the Letter of Credit, and with respect to such other matters as the Banks may require, in form and substance satisfactory to the Banks and their counsel;

(h) The Banks shall have received the opinion of counsel to the Trustee and the Tender Agent, dated the Amendment Effective Date and addressed to the Banks, with respect to the validity and enforceability with respect to the Trustee of the Sublease and the Ground Lease and addressing such other matters as the Banks may require, in form and substance satisfactory to the Banks and their counsel;

(i) The Banks shall have received evidence that all amounts owing under Section 5 hereof shall have been paid or the Banks shall be reasonably satisfied that payment thereof will be made promptly after demand therefor after the Amendment Effective Date; and

(j) The Banks shall have received such other documents, instruments, approvals (and, if requested by the Banks, certified duplicates of executed copies thereof) or opinions as the Banks may reasonably request.

**Section 4. Representations and Warranties by the County.** The County represents and warrants as of the Amendment Effective Date as follows:

(a) The representations and warranties of the County set forth in Section 4.4 of the Amended and Restated Sublease and in any and all documents delivered to the Banks in connection herewith are true and correct on and as of the Amendment Effective Date, as if made on and as of such date;

(b) No Default or Event of Default has occurred and is continuing under the Sublease; and

(c) No default has occurred and is continuing under any of the Related Documents.

**Section 5. Costs and Expenses.** The County shall pay to the Banks, from Additional Rental and such other amounts as may be available for payment under law, all attorneys' fees and disbursements incurred by the Banks in connection with the execution and delivery of this Amendment and the issuance by the Banks of the Notice of Extension. The County hereby agrees that such attorneys' fees and disbursements are included as obligations under Section 4.2(c)(ii) of the Amended and Restated Sublease.

**Section 6. Ratification of Existing Sublease.** The Existing Sublease is hereby ratified and confirmed in all respects and all terms, conditions and provisions of the Existing Sublease, except as amended by this Amendment, shall remain in full force and effect. The provisions of this Amendment shall supersede and prevail over any conflicting provisions of the Existing Sublease. If there is any conflict between the terms, conditions and provisions of this Amendment and those of any of the Related Documents, the terms, conditions and provisions of this Amendment, as applicable, shall prevail.

**Section 7. No Waiver.** The County acknowledges and agrees that, if and to the extent that the Banks have not heretofore required strict compliance with the performance by the County of the covenants, agreements and obligations of the County under the Sublease or the Related Documents, such action or inaction shall not constitute a waiver of, or otherwise affect in any manner, the Banks' rights and remedies under the Sublease or the Related Documents, as amended hereby, including the right to require performance of such covenants, agreements and obligations strictly in accordance with the terms and provisions thereof.

**Section 8. Counterparts.** This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

**Section 9. Choice of Law.** This Amendment is made in the State of California under the Constitution and laws of the State of California and is to be so construed.

**Section 10. Validity and Severability.** If any one or more of the terms, provisions, promises, covenants or conditions of this Amendment shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions, promises, covenants and conditions of this Amendment shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

**Section 11. Amendment Effective Date.** Subject to satisfaction of the conditions precedent set forth in Section 3 hereof, this Amendment shall become effective upon the execution and delivery hereof by the County, the Banks, the Agent and the Trustee on the Amendment Effective Date.

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

COUNTY OF RIVERSIDE

By \_\_\_\_\_  
Deputy County Executive Officer

ATTEST:

By *Kecia Harper* deputy  
Clerk of the Board of Supervisors  
KECIA HARPER-IHFM

FORM APPROVED COUNTY COUNSEL  
BY: *Dale A. Gardner* 10/22/14  
DALE A. GARDNER DATE

STATE STREET BANK AND TRUST  
COMPANY,  
as a Bank and the Banks

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY, as the Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CONSENTED TO  
as assignee of certain rights of the  
DESERT FACILITIES CORPORATION  
(predecessor in interest to the County of Riverside  
Asset Leasing Corporation)  
this \_\_\_ day of November 2014:

U.S. BANK NATIONAL ASSOCIATION,  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF RIVERSIDE )

On \_\_\_\_\_, 2014 before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me (or 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/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument pursuant to a resolution of its board of supervisors.

WITNESS my hand and official seal.

[SEAL] \_\_\_\_\_

STATE OF CALIFORNIA            )  
  ) SS.  
COUNTY OF [        ]            )

On \_\_\_\_\_, 2014 before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me (or 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/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument pursuant to its by-laws or resolution of its board of directors.

WITNESS my hand and official seal.

[SEAL] \_\_\_\_\_

STATE OF CALIFORNIA            )  
  ) SS.  
COUNTY OF [            ]            )

On \_\_\_\_\_, 2014 before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me (or 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/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

[SEAL] \_\_\_\_\_



STATE OF CALIFORNIA                    )  
  ) SS.  
COUNTY OF [            ]    )

On \_\_\_\_\_, 2014 before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me (or 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/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

[SEAL]

\_\_\_\_\_

**Riverside County Board of Supervisors  
Request to Speak**

Submit request to Clerk of Board (right of podium),  
Speakers are entitled to three (3) minutes, subject  
to Board Rules listed on the reverse side of this form.

**SPEAKER'S NAME:** GARRY GRANT

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**Date:** NOV 4<sup>th</sup> 2014 **Agenda #** 3-1

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

**Support**       **Oppose**       **Neutral**

**Note:** If you are here for an agenda item that is filed  
for "Appeal", please state separately your position on  
the appeal below:

**Support**       **Oppose**       **Neutral**

**I give my 3 minutes to:** \_\_\_\_\_

## **BOARD RULES**

### **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

### **Requests to Address Board on items that are "NOT" on the Agenda:**

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

### **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

### **Individual Speaker Limits:**

**Individual speakers are limited to a maximum of three (3) minutes.** Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

### **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

### **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.

**\$8,800,000**

**COUNTY OF RIVERSIDE**

**1990 TAXABLE VARIABLE RATE CERTIFICATES OF PARTICIPATION  
(MONTEREY AVENUE PROJECT)**

**2014 FOURTH AMENDMENT TO  
AMENDED AND RESTATED SUBLEASE AND OPTION TO PURCHASE**

---

**CLOSING TRANSCRIPT**

---

November 19, 2014

**\$8,800,000**  
**COUNTY OF RIVERSIDE**  
**1990 TAXABLE VARIABLE RATE**  
**CERTIFICATES OF PARTICIPATION**  
**(MONTEREY AVENUE PROJECT)**

2014 FOURTH AMENDMENT TO AMENDED AND RESTATED  
SUBLEASE AND OPTION TO PURCHASE

(NOVEMBER 19, 2014)

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1. Specimen copy of Letter of Credit Extension.
2. Amended and Restated Sublease and Option to Purchase.
3. First Amendment to Sublease.
4. Second Amendment to Sublease.
5. Third Amendment to Sublease.
6. Fourth Amendment to Sublease.
7. Resolution of the Board of Supervisors.
8. County Incumbency Certificate.
9. Certificate of County.
10. Certificate of Trustee.
11. Opinion of County Counsel.
12. Opinion of Trustee's Counsel.
13. Opinion of Nixon Peabody LLP.

STATE STREET.

IRREVOCABLE LETTER OF CREDIT NO. ILC-1305/BSN

November 19, 2014

U.S. Bank National Association, as Trustee  
633 West Fifth Street  
24th Floor  
Los Angeles, California 90071

NOTICE OF EXTENSION

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Letter of Credit No. ILC-1305/BSN dated June 11, 2003 (the "Letter of Credit"), established by us in your favor as beneficiary. All defined terms used herein which are not otherwise defined shall have the same meaning as in the Letter of Credit. We hereby notify you that the Stated Termination Date has been extended to November 5, 2020.

We hereby also notify you of the following administrative amendment to the Letter of Credit:

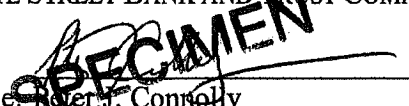
1. The address of the Bank that appears throughout the Letter of Credit is deleted and the following shall be substituted therefor:


State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0427  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116  
Facsimile: 617-988-6674

This Notice of Extension along with the address change of the Bank should be attached to the Letter of Credit and made a part thereof.

Very truly yours,

STATE STREET BANK AND TRUST COMPANY

By:   
Name: Peter J. Connolly  
Title: Assistant Vice President

By:   
Name: David C. Pennybaker  
Title: Officer

*Chicago Title Co.*

*32040356 432*

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

O'MELVENY & MYERS  
400 South Hope Street  
Los Angeles, California 90071-2899

Attention: Richard Jones, Esq.

DOC # 2003-427051

06/11/2003 08:00A Fee:NC

Page 1 of 76

Recorded in Official Records

County of Riverside

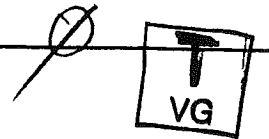
Gary L. Orso

Assessor, County Clerk & Recorder



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(Space above for Recorder's use)



This document is recorded for the benefit of the County of Riverside and the recording is fee-exempt under Section 6103 of the Government Code.

AMENDED AND RESTATED  
SUBLEASE AND OPTION TO PURCHASE

Dated as of May 1, 2003

by and among the

COUNTY OF RIVERSIDE,

STATE STREET BANK AND TRUST COMPANY,  
as a Bank and the Banks

and

STATE STREET BANK AND TRUST COMPANY,  
as the Agent

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2003-427051  
06/11/2003 08 00A  
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**AMENDED AND RESTATED  
SUBLEASE AND OPTION TO PURCHASE**

**THIS AMENDED AND RESTATED SUBLEASE AND OPTION TO PURCHASE**, dated as of May 1, 2003 (this "Sublease"), is entered into by and among the **COUNTY OF RIVERSIDE**, a political subdivision of the State of California (the "County"), **STATE STREET BANK AND TRUST COMPANY** (as more particularly defined herein, a "Bank" and the "Banks") and **STATE STREET BANK AND TRUST COMPANY** (in such capacity and as more particularly defined herein, the "Agent");

**W I T N E S S E T H:**

**WHEREAS**, the County previously caused to be executed and delivered its 1990 Taxable Variable Rate Certificates of Participation (Monterey Avenue Project) in the original principal amount of \$8,800,000 and currently outstanding in the aggregate principal amount of \$7,600,000 (the "Certificates"), pursuant to a Trust Agreement, dated as of June 1, 1990, as subsequently supplemented and amended by the First Amendment to Trust Agreement, dated as of January 26, 1996, by and among the County, U.S. Bank National Association, as successor to U.S. Bank Trust National Association, formerly known as First Trust of California, National Association, as successor trustee to Security Pacific National Bank, as trustee (the "Trustee") and U.S. Bank Trust National Association, formerly known as First Trust of New York, National Association, as successor tender agent to Security Pacific National Trust Company (New York), as tender agent (the "Tender Agent") and as supplemented and amended concurrently herewith by that certain Second Amendment to Trust Agreement, dated as of May 1, 2003, by and among the County, the Trustee and the Tender Agent (as so supplemented and amended and as it may be further supplemented and amended from time to time, the "Trust Agreement");

**WHEREAS**, in connection with the execution and delivery of the Certificates, the County, the Desert Facilities Corporation (the "Corporation") and The Sanwa Bank, Limited entered into that certain Sublease and Option to Purchase, dated as of June 1, 1990;

**WHEREAS**, in connection with the execution and delivery of the Certificates, The Sanwa Bank, Limited, acting through its Los Angeles Branch, issued Irrevocable Letter of Credit No. 654/259/00047 dated June 20, 1990 (the "Sanwa Bank Letter of Credit");

**WHEREAS**, subsequent to the issuance of the Sanwa Bank Letter of Credit, NatWest and Commerzbank, Los Angeles Branch, issued Irrevocable Letter of Credit (National Westminster Bank plc No. 1940; Commerzbank AG No. 015067776) dated January 26, 1996 (the "NatWest Commerzbank Letter of Credit") in substitution for the Sanwa Bank Letter of Credit;

**WHEREAS**, in connection with the issuance of the NatWest Commerzbank Letter of Credit, the County, the Corporation, National Westminster Bank plc, acting through its Los Angeles Overseas Branch ("NatWest") and Commerzbank Aktiengesellschaft, acting through its Los Angeles Branch ("Commerzbank, Los Angeles Branch") entered into that certain Amended and Restated Sublease and Option to Purchase, dated as of January 26, 1996, as subsequently supplemented and amended by that certain First Amendment to Amended and



Restated Sublease and Option to Purchase, dated as of July 20, 2000, by and between the County and Commerzbank Aktiengesellschaft, acting through its New York Branch ("Commerzbank, New York Branch");

**WHEREAS**, subsequent to the issuance of the NatWest Commerzbank Letter of Credit, Commerzbank, New York Branch issued its Irrevocable Letter of Credit No. 150SBY00300042 dated July 20, 2000 (the "Original Letter of Credit") in substitution for the NatWest Commerzbank Letter of Credit and in connection therewith, NatWest assigned and Commerzbank, New York Branch assumed all right, title and interest (including, without limitation, obligations) of NatWest, arising under or with respect to this Sublease and the Related Documents (defined below);

**WHEREAS**, the County wishes to replace the Commerzbank, New York Branch Letter of Credit, and the Banks wish to issue a letter of credit to support the Certificates, and in connection therewith, Commerzbank, New York Branch will assign and the Banks will agree to assume all right, title and interest under this Sublease and the Related Documents;

**WHEREAS**, the County and the Banks desire to amend this Sublease and, pursuant to the terms of this Sublease and the Assignment Agreement, the County, the Banks and the Agent, with the consent of the Trustee as assignee of the rights of the Corporation, are permitted to amend and restate this Sublease in its entirety; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**Section 1. Definitions.** Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Sublease, have the meanings set forth below. All other capitalized terms used herein without definition shall have the meanings set forth in the Trust Agreement (as hereinafter defined).

**"Additional Base Rental"** means for each month during a Lease Year the difference between (i) one-twelfth of Fair Market Rental Value for that Lease Year and (ii) the sum of the interest paid with respect to the Certificates in that month, interest paid to the Banks under the proviso to Section 4.2(b) in that month and one-twelfth of the minimum amount of the principal portion of Base Rental payable in that Lease Year pursuant to Exhibit B hereto.

**"Additional Rental"** means the amounts specified as such in subsection (b) of Section 3.1 of this Sublease.

**"adjoining,"** or **"in the vicinity of,"** when used in reference to two parcels of real property, means that such parcels have boundaries that are contiguous at one or more points.

**"Adjustable Interest Rate"** means a rate of interest payable with respect to the Certificates prior to the Fixed Rate Date, determined pursuant to Section 2.02 of the Trust Agreement.

**"Acquisition Costs"** means the cost of the acquisition of the Property and includes, without limitation, reimbursement to the County for any payments made by the County



prior or subsequent to the execution of this Sublease, costs and expenses incurred in connection with the execution and delivery of the Certificates, this Sublease, the Ground Lease, the Assignment Agreement, the Trust Agreement, the Letter of Credit and the Remarketing Agent Agreement, and administrative, legal, financial and other costs incurred in connection with the acquisition, delivery and financing of the Property.

**"Agent"** means State Street Bank and Trust Company, acting in the manner and to the extent described in Section 4.7, and shall include any successor Agent appointed pursuant to Section 4.7(i) hereof.

**"Alternative Base Rate"** means the higher of (i) the Reference Rate and (ii) the sum of 0.5% per annum plus the Federal Funds Rate.

**"Assignment Agreement"** means the Amended and Restated Assignment Agreement, dated as of January 26, 1996, by and between the Corporation and the Trustee pertaining to the assignment of certain of the Corporation's rights, title and interest in and to this Sublease and the Ground Lease to the Trustee for the benefit of the Owners of the Certificates and the Banks as hereafter amended and supplemented with the prior written consent of the Banks.

**"Bank"** or **"Banks"** means State Street Bank and Trust Company, as issuer of the Letter of Credit, or any bank or other financial institution issuing an Alternate Letter of Credit.

**"Bank Rate"** means with respect to each unreimbursed drawing under the Letter of Credit, an interest rate based upon a 360-day year for actual days elapsed until repaid equal to (i) the Alternative Base Rate plus 0.5% per annum from the date of such drawing to and including the 30th day after such drawing, (ii) the Alternative Base Rate plus 1.0% per annum from and including the 31st day after such drawing to and including the 90th day after such drawing, and (iii) the Alternative Base Rate plus 2.0% per annum from and including the 91st day after such drawing and for each day thereafter; provided that during an Event of Default and from and after the Termination Date all unreimbursed drawings will bear interest at the Default Rate.

**"Base Rental"** means the amounts referred to as such in subsection (a) of Section 3.1 of this Sublease, as such amounts may be adjusted from time to time in accordance with the terms hereof.

**"Business Day"** means any day other than a Saturday or Sunday or a day on which banking institutions are authorized or required by law to be closed for commercial banking purposes in either the State of New York, the State of California or in the state in which is located the office of the Bank at which demands for payment under the Letter of Credit are to be made.

**"Closing Date"** means the date on which the Certificates were first executed and delivered.

**"Construction and Acquisition Costs"** means, with respect to the Property, the cost of the construction, acquisition, installation, delivery and financing and includes, without



limitation, reimbursement to the County or the Corporation for any payments made by the County or the Corporation prior or subsequent to the execution of this Sublease, the costs of site preparation necessary for the construction and installation, costs and expenses incurred in connection with the execution and delivery of the Certificates, this Sublease, the Ground Lease, the Assignment Agreement, the Agency Agreement, the Trust Agreement, the Letter of Credit and the Remarketing Agent Agreement, and administrative, engineering, legal, financial and other costs incurred in connection with the construction, acquisition, delivery, installation and financing of the Property.

**"Corporation"** means Desert Facilities Corporation, a California nonprofit public benefit corporation, and its successors and assigns.

**"County"** means the County of Riverside, a political subdivision of the State of California, and its successors and assigns.

**"Custody Agreement"** means the Custody Agreement dated as of January 26, 1996 by and among the Tender Agent, the County and the Banks, as it may be amended and supplemented with the prior written consent of the Banks.

**"Date of Issuance"** means the date on which the Letter of Credit is executed and delivered in accordance with the terms hereof.

**"Default"** means any condition or event which constitutes an Event of Default or which, with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

**"Default Rate"** means a fluctuating interest rate equal at all times to the Alternative Base Rate plus 3.0% per annum.

**"Environmental Claim"** means any and all administrative, regulatory, or judicial actions, suits, demand letters, claims, liens, notices of noncompliance or violation, investigations, or proceedings relating in any way to any Environmental Law ("claims") or any permit issued under any such Environmental Law, including without limitation (a) any and all claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any applicable Environmental Law, and (b) any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation, or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety, or the environment.

**"Environmental Law"** means any federal, state, or local statute, law, rule, regulation, ordinance, code, policy, or rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree, or judgment, relating to health, safety, or the environment or to Hazardous Materials, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801 et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.; the Toxic Substances



Control Act, as amended, 15 U.S.C. § 2601 et seq.; the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. § 3608 et. seq.; the California Superfund statute, Cal. Health & Safety C. § 25300 et seq.; legislation promulgated pursuant to the California Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety C. § 25249.5 et seq.; Environmental Protection Agency regulations pertaining to asbestos, including 40 C.F.R. Part 61, Subpart M; and Occupational Safety and Health Administration regulations pertaining to asbestos, including 29 C.F.R. § 1910.1001 and 1926.58.

**"Event of Default"** has the meaning set forth in Section 13 hereof.

**"Fair Market Rental Value"** means, with respect to the Property, the amount set forth in a certificate of the County executed by a County representative and delivered to the Trustee and the Banks on or before the Date of Issuance as the annual fair rental value of the Property as it may be amended from time to time with the Banks' consent.

**"Federal Funds Rate"** means, for any day, the rate of interest per annum as determined by the Agent at which overnight federal funds are offered to the Agent for such day by major banks in the interbank market, with any change in such rate to become effective on the date of any change in such rate. Each determination of the Federal Funds Rate by the Agent shall be deemed conclusive and binding on the County absent manifest error.

**"Fiscal Year"** means the fiscal year of the County, which is the period from July 1 to and including the following June 30.

**"Fixed Interest Rate"** means an annual interest rate payable with respect to the Certificates from and after the Fixed Rate Date for the Certificates upon conversion to a Fixed Interest Rate, established by the Remarketing Agent pursuant to subsection (b)(2) of Section 2.02 of the Trust Agreement.

**"Ground Lease"** means that certain Ground Lease, dated as of June 1, 1990, by and between the County and the Corporation with respect to the Property, as amended by that certain First Amendment to Ground Lease, dated as of January 26, 1996, and as it may be further amended or supplemented with the prior written consent of the Banks.

**"Hazardous Materials"** means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contains dielectric fluid containing polychlorinated biphenyls, and radon gas; (b) any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials" extremely hazardous wastes, "restricted wastes," "toxic substances," "toxic pollutants," "contaminants," "special wastes," or "pollutants," or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental authority.

**"Indebtedness"** of any person means at any date, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such person under leases where certificates of participation have been executed and delivered representing a



proportionate, undivided interest in the rental payments under such leases, (d) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (e) all obligations of such person as lessee under capitalized leases, (f) all Indebtedness of others secured by a lien on any asset of such person, whether or not such debt is assumed by such person and (g) all guarantees by such person of debt of other persons.

**"Lease Year"** means the period from each November 2 to and including the following November 1, during the Term of this Sublease.

**"Letter of Credit"** means the irrevocable, direct-pay letter of credit issued by the Banks in accordance with Section 4.1 hereof, substantially in the form of Exhibit D hereto, and, upon the issuance and delivery of an Alternate Letter of Credit in accordance with subsection (b) of Section 4.1 hereof, means such Alternate Letter of Credit.

**"Maximum Interest Rate"** means 15% per annum.

**"Official Statement"** means the Official Statement of the County dated June 18, 1990, relating to the Certificates, as supplemented by that certain Supplement to Official Statement dated January 26, 1996, as further supplemented by that certain Supplement to Official Statement dated May 1, 2003, and as it may hereafter be supplemented from time to time.

**"Permitted Encumbrances"** means liens, charges and encumbrances existing with respect to the Property on the Date of Issuance.

**"Property"** means, collectively, the parcels of real property described in Exhibit A to the Ground Lease.

**"Reference Rate"** means the rate of interest publicly announced from time to time by the Agent as its prime rate. It is a rate set by the Agent based upon various factors including the Agent's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in the Reference Rate announced by the Agent shall take effect at the opening of business on the day specified in the public announcement of such change.

**"Related Documents"** means the Trust Agreement, the Letter of Credit, this Sublease, the Assignment Agreement, the Ground Lease, the Certificates, the Custody Agreement, the Remarketing Agent Agreement and the Official Statement.

**"Release"** means disposing, discharging, injecting, spilling, leaking, dumping, emitting, escaping, emptying, seeping, placing, and the like, into or upon any land or water or air, or otherwise entering into the environment.

**"Remarketing Agent"** means Lehman Brothers Inc., as successor Remarketing Agent, under the Remarketing Agent Agreement.





**"Remarketing Agent Agreement"** means the Remarketing Agent Agreement, dated as of January 26, 1996, by and between the County and Lehman Brothers Inc., as remarketing agent, as amended by that certain First Amendment to Remarketing Agent Agreement, dated as of the date hereof, and as it may hereafter be amended or supplemented with the prior written consent of the Banks.

**"State"** means the State of California.

**"Stated Amount"** means the maximum aggregate amount available from time to time to be drawn under the Letter of Credit.

**"Stated Termination Date"** has the meaning set forth in the Letter of Credit.

**"Sublease"** means this Amended and Restated Sublease and Option to Purchase, dated as of May 1, 2003, by and among the County, the Banks and the Agent, and consented to by the Trustee as assignee of the rights of the Corporation, as it may be amended and supplemented in accordance with the terms hereof.

**"Tender Agent"** means U.S. Bank Trust National Association, acting in its capacity as successor Tender Agent under the Trust Agreement and shall include any successor Tender Agent appointed pursuant to Section 7.12 of the Trust Agreement with the prior written consent of the Banks.

**"Term"** means the term of this Sublease with respect to the Property as provided in Section 2 hereof.

**"Termination Date"** has the meaning set forth in the Letter of Credit.

**"Trust Agreement"** means the Trust Agreement, dated as of June 1, 1990, by and among the County, the Tender Agent, as successor in interest to Security Pacific National Trust Company (New York), and the Trustee, as successor in interest to Security Pacific National Bank, as amended by that certain First Amendment to Trust Agreement dated as of January 26, 1996, among the County, the Trustee and the Tender Agent and that certain Second Amendment to Trust Agreement dated as of the date hereof, among the County, the Trustee and the Tender Agent, and as it may further be amended and supplemented with the prior written consent of the Banks.

**"Trustee"** means U.S. Bank National Association, acting in its capacity as successor Trustee under the Trust Agreement or any successor appointed as therein provided.

**Section 2. Agreement to Sublease; Term of Sublease; Transfer of Title.**

The Corporation hereby agrees to sublease the Property to the County, and the County hereby agrees to pay the Base Rental and the Additional Rental as provided herein for the use and occupancy of the Property, all on the terms and conditions set forth herein. The Term of this Sublease shall begin on the Closing Date and shall end on November 15, 2020 or at such earlier time as the Certificates have been paid or provision for their payment has been made in accordance with the provisions of the Trust Agreement; provided, that this Sublease shall terminate in the event the Property is purchased pursuant to Section 15 of this Sublease, or in the



event the Property or so much thereof as to render the remainder of the Property unusable, shall be taken by eminent domain in accordance with Section 6 of this Sublease; and provided, further, that this Sublease shall not terminate so long as any amounts remain owing to the Banks hereunder.

Upon the expiration of the Term of this Sublease, title to the Property shall vest in the County or in any designee of the County; if, but only if, the County shall have paid the Banks all amounts due hereunder. The Corporation agrees to take such action as may be necessary or desirable to cause such title to vest in the County; provided that any instrument of conveyance shall be sufficient if it is in the form of a quit-claim deed.

### Section 3. Rent.

3.1 Rental Payments. The County shall pay the Base Rental, Additional Base Rental and Additional Rental in the amounts, at the times and in the manner set forth herein, such amounts constituting in the aggregate the total of the rental payable under this Sublease as follows:

(a) Base Rental. The County agrees to pay from legally available funds Base Rental with respect to the Property in the amounts calculated as set forth below, a portion of which shall constitute principal and a portion of which shall constitute interest. The obligation of the County to pay Base Rental, Additional Base Rental and Additional Rental shall commence on the Closing Date.

The principal portion of the Base Rental payable by the County hereunder with respect to the Property shall be due on each November 1 in each year throughout the Term of this Sublease, except as provided above. In order to secure its obligation to pay the principal portion of Base Rental due on any November 1, the County agrees to deposit with the Trustee, for application to the Base Rental Fund, an amount equal to such principal portion due in each Lease Year on the October 15, immediately preceding each such November 1. The amount of the principal portion of Base Rental due on each November 1 shall be determined in accordance with Exhibit B hereto. The interest portion of the Base Rental payable by the County hereunder shall be due and payable in arrears on each Interest Payment Date and on any other date on which Certificates are prepaid (but only on Certificates so prepaid). In order to secure its obligation to pay the interest portion of Base Rental due in each Lease Year, the County agrees to deposit with the Trustee for application to the Base Rental Fund by each Interest Payment Date, an amount equal to 1/12 of the interest portion of the Base Rental which would become due during such Lease Year calculated at the Maximum Interest Rate and by the fifteenth day of each month thereafter (each an "Interest Deposit Date"), an amount equal to the interest paid with respect to the Certificates since the immediately preceding Interest Deposit Date. All payments of the interest portion of Base Rental paid by the County shall be paid as and shall constitute interest paid on the principal portion of the Base Rental payable by the County hereunder.

The total principal portion of the Base Rental payments shall bear interest from the Closing Date until the payment in full thereof shall be made or provided for in accordance with the provisions hereof, whether upon prepayment or otherwise, or until termination of this Sublease. The principal portion of Base Rental shall bear interest from time to time at the rates



per annum determined from time to time as set forth in Exhibit A hereto; provided, however, that at no time shall any such interest rate exceed the Maximum Interest Rate.

Notwithstanding anything contained herein to the contrary, the difference in each Lease Year between the Fair Market Rental Value of the Property and the Base Rental with respect to the Property actually paid by the County in such Lease Year, to the extent that such Base Rental actually paid is less than the Fair Market Rental Value (the "Excess Amount"), shall remain an obligation of the County to be paid in any future Lease Year or for any past Lease Year as and when needed to pay the principal and interest portions of Base Rental, including amounts owed to the Banks pursuant to the proviso to subsection (b) of Section 4.2 hereof, as and when such rental exceeds or exceeded the Fair Market Rental Value in such Lease Year and to pay other obligations of the County hereunder; except that if any portion of such Excess Amount when added to Excess Amounts from prior years exceeds \$3,000,000, then such portion shall be discharged and shall not be an obligation of the County in any future year. Except to the extent of such Excess Amount, the County shall have no obligation to pay Base Rental for the Property, including amounts payable to the Banks under the proviso to subsection (b) of Section 4.2 hereof, in any Lease Year in an amount greater than the Fair Market Rental Value of the Property.

(b) **Additional Base Rental.** (i) In the event the Banks hold Bank Certificates for a period in excess of 180 days, then, and until such time as there are no Bank Certificates:

(A) the County shall pay to the Banks on the first Business Day of each month, the lesser of (X) 1/60 of the principal amount of such Bank Certificates as of such 180th day and (Y) the sum of the total Excess Amounts and the Additional Base Rental due for such month; and

(B) the Trustee shall, upon receiving notice of such payment, deem Bank Certificates in an amount equal to the Additional Base Rental to have been prepaid.

(ii) In the event that Certificates are required to be purchased pursuant to Section 3.06 of the Trust Agreement and the Letter of Credit is drawn upon to effect such purchase, the County shall pay to the Banks on the date of such purchase the lesser of (1) the amount drawn under the Letter of Credit to effect such purchase and (2) the Excess Amount as of such purchase date and shall pay to each Bank on the first business day of each month thereafter the Additional Base Rental for the immediately preceding calendar month.

(A) the Trustee shall, upon receiving notice of such payment, deem Bank Certificates in an amount equal to the Additional Base Rental to have been prepaid.

(c) **Additional Rental.** In addition to the Base Rental set forth herein, the County agrees to pay as Additional Rental all of the following:

(i) All taxes and assessments of any nature whatsoever, including but not limited to excise taxes, ad valorem taxes, ad valorem and specific lien special assessments and gross receipts taxes, if any, levied upon the Property or any portion thereof or upon any interest of the Corporation, the Trustee or the Owners therein or in this Sublease;



(ii) Insurance premiums, if any, on all insurance required under the provisions of Section 5.3 of this Sublease;

(iii) All fees and expenses (not otherwise paid or provided for out of the proceeds of the sale of the Certificates) of the Trustee and the Tender Agent in connection with the Trust Agreement;

(iv) Any amounts (not otherwise paid or provided for out of the proceeds of the sale of the Certificates) which may become due to the Remarketing Agent pursuant to the Remarketing Agent Agreement;

(v) Any amounts (not otherwise paid or provided for out of the proceeds of the sale of the Certificates) necessary to pay any amounts due to the Agent or the Banks under Section 4.2 hereof and expressed to be payable from Additional Rental; and

(vi) Any other fees, costs or expenses (including without limitation, administrative expenses) incurred by the Corporation or others in connection with the execution, performance or enforcement of this Sublease or any assignment hereof or the Trust Agreement or any of the transactions contemplated hereby or thereby or related to the Property required by the Corporation to maintain its existence.

Amounts constituting Additional Rental payable hereunder shall be paid by the County directly to the person or persons to whom such amounts shall be payable. The County shall pay all such amounts not later than the latest time as such amounts may be paid without penalty or, if no penalty is associated with a late payment of such amounts, within 30 days after receipt of a bill for such amounts; provided that Additional Rental payable to the Agent or the Banks shall be paid when due pursuant to Section 4.2 hereof.

**3.2 Consideration.** The payments of Base Rental, including any undischarged portion of the Excess Amount calculated in accordance with subsection (a) of Section 3.1 hereof, Additional Base Rental, if any is required under subsection (b) of Section 3.1 hereof, and Additional Rental under this Sublease for each Fiscal Year or portion thereof during the Term of this Sublease shall constitute the total rental for such Fiscal Year or portion thereof and shall be paid by the County for and in consideration of the right to the use and occupancy, and the continued quiet use and enjoyment, of the Property by the County for and during such Fiscal Year or portion thereof. The parties hereto have agreed and determined that such Base Rental for each year, including any undischarged portion of the Excess Amount calculated in accordance with subsection (a) of Section 3.1 hereof for that year, is not in excess of the total Fair Market Rental Value of the Property. In making such determination of Fair Market Rental Value, consideration has been given to the costs of construction, acquisition, delivery and financing of the Property, the replacement cost of the Property, the uses and purposes served by the Property, and the benefits therefrom that will accrue to the parties by reason of this Sublease and to the general public by reason of the County's use of the Property. The Fair Market Rental Value of the Property shall be set forth in a certificate to be delivered by the County to the Corporation and the Banks on the Date of Issuance.



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**3.3 Budget.** The County hereby covenants to take such action as may be necessary to include the Base Rental, Additional Base Rental, if required, Additional Rental and all other amounts due hereunder in its annual budget and to make the necessary annual appropriations for all such Base Rental, Additional Base Rental and Additional Rental and all other payments, subject to the provisions of Section 3.5 hereof. The covenants on the part of the County herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial 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 such official duty of such officials to enable the County to carry out and perform the covenants and agreements on the part of the County contained in this Sublease. The obligation of the County to make Base Rental, Additional Base Rental or Additional Rental payments does not constitute an obligation of the County for which the County is obligated to levy or pledge any form of taxation or for which the County has levied or pledged any form of taxation. Neither the Certificates nor the obligation of the County to make Base Rental, Additional Base Rental or Additional Rental payments constitutes an Indebtedness of the County, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

**3.4 Payment; Credit.** Amounts necessary to pay Base Rental and Additional Base Rental shall be deposited and paid by the County on the dates set forth in subsections (a) and (b), respectively, of Section 3.1 hereof in lawful money of the United States of America, at the office of the Trustee, as assignee of the Corporation, in Los Angeles, California, or at such other place or places as may be established in accordance with the Trust Agreement. Except as provided in Section 3.5 hereof, any amount necessary to pay any Base Rental, Additional Base Rental or portion thereof which is not so deposited shall remain due and payable until received by the Trustee. Notwithstanding any dispute between the County and the Corporation hereunder, the County shall make all rental payments when due and shall not withhold any rental payments pending the final resolution of such dispute or for any other reason whatsoever. The County's obligation to make rental payments in the amounts and on the terms and conditions specified hereunder shall be absolute and unconditional without any right of deduction, set-off or counterclaim, subject only to the provisions of Section 3.5 hereof.

**3.5 Rental Abatement.** Except to the extent of (i) amounts held by the Trustee in the Capitalized Interest Account in the Certificate Fund or in the Reserve Fund, (ii) amounts received in respect of rental interruption insurance or liquidated damages, (iii) amounts otherwise available or made available to the Trustee for payments in respect of the Certificates and (iv) the Excess Amount, rental amounts due hereunder with respect to the Property or any portion thereof shall be abated during any period in which, by reason of material damage, destruction or condemnation, there is substantial interference with the use and right of possession by the County of the Property or any portion thereof, provided, however, that no easement disclosed in the policy of title insurance covering the Property which is delivered by the County on the Date of Issuance shall be cause for such abatement. Such abatement shall occur only to the extent required by law and only to the extent of the portion of the Property which is unusable and shall continue for the period commencing with the date of such damage, destruction or condemnation and ending with the restoration of the Property or affected portion thereof to tenantable condition. In the event of any such damage, destruction or condemnation, this Sublease shall continue in full force and effect, except as set forth in Sections 5 and 6 hereof.



**3.6 Triple Net Lease.** This Sublease is intended to be a triple net lease. The County agrees that the rental payments provided for herein shall be an absolute net return to the Corporation free and clear of any expenses, charges or set-offs whatsoever.

**Section 4. Letter of Credit.**

**4.1 Description of Letter of Credit.** (a) The County shall arrange for the Letter of Credit to be delivered to the Trustee to support the payment of its obligations under subsection (a) of Section 3.1 hereof. Under the Trust Agreement, the Trustee is directed to draw upon the Letter of Credit in such amounts and at such times as provided in the Trust Agreement to pay principal and interest with respect to the Certificates other than Bank Certificates. The County shall cause the Banks to be reimbursed, for payments made to the Trustee under the Letter of Credit on any Interest Payment Date, Sinking Account Installment Date or Prepayment Date in accordance with subsection (a) of Section 4.2 hereof, on the date such payments are made by the Banks. Under the Trust Agreement, the Trustee is also directed to draw upon the Letter of Credit in order to purchase Certificates optionally tendered for purchase or Certificates called for mandatory tender for purchase but, in either case, not remarketed. In the event of any such draw, the Banks shall become the Owner of the Certificates purchased with the amount drawn. The Banks hereby agree that at any time the Remarketing Agent remarkets a Bank Certificate, the Banks shall deliver such Certificate, with an appropriate instrument of assignment, to the Tender Agent in accordance with the provisions of the Custody Agreement. The Banks hereby acknowledge that, so long as no Event of Default has occurred and is continuing, Bank Certificates may not be tendered for purchase pursuant to Section 3.01 of the Trust Agreement.

(b) The Banks hereby agree to issue the Letter of Credit to the Trustee for the account of the County on the terms and subject to the conditions set forth herein. Upon the written request of the County, received by the Agent on or before the date which is one year prior to the Stated Termination Date, and provided that no Default or Event of Default has occurred and is continuing, the Banks shall have the option, in their absolute sole discretion and on such terms and conditions as the parties hereto may mutually agree upon, to extend the Stated Termination Date of the Letter of Credit for an additional two years past its then current Stated Termination Date. The Agent shall, not later than 60 days following receipt of such written request, notify the County whether or not the Banks will extend the Stated Termination Date of the Letter of Credit for an additional term of two years and the terms and conditions of such extension. If the Banks shall have not so notified the County, the Banks shall be deemed to have denied any such extension. The covenants and obligations of the County contained in this Sublease shall continue in full force and effect upon any extension, renewal or substitution of the Letter of Credit as provided in this Section 4.1, except insofar as the Banks may request or agree to any modification thereof.

(c) The County may, at its option, at any time during the term of the Letter of Credit, provide for the delivery to the Trustee of an Alternate Letter of Credit with the consent of the Agent. Notwithstanding the foregoing, the consent of the Agent shall not be required if (i) (A) the Agent has notified the County that the Banks will not extend the term of the Letter of Credit, (B) the terms and conditions of any extension of the Letter of Credit offered by the Banks are rejected by the County, (C) in the opinion of the Remarketing Agent, the Letter of Credit no



longer provides the most efficient remarketing support for the Certificates, or (D) any Bank exercises its rights under subsection (f) of Section 4.2 and (ii) no amounts payable to the Agent or the Banks under this Sublease or the Related Documents are unpaid and there are no Bank Certificates then held by, or on behalf of, the Banks. An Alternate Letter of Credit shall have terms in all material respects the same as the Letter of Credit and shall have a term of at least one year in duration. On or prior to the date of the delivery of an Alternate Letter of Credit to the Trustee, the County shall furnish to the Trustee (i) an opinion of counsel stating that the delivery of such Alternate Letter of Credit to the Trustee is authorized under this Sublease and complies with the terms hereof, (ii) an opinion of counsel that such Alternate Letter of Credit is the legal, valid and binding obligation of such bank or other financial institution, and (iii) evidence that all amounts payable to the Banks hereunder have been paid.

#### 4.2 Letter of Credit and Reimbursement.

(a) The Banks shall be reimbursed from Base Rental by the Trustee in accordance with Sections 5.04 and 5.05 of the Trust Agreement on each date on which the Banks are obligated to honor and make payment under the Letter of Credit (other than in respect of any drawing made to purchase Bank Certificates). Each such reimbursement shall be in an amount equal to the amount of the draft presented by the Trustee in connection with such payment under the Letter of Credit.

(b) Each drawing made to pay the purchase price of Bank Certificates shall be reimbursed through the purchase of such Bank Certificates by the Banks; provided that on each Interest Payment Date while the Banks own Bank Certificates and on each date on which any Bank Certificates are remarketed, the County shall pay to the Banks as Additional Rental an amount equal to the excess of (i) the amount of interest that would have accrued at the Bank Rate on the amount drawn under the Letter of Credit to purchase such Bank Certificates from and including the later of the date of such drawing and the immediately preceding Interest Payment Date to such Interest Payment Date or remarketing date, as the case may be, over (ii) interest component of Base Rental paid in respect of Bank Certificates on such Interest Payment Date or accrued in respect of such remarketed Bank Certificates as of the remarketing date (but excluding from such interest component any portion thereof attributable to any period prior to the date such Certificates became Bank Certificates).

(c) The County shall pay, or cause the Trustee to pay, to the Banks, from Additional Rental and such other amounts as may be available for payment under law, the following amounts at the following times:

(i) on demand, but subject to the terms of the Term Sheet dated January 21, 2003 between the County and the Banks, any and all reasonable costs and expenses incurred by the Banks under or in connection with the preparation, negotiation or execution of this Sublease and the Related Documents including, without limitation, the legal fees and disbursements of counsel to the Banks, incurred by the Banks in connection with the preparation, negotiation and execution of this Sublease, the Related Documents and any other documents delivered hereunder;



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(ii) on demand, (1) any and all costs, fees, charges or any other amounts relating to the filing or recording of this Sublease, the Related Documents or any other instruments, agreements or other documents contemplated herein or therein (including, without limitation, any stamp duty or taxes), (2) any and all costs and expenses incurred by the Banks under or in connection with the enforcement of this Sublease and the Related Documents or of any and all of its rights and remedies hereunder or thereunder, including, without limitation, the legal fees of any counsel to the Banks, and (3) any and all costs and expenses incurred by the Banks (including counsel fees and expenses) in connection with the amendment, modification or waiver requested by the County, the Corporation, the Trustee or the Tender Agent of any provision of this Sublease or any Related Document;

(iii) on demand, a transfer fee in connection with the transfer of the Letter of Credit, in accordance with its terms, to a successor trustee under the Trust Agreement, up to the amount of \$1,000 per transfer;

(iv) an extension fee of \$15,000 in connection with each extension of the Stated Termination Date pursuant to Section 4.1(a) hereof;

(v) a draw fee upon each drawing under the Letter of Credit in the amount of \$250, payable on the date of such Drawing;

(vi) interest when due in accordance with Section 4.2(h) of this Sublease; and

(vii) amounts payable on account of Taxes in accordance with Section 4.2(g) of this Sublease.

(d) The County hereby agrees to pay, as Additional Rental and from such other moneys as may be legally available for such purposes, an upfront Letter of Credit fee equal to \$10,000, payable to the Banks on or before the Date of Issuance. The County hereby agrees to pay, as Additional Rental and from such other moneys as may be legally available for such purposes, an annual Letter of Credit fee (for the actual number of days elapsed, computed on the basis of a 360-day year) at the rate of 0.53% per annum for the period commencing on June 11, 2003 and thereafter of the average Stated Amount in effect from time to time, payable to the Banks quarterly in arrears, commencing on July 31, 2003 and thereafter on the last day of April, July, October and January of each year with a final payment on the Termination Date of the Letter of Credit, or such earlier date as the Letter of Credit expires in accordance with its terms, and an annual administrative fee, in the amount of \$0, payable to the Agent on the Date of Issuance and on each anniversary thereof.

(e) In the event the County elects to terminate the Letter of Credit on any date, the County hereby agrees to pay to the Banks, on demand, as Additional Rental and from such other moneys as may be legally available for such purposes, a termination fee in an amount equal to 0.125% per annum of one year's Letter of Credit fee (for the actual number of days elapsed, computed on the basis of a 360-day year) based on the Stated Amount as in effect on the date of such termination; provided, however, that if the County elects to terminate the Letter of Credit on any date after the first anniversary of the Date of Issuance due to any downgrade in the





Banks' ratings or due to any default on the part of the Banks of any of the Banks' obligations under the Letter of Credit, then the County shall not be required to pay any such termination fee.

(f) If a Bank shall determine that (a) any change in any law or regulation or in the interpretation thereof by any court or administrative or governmental authority charged with the administration thereof shall either (i) impose, modify, or deem applicable any reserve, special deposit or similar requirement against letters of credit issued by, or assets held by, or deposits in or for the account of, or loans made by, that Bank, or (ii) impose on that Bank any other condition regarding this Sublease, the Letter of Credit, any advance or any participating interest in any thereof, and (b) the result of any event referred to in the preceding clause (i) or (ii) shall be to increase the cost to that Bank of issuing or maintaining the Letter of Credit, or funding drawings or maintaining unpaid drawings, or funding or maintaining advances or funding or maintaining any participating interest in any thereof (which increase in cost shall be determined by that Bank's reasonable allocation of the aggregate of such cost increases resulting from such event), then, upon demand by that Bank, the County shall pay, or cause to be paid, to that Bank, from time to time as specified by that Bank, additional amounts which shall be sufficient to compensate that Bank for such increased cost in respect of any period commencing 180 days before the delivery of the notice of any event referred to in this Section 4.2(f) as hereafter contemplated. A certificate as to such increased cost incurred by a Bank as a result of any event mentioned in clause (i) or (ii) above, prepared in reasonable detail and in accordance with this Section 4.2(f), submitted by that Bank to the County, shall be conclusive, absent manifest error, as to the amount thereof. Each Bank agrees to give the County notice of any event referred to in this Section 4.2(f) promptly after an appropriate officer of that Bank becomes aware of such event; provided, however, that the failure by a Bank to so give such notice shall not affect the obligations of the County under this Section 4.2(f) in respect of any period preceding the date of delivery by that Bank of a certificate of that Bank as to such increased cost.

(g) All payments to the Banks or the Agent by the County hereunder shall be made in lawful currency of the United States of America to the account of the Agent at (i) with respect to fee payments, State Street Bank, Boston, MA, ABA No. 011-000-028, AC 4867-932-8, Name on Account: Municipal Finance Fee Receivable Account, Reference: Riverside (Monterey Avenue), and (ii) with respect to payments other than fee payments, State Street Bank, Boston, MA, ABA No. 011-000-028, AC 4867-933-6, Name on Account: Municipal Finance Draw Account, Reference: Riverside (Monterey Avenue), or at such other office as the Agent may from time to time direct in writing (provided that payments in respect of drawings under the Letter of Credit or Bank Certificates under 4.2(a) and (b) shall be made directly to the Banks at such office as they may from time to time direct in writing, in all cases) by 1:00 p.m., New York time on the date such payment is due. Any amounts payable to the Banks hereunder shall be made in immediately available funds. Any payment received by the Agent or a Bank, as the case may be, later than 4:00 p.m. New York time shall be deemed to be made on the next succeeding Business Day. Whenever any payment due under the terms of this Sublease is due on a day which is not a Business Day, such payment shall be due and payable on the next succeeding Business Day. All such payments will be made free and clear of, and without deduction or withholding for, any present or future taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein (but excluding any tax imposed on the overall net income of a Bank pursuant to the laws of the jurisdiction (or any political



subdivision or taxing authority thereof and therein) in which the principal office of the Banks or such Participant is located) and all interest, penalties or similar liabilities with respect thereto (collectively, "Taxes"); provided, however, that the County shall have no liability with respect to any Taxes which are imposed on a Bank that is a foreign banking institution pursuant to the laws of the jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the principal office of the Bank is located unless (i) the Bank is entitled to the benefits of an income tax treaty with the United States that provides for an exemption from United States withholding tax on interest and other amounts payable to the Bank or such Participant, as the case may be, pursuant to the terms of this Sublease and any other Related Document, or (ii) all interest and other amounts payable to the Bank pursuant to the terms of this Sublease or any other Related Document will be effectively connected with the conduct by the Bank of a trade or business within the United States. If any Taxes are so levied or imposed, the County agrees to pay on demand the full amount of such Taxes and such additional amounts as may be necessary so that every payment of all amounts due hereunder or under any Related Document, after withholding or deduction for or on account of any Taxes, will not be less than the amount provided for herein or in such Related Document. The County will deliver to an affected Bank within 45 days after the date the payment of any Taxes is due pursuant to applicable law certified copies of tax receipts evidencing such payment by the County. To the extent permitted by law, the County will indemnify and hold harmless the Banks and reimburse the Banks upon written request, for the amount of any Taxes so levied or imposed and paid by the Banks.

(h) If a Bank shall determine that the adoption of any applicable law, rule, or regulation regarding capital adequacy, or change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by that Bank or its head office with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has the effect of reducing the rate of return on such Bank's capital as a consequence of its commitment hereunder, its issuance or maintenance of the Letter of Credit, its funding drawings or maintaining unpaid drawings, its funding or maintaining advances or its funding or maintaining any participating interest in any thereof to a level below that which that Bank could have achieved but for such adoption, change or compliance (taking into consideration that Bank's policies with respect to capital adequacy) by an amount deemed by such Bank to be material, then, upon demand by that Bank, the County shall pay to that Bank, from time to time as specified by that Bank, additional amounts which shall be sufficient to compensate the Agent or such other Bank for such reduction in respect of its commitment hereunder, its issuance or maintenance of the Letter of Credit, its funding drawings or maintaining unpaid drawings, its funding or maintaining advances or its funding or maintaining any participating interest in any thereof in respect of any period commencing 180 days before the delivery of the notice of any event referred to in this subsection 4.2(h) as hereafter contemplated. A certificate as to such additional amount describing the event which has the effect of reducing the rate of return on a Bank's capital, prepared in reasonable detail and in accordance with this Section 4.2(h), submitted by that Bank to the County, shall be conclusive, absent manifest error, as to the amount thereof. Each Bank agrees to give the County notice of any event referred to in this Section 4.2(h) which may have the effect of reducing the rate of return on such Bank's capital promptly after an appropriate officer of the Banks becomes aware of such an event. The failure by the Agent to so give such notice shall not affect the obligations of the County under this Section 4.2(h) in respect of any period preceding the date of



delivery by the Agent of a certificate of the Agent as to such reduction of the rate of return on capital.

(i) Any and all amounts remaining unpaid when due under this Sublease or in respect of a Bank Certificate shall bear interest at the Default Rate based upon a 360-day year for actual days elapsed until repaid and shall be payable upon demand.

(ii) Interest not paid when due pursuant to subsection (i) of this Section 4.2(h), shall be added to principal, and such interest shall, in turn, bear interest at the Default Rate based upon a 360-day year for actual days elapsed until repaid and shall be payable upon demand.

**4.3 Conditions Precedent to the Issuance of the Letter of Credit.** The Banks' obligation to issue the Letter of Credit is subject to the fulfillment of each of the following conditions precedent:

(a) The Banks shall have received a conformed copy of this Sublease and executed copies of the Related Documents to be delivered by the County on the Date of Issuance in form and substance satisfactory to the Banks and their counsel;

(b) The Agent shall have received a copy of each transcript relating to the Certificates, certified by the County as being a true, complete and correct copy;

(c) The Banks shall have received a certified copy of the resolution of the Board of Supervisors of the County, including records of proceedings of the County, instruments, governmental approvals, third party approvals, opinions and incumbency certificates as the Banks and their counsel may reasonably request, such document where appropriate to be certified by proper officials;

(d) The Banks shall have received a certificate of the County certifying the names and true signatures of the representatives of the County authorized to sign this Sublease and the Related Documents to be delivered by the County on the Date of Issuance;

(e) The Banks shall have received a certificate signed by a County Representative, and dated the Date of Issuance, stating that (i) the representations and warranties contained in this Sublease and in each certificate, letter, other writing or instrument furnished or delivered by the County to the Banks pursuant hereto and specified in such certificate are true and correct in all material respects at and as of the Date of Issuance as though made on and as of such date, (ii) no event has occurred and is continuing, or would result from the issuance of the Letter of Credit, which constitutes a Default or an Event of Default, and (iii) true, complete and correct copies of each transcript relating to the Certificates have been delivered to the Agent and true, complete (including all exhibits, attachments, schedules, amendments or supplements thereto) and executed counterparts of the Related Documents have been delivered to the Agent and except as provided in the transcripts delivered to the Agent, the Related Documents have not been modified, amended or rescinded, and are in full force and effect as of the Date of Issuance.

(f) The Banks shall have received the opinion of O'Melveny & Myers, special counsel, dated the Date of Issuance and addressed to the Banks, as to (A) the due



authorization, execution and delivery, validity and enforceability with respect to the County of this Sublease, (B) that the execution of this Sublease by the County, the Banks and the Agent, with the consent of the Trustee, is authorized under and in compliance with the provisions of this Sublease; (C) that the delivery of the Letter of Credit is authorized under and in compliance with the provisions of this Sublease, (D) the Banks are entitled to the benefits of the Trust Agreement on a parity with all Owners, (E) the Sublease and the Ground Lease remain in full force and effect, and (F) addressing such other matters as the Agent may reasonably request, and a reliance letter, dated the Date of Issuance and addressed to the Banks, entitling the Banks to rely on such firm's approving opinion addressed to the County dated June 20, 1990 and any opinions delivered on January 26, 1996, all in form and substance satisfactory to the Banks and their counsel;

(g) The Banks shall have received the opinion of the Office of County Counsel, as counsel to the County, dated the Date of Issuance and addressed to the Banks, in form and substance satisfactory to the Banks and their counsel;

(h) The Banks shall have received the audited financial statements for the County for the most recent Fiscal Year for which such statements are currently available, unaudited financial statements for the County for its most recent Fiscal Year and the most recent budget of the County;

(i) The Banks shall have received a certificate of the County setting forth the Fair Market Rental Value of the Property in form and substance satisfactory to the Banks and their counsel;

(j) The Banks shall have received evidence of title insurance meeting the requirements of Section 5.3(4) hereof and otherwise in form and substance satisfactory to the Banks and their counsel;

(k) The Agent shall have received evidence that Moody's and/or S&P has reviewed the Letter of Credit and that the substitution of the Letter of Credit will not, by itself, result in a reduction or withdrawal of its rating or ratings of the Certificates;

(l) The Agent shall have received a certificate from the County's department of risk management stating that the County's current policies of insurance and any self-insurance maintained by the County complies with the provisions of Section 5.3 hereof. Any such commercial insurance policies shall name the Agent as loss payee and the Banks as additional insured and shall be issued by insurers rated "A-" or "excellent" or better by Best's or Standard & Poor's, or reasonably approved by the Banks;

(m) The Agent shall have received a certificate executed by an authorized officer of the Trustee evidencing the signatures and office of officers of each executing the Related Documents to be delivered by the County on the Date of Issuance and authorized to draw on the Letter of Credit, and with respect to such other matters as the Banks may require, in form and substance satisfactory to the Banks and their counsel;

(n) The Banks shall have received a copy of the Investment Policy of the County, certified as of a recent date to the Date of Issuance;



(o) The Banks shall have received the opinion of counsel to the Trustee, dated the Date of Issuance and addressed to the Banks, in form and substance satisfactory to the Banks and their counsel;

(p) The Banks shall have received all amounts owing under Section 4.2;

(q) The Banks shall have received evidence that an executed original certificate of the Trustee stating that an Alternate Letter of Credit has been substituted pursuant to the Trust Agreement will be delivered to Commerzbank, New York Branch on the Date of Issuance; and

(r) The Banks shall have received such other documents, instruments, approvals (and, if requested by the Agent, certified duplicates of executed copies thereof) or opinions as the Agent may reasonably request.

**4.4 Representations and Warranties of the County.** The County represents and warrants as of the Date of Issuance and as of the date of each draw under the Letter of Credit as follows:

(a) The County is a political subdivision duly organized, validly existing and in good standing under and by virtue of the Constitution and laws of the State and is possessed of full power to lease and purchase real and personal property;

(b) The execution, delivery and performance by the County of this Sublease and the Related Documents to which it is a party are within the County's powers, have been duly authorized by all necessary action, require no action by or in respect of, or filing with, any governmental body, agency or official and do not violate or contravene, or constitute a default under, any provision of applicable law (including Environmental Laws), charter, ordinance or regulation (including, without limitation, Regulations T, U or X of the Board of Governors of the Federal Reserve Systems), or of any material agreement, judgment, injunction, order, writ, determination, award, decree or material instrument binding upon the County or by which the County or its properties may be bound or affected, or result in the creation or imposition of any lien or encumbrance on any asset of the County (other than pursuant to such enumerated documents). The County is not in default under any such law, charter, ordinance, regulation, material agreement, judgment, injunction, order, writ, determination, award, decree or material instrument, which default would have a material adverse effect on the County's ability to perform its obligations hereunder or under any other Related Documents to which it is a party. The County is not a party to, or otherwise subject to, any provision contained in any instrument evidencing indebtedness of the County, any agreement relating thereto, or any other contract or agreement (including its charter) that limits the amount of, or otherwise imposes restrictions on, the incurring of obligations of the County that would materially and adversely affect the ability of the County to perform its obligations hereunder or under any other Related Documents to which it is a party;

(c) All authorizations or approvals or other action by, and notice to or filing with, any governmental authority or regulatory body have been obtained which are required for



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the due execution and delivery by the County of this Sublease and the Related Documents to which it is a party and the performance of its obligations hereunder and thereunder.

(d) Assuming due authorization, execution and delivery by the other parties hereto, this Sublease is the legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms except as the enforceability thereof may be limited by applicable insolvency, liquidation, readjustment of debt or similar proceeding of, or moratorium applicable to, the County and by general principles of equity if equitable remedies are sought. The Related Documents to which the County is a party are the legal, valid and binding obligations of the County enforceable against the County in accordance with their terms except as the enforceability thereof may be limited by applicable insolvency, liquidation, readjustment of debt or similar proceeding of, or moratorium applicable to, the County and by general principles of equity if equitable remedies are sought;

(e) Except as previously disclosed to the Banks in writing, to the best knowledge of the County, there is no pending or threatened action, investigation or proceeding before any court, governmental agency or arbitrator against or affecting, and no pending or proposed legislative (other than current state or federal budget deliberations), regulatory, rulemaking, rate-setting or investigatory proceeding before any federal, state, county or municipal government, department, commission, board, agency or any other instrumentality involving or affecting the County which is likely to result in a ruling adverse to the County, which adverse ruling would materially adversely affect the financial condition or operations of the County or the ability of the County to perform its obligations under this Sublease or the Related Documents;

(f) All requisite official action has been taken at meetings duly noticed, convened and had to authorize the consummation of the transactions contemplated by this Sublease and by the Related Documents. All representations and warranties of the County contained in each other Related Document are true and correct on the date hereof as if made on the date hereof, and such representations and warranties, as well as the related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such representation and warranty and defined term were set forth herein in its entirety. No amendment to such representations and warranties and defined terms made pursuant to the Related Documents shall be effective to amend such representations and warranties and defined terms as incorporated by reference herein, unless the Banks consent to such amendment of the Related Documents;

(g) The audited balance sheet of the County, as of June 30, 2002 or as of any more recent date, delivered to the Banks pursuant to this Sublease, and the related statements of revenues, expenditures and changes in financial position for the fiscal year ended on such date, copies of which have heretofore been delivered to the Banks, are true, complete and correct and fairly present the financial condition of the County as of such date in conformity with generally accepted accounting principles consistently applied;

(h) The County has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the County is a bond issuer whose arbitrage certifications may not be relied upon;



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(i) The defense of sovereign immunity is not available to the County in any proceedings by the Banks or the Trustee to enforce any of the obligations of the County under this Sublease or any of the Related Documents and, to the fullest extent permitted by law, the County consents to the initiation of any such proceeding in any court of competent jurisdiction and agrees not to assert the defense of sovereign immunity in any such proceeding;

(j) Except as disclosed in the Official Statement and in the County's audited financial statements delivered to the Banks in connection with the execution of this Sublease, there has been no material adverse change in the financial condition or receipts and disbursements of the County from the information that is reflected in the audited financial statements delivered to the Banks pursuant to this Sublease and there is no fact known to the County as of the date this representation is made that materially adversely affects the financial position, property, assets, prospects, projections, results of operations or condition, financial or otherwise, of the County that has not been disclosed to the Banks in connection with the transactions contemplated hereby. There is no amendment, or, to the knowledge of the County, no proposed amendment certified for placement on a statewide ballot, to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the State legislature, or any published judicial decision interpreting any of the foregoing, the effect of which is to materially adversely affect (i) the execution and delivery of this Sublease and the Related Documents to which the County is a party, or (ii) the performance by the County of its obligations under this Sublease and the Related Documents to which the County is a party; and

(k) No information or report delivered in writing by the County to the Banks in connection with the preparation and negotiation of this Sublease contains any untrue statement of a material fact or omits any statement of a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. The information contained in the Official Statement as of the Date of Issuance and as of each date on which it is furnished to prospective purchasers of the Certificates, did not and will not contain any untrue statement of a material fact and did not and will not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(l) The County has good and marketable title to its interest in the Property in each case free and clear of any and all encumbrances which could form the basis for an abatement of rental pursuant to Section 3.5 hereof. The annual Fair Market Rental Value of the Property is at least equal to the aggregate rental payments due in each Lease Year for the remaining term of this Sublease. The useful life of the Property equals or exceeds the remaining term of this Sublease. The Property is essential to the operations of the County.

(m) The County is in material compliance with all applicable Environmental Laws and directives of governmental agencies thereunder with respect to the Property and the requirements of any permits issued under such Environmental laws with respect to Property. There are no past, pending, or threatened Environmental Claims against the County with respect to the Property that could individually or in the aggregate have a material adverse effect on the operations or financial condition of the County or the Property. There is no condition or occurrence on the Property or, to the knowledge of the representatives of the County principally



involved in the preparation and negotiation of this Sublease or the Related Documents, after due inquiry, on any property adjoining or in the vicinity of the Property, that could be reasonably anticipated (A) to form the basis of an Environmental Claim against the County or the Property that could individually or in the aggregate have a material adverse effect on the operations or financial condition of the County or the Property, or (B) cause the Property to be subject to any restrictions on ownership, occupancy, use or transferability of the Property under any Environmental Law.

(n) The County acknowledges that Commerzbank, New York Branch and the Banks have entered into the Assignment and Assumption Agreement, dated as of May 1, 2003, by and between Commerzbank, New York Branch and the Banks, and acknowledged by the County and the Trustee as assignee of the rights of the Corporation, whereunder Commerzbank, New York Branch has assigned and the Banks have agreed to assume all right, title and interest under this Sublease and the Related Documents, and that from and after the Date of Issuance, all references to "Banks" or a "Bank" in the Related Documents shall be deemed to refer to the Banks as defined herein and all references to "Agent" in the Related Documents shall be deemed to refer to the Agent as defined herein.

**4.5 Obligations of the County.** (a) The obligations of the County to the Banks under this Sublease and in respect of Bank Certificates shall be performed strictly in accordance with the terms of this Sublease, under all circumstances whatsoever, including without limitation the following circumstances:

(i) except for the County's right to rental abatement in accordance with Section 3.5 hereof, the existence of any claim, set-off, defense or other rights which the County may have at any time against the Trustee, any beneficiary or any transferee of the Letter of Credit (or any persons or entities for whom the Trustee, any such beneficiary or any such transferee may be acting), the Tender Agent, the Agent, the Banks or any other person or entity, whether in connection with this Sublease or any related or unrelated transactions;

(ii) any breach of contract or other dispute between the County and the Trustee, any beneficiary or any transferee of the Letter of Credit (or any persons or entities for whom the Trustee, any such beneficiary or any such transferee may be acting), the Owners of the Certificates, the Tender Agent, the Agent, the Banks or any other person or entity;

(iii) any statement or any other document presented under the Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any material respect or any statement therein being untrue or inaccurate in any material respect whatsoever;

(iv) payment by the Banks under the Letter of Credit against presentation of a draft or certificate which does not comply with the terms of the Letter of Credit; or

(v) any delay, extension of time, renewal, compromise or other indulgence or modification granted or agreed to by the Banks, with or without notice to or approval by the County in respect of any of the County's obligations to the Banks under this Sublease.



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(b) The Banks shall not be obligated to issue any further credits, or in any other manner to extend any financial or other consideration to the County, except as may otherwise be provided in the Letter of Credit.

**4.6 Liability of the Banks.** The Banks shall have no liability or responsibility arising from the acts or omissions of the Trustee and any beneficiary of the Letter of Credit with respect to its use of the Letter of Credit. None of the Agent, the Banks or any of their respective officers, directors, employees or representatives shall be liable or responsible for:

(a) any use not contemplated by this Sublease or the Related Documents which may be made of the Letter of Credit or any acts or omissions of the Trustee and any beneficiary in connection therewith;

(b) the validity, sufficiency or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent or forged;

(c) payment by the Banks against presentment of documents which appear on their face substantially to comply with the Letter of Credit but which do not comply with the terms of the Letter of Credit, including failure of any documents to bear any reference or adequate reference to the Letter of Credit; or

(d) any other circumstances whatsoever in making or failing to make payment under the Letter of Credit, except that the County shall have a claim against the Banks, and the Banks shall be liable to the County, to the extent of any direct, as opposed to consequential, damages suffered by the County which the County proves were caused by (i) the willful failure by either of the Banks to make lawful payment under the Letter of Credit after the presentment by the Trustee of a draft and certificate(s) strictly complying with the terms and conditions of the Letter of Credit or (ii) the willful misconduct or gross negligence of any Bank in determining whether documents presented under the Letter of Credit comply with the terms of the Letter of Credit. In furtherance and not in limitation of the foregoing, the Banks may accept documents without responsibility for further investigation, regardless of any notice or information to the contrary.

**4.7 The Agent.**

(a) **Appointment.** The Banks hereby designate State Street Bank and Trust Company as Agent to act as specified herein and in the other Related Documents. Each Bank hereby irrevocably authorizes the Agent to take such action on its behalf under the provisions of this Sublease, the other Related Documents and any other instruments and agreements referred to herein or therein and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of the Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto. The Agent may perform any of its duties hereunder by or through its officers, directors, agents or employees.

(b) **Nature of Duties.** The Agent shall have no duties or responsibilities except those expressly set forth in this Sublease and the Related Documents. Neither the Agent nor any of its officers, directors, agents or employees shall be liable for any action taken or



omitted by it or them hereunder or under any other Related Document or in connection herewith or therewith, unless caused by its or their gross negligence or willful misconduct. The duties of the Agent shall be mechanical and administrative in nature; the Agent shall not have by reason of this Sublease or any other Related Document a fiduciary relationship in respect of any Bank or the owner of any Bank Certificate; and nothing in this Sublease or any other Related Document, expressed or implied, is intended to or shall be so construed as to impose upon the Agent any obligations in respect of this Sublease or any other Related Document except as expressly set forth herein.

(c) **Lack of Reliance on the Agent.** Independently and without reliance upon the Agent, each Bank and the owner of any Bank Certificate, to the extent it deems appropriate, has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of the County and the Corporation in connection with the execution and delivery of the Letter of Credit and the taking or not taking of any action in connection herewith and (ii) its own appraisal of the creditworthiness of the County and the Corporation and, except as expressly provided in this Sublease, the Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Bank or the owner of any Bank Certificate with any credit or other information with respect thereto, whether coming into its possession before the execution and delivery of the Letter of Credit or at any time or times thereafter. The Agent shall not be responsible to any Bank or the owner of any Bank Certificate for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith or for the execution, effectiveness, genuineness, validity, enforceability, perfection, collectibility, priority or sufficiency of this Sublease or any other Related Document or the financial condition of the County or the Corporation or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Sublease or any other Related Document, or the financial condition of the County or the Corporation or the existence or possible existence of any Default or Event of Default.

(d) **Certain Rights of the Agent.** If the Agent shall request instructions from the Banks with respect to any act or action (including failure to act) in connection with this Sublease or any other Related Document, the Agent shall be entitled to refrain from such act or taking such action unless and until the Agent shall have received instructions from the Banks; and the Agent shall not incur liability to any person by reason of so refraining. Without limiting the foregoing, no Bank or the owner of any Bank Certificate shall have any right of action whatsoever against the Agent as a result of the Agent acting or refraining from acting hereunder or under any other Related Document in accordance with the instructions of the Banks.

(e) **Reliance.** The Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, telex, teletype or telecopier message, cablegram, radiogram, order or other document or telephone message signed, sent or made by any person that the Agent believed to be the proper person, and, with respect to all legal matters pertaining to this Sublease and any other Related Document and its duties hereunder and thereunder, upon advice of counsel selected by it.

(f) **Indemnification.** To the extent the Agent is not reimbursed and indemnified by the County, the Banks will reimburse and indemnify the Agent, in proportion to



their respective initial commitments under the Letter of Credit, for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Agent in performing its duties hereunder or under any other Related Document, or in any way relating to or arising out of this Sublease or any other Related Document; provided, however, that no Bank shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or willful misconduct.

(g) **The Agent in its Individual Capacity.** With respect to its obligation under the Letter of Credit, the Agent shall have the rights and powers specified herein for a "Bank" and may exercise the same rights and powers as though it were not performing the duties specified herein; and the term "Banks," "owners of Bank Certificates" or any similar terms shall, unless the context clearly otherwise indicates, include the Agent in its individual capacity. The Agent may accept deposits from, lend money to, and generally engage in any kind of banking, trust or other business with the County, the Corporation or any affiliate of either of them as if it were not performing the duties specified herein, and may accept fees and other consideration from the County or the Corporation for services in connection with this Sublease and otherwise without having to account for the same to the Banks.

(h)  **Holders.** The Agent may deem and treat the payee of any Bank Certificate as the owner thereof for all purposes hereof unless and until a written notice of the assignment, transfer or endorsement thereof, as the case may be, shall have been filed with the Agent. Any request, authority or consent of any person who, at the time of making such request or giving such authority or consent, is the holder of any Bank Certificate shall be conclusive and binding on any subsequent holder, transferee, assignee or indorsee, as the case may be, of such Bank Certificate or of any Bank Certificate or Bank Certificates issued in exchange therefor.

(i) **Resignation by the Agent.** (i) The Agent may resign from the performance of all its functions and duties hereunder and/or under the other Related Documents at any time by giving 15 Business Days' prior written notice to the County and the Banks. Such resignation shall take effect upon the appointment of a successor Agent pursuant to clauses (ii) and (iii) below or as otherwise provided below.

(ii) Upon any such notice of resignation, the Banks shall appoint a successor Agent hereunder or thereunder who shall be a commercial bank or trust company reasonably acceptable to the County.

(iii) If a successor Agent shall not have been so appointed within such 15 Business Day period, the Agent, with the consent of the County, may then appoint a successor Agent who shall serve as Agent hereunder or thereunder until such time, if any, as the Banks appoint a successor Agent as provided above.

(iv) If no successor Agent has been appointed pursuant to clause (ii) or (iii) above by the 20th Business Day after the date such notice of resignation was given by the Agent, the Agent's resignation shall become effective and the Banks shall thereafter perform all



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the duties of the Agent hereunder and/or under any other Related Document until such time, if any, as the Banks appoint a successor Agent as provided above.

**4.8 Payments Pro Rata.** (a) The Agent agrees that promptly after its receipt of each payment from or on behalf of the County in respect of any obligations of the County to the Banks hereunder, it shall distribute such payment to the Banks pro rata based upon their respective shares, if any, of the obligations with respect to which such payment was received.

(b) Each of the Banks agrees that, if it should receive any amount hereunder (whether by voluntary payment, by realization upon security, by the exercise of the right of setoff or banker's lien, by counterclaim or cross action, by the enforcement of any right hereunder or under the Related Documents, or otherwise), which is applicable to the payment of the principal or interest with respect to Bank Certificates or obligations of the County hereunder or in respect of the Certificates, of a sum which with respect to the related sum or sums received by other Banks is in a greater proportion than the total amount of such obligation then owed and due to such Bank bears to the total amount of such obligation then owed and due to all the Banks immediately prior to such receipt, then such Bank receiving such excess payment shall purchase for cash without recourse or warranty from the other Banks an interest in the obligations of the County to such Banks in such amount as shall result in a proportional participation by all the Banks in such amount; provided, however, that if all or any portion of such excess amount is thereafter recovered from such Bank, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

**4.9 Right of County to Cause Draw on Letter of Credit for Purpose of Retiring Certificates.** The County may at its option, from time to time, cause the Trustee to draw upon the Letter of Credit for the purpose of purchasing and retiring Certificates upon the next succeeding exercise by any Owner of such Owner's right to demand purchase of Certificates, by so notifying the Banks, the Remarketing Agent, the Tender Agent and the Trustee. Upon the deposit by the County with the Banks of the amount of such draw and the delivery to the Banks by the Trustee of its draft in proper form, the Banks shall provide funds pursuant to the Letter of Credit to the Trustee for application in accordance with the provisions of clause (iii) of Section 3.02 or clause (iii) of subsection (a) of Section 3.07 of the Trust Agreement.

**Section 5. Affirmative Covenants of the County.** The Banks are entering into this Sublease, and the Trustee is consenting to this Sublease, in consideration of, among other things, the following covenants by the County.

**5.1 Replacement, Maintenance and Repairs.** The County shall, at its own expense, during the Term of this Sublease maintain the Property, or cause the same to be maintained, in good order, condition and repair, and shall repair or replace any portion thereof which is damaged or destroyed; provided, however, that, notwithstanding any provision of Section 5.09 of the Trust Agreement to the contrary, insurance proceeds received in respect of damage or destruction of the Property shall be applied to the prepayment of Certificates or the reimbursement of the Banks for any drawing in connection with any such prepayment; provided further, however that if (i) the County enters into a contract for the repair or replacement of the Property providing for the completion of such repair or replacement (a) within the period for



which rental interruption insurance is payable with respect to the Property and (b) for a price not to exceed the amount of such insurance proceeds or (ii) the Banks shall consent thereto, then the County may apply the proceeds of such insurance to the repair or replacement of the Property. The County shall provide or cause to be provided all security service, custodial service, janitorial service and other services necessary for the proper upkeep and maintenance of the Property. It is understood and agreed that in consideration of the payment by the County of the rental herein provided for, the County is entitled to occupy the Property and no other party shall have any obligation pursuant to this Sublease to incur any expense of any kind or character in connection with the management, operation or maintenance of the Property. The Corporation shall not be required at any time to make any improvements, alterations, changes, additions, repairs or replacements of any nature whatsoever in or to the Property. The County hereby expressly waives the right to make repairs or to perform maintenance on the Property at the expense of the Corporation and (to the extent permitted by law) waives the benefit of Sections 1932, 1941 and 1942 of the Civil Code of the State relating thereto. The County shall keep the Property free and clear of all liens, charges and encumbrances, subject only to the provisions of Section 5.4 hereof. The County shall not abandon, vacate or close the Property other than as permitted by this Section 5.1; provided, however, the County may so abandon, vacate or close so long as such action would not (x) adversely affect the County's ability to perform its obligations hereunder or under any other Related Documents to which it is a party, (y) reduce the Fair Market Rental Value of the Property, or (z) permit an abatement of Base Rental otherwise payable under this Sublease.

**5.2 Utilities.** The County shall pay for the furnishing of all utilities which may be used in or upon the Property during the term of this Sublease. Such payment shall be made by the County directly to the respective utility companies furnishing such utility services or products, under such contract or contracts therefor as the County may make.

**5.3 Insurance.** The County shall secure and maintain or cause to be secured and maintained at all times with insurers of recognized responsibility and rated "A-" or excellent or better by Best's or Standard & Poor's, or reasonably approved by the Banks, all coverage on the Property required by this Section 5.3. Such insurance shall consist of

(1) An "all risk" property insurance policy or policies to protect against loss or damage to the Property. Such policy or policies shall include the following minimum amounts of coverage: (a) insurance for loss caused by fire and flood subject to a minimum deductible of \$250,000, or not to exceed 2% of total values; (b) boiler and machinery insurance to protect the Property against explosion of steam boilers, pressure vessels and similar apparatus, subject to a minimum deductible of \$100,000 per occurrence; and (c) earthquake insurance to protect against loss or damage to the Property subject to a minimum deductible of \$500,000 per occurrence, or 5% of the total values of the loss excess of the minimum deductible. At any time, all insurance policies shall be maintained with respect to the Property in an amount not less than the aggregate principal amount of outstanding Certificates. However, in the case of all risk and flood insurance, if insurance under this clause is not available from reputable insurers at a reasonable cost, the county, upon the reasonable consent of the Agent, may self-insure to the extent necessary to enable it to repair or replace the Property in



accordance with the provisions of Section 5.3 hereof; provided further, in the case of earthquake insurance, the County need not self-insure against earthquake damage if earthquake insurance is not available from reputable insurers at a reasonable cost;

(2) Rental interruption insurance to cover loss, total or partial, of the use of the Property as a result of any of the hazards covered by the insurance required pursuant to clause (1) above, in an amount sufficient at all times to pay the total rental payable under this Sublease with respect to the Property for a period adequate to cover the period of repair or reconstruction. Such policy shall provide that the amount payable thereunder shall not be less than an amount equal to two years' Base Rental with respect to the Property (the interest portion of which shall be calculated at the Maximum Interest Rate);

(3) Liability insurance of the kind, and in an amount not less than the amount, held by the County on the Date of Issuance; and

(4) Title insurance with respect to the Property in the form of a CLTA leasehold policy in an amount not less than the stated amount of the Letter of Credit, insuring the County's leasehold interest under this Sublease and naming the Banks as additional insureds as their interests may appear, subject only to such exceptions as may be reasonably required by the Banks, including endorsements regarding zoning and access to public roads, and otherwise in form and substance satisfactory to the Banks and their counsel and issued by an insurance company acceptable to the Banks and their counsel and authorized to issue such insurance in the State. Proceeds of title insurance received in respect of the Property shall be paid to the Trustee for application in accordance with the provisions of Section 5.10 of the Trust Agreement.

Each insurance policy required hereby shall provide that such policy shall not be cancelled or materially changed without at least 30 days' prior written notice to the Trustee and the Agent. Evidence of such policies required by this Section 5.3 shall be deposited with the Agent by the County as available. The County shall cause its insurance broker to provide, not less than once each calendar year, notice to the Agent of all renewals of any of the policies called for herein and a certificate to the Trustee stating that all policies of insurance required hereunder are in full force and effect. The County shall also deposit with the Agent appropriate evidence of payment of the premiums therefor as available. With the reasonable consent of the Agent, the County may fulfill any of the insurance obligations described in clauses (1) and (3) above through a program of self-insurance.

All policies provided for in paragraphs (1) and (2) above shall name the Trustee as loss payee. The Banks shall be named as additional insured and the Agent shall be named as loss payee on all policies of liability insurance. All proceeds of property insurance required hereby shall be deposited with the Trustee for application pursuant to the Trust Agreement.

Notwithstanding the generality of the foregoing, with the consent of the Banks, which consent shall not be unreasonably withheld, the County shall not be required to maintain



or cause to be maintained more insurance than is specifically referred to above or any policies of insurance other than standard policies of insurance with standard deductibles offered by reputable insurers on the open market.

**5.4 Liens.** The County shall not create a pledge, Lien or charge on any part of the Property, or the interest of the Corporation therein, or the Base Rental, Additional Base Rental or Additional Rental or the moneys and investments held by the Trustee under the Trust Agreement, other than the lien of the Trust Agreement, the Ground Lease and this Sublease. The County shall promptly pay or cause to be paid all sums of money that may become due for any labor, services, materials, supplies or equipment alleged to have been furnished or to be furnished to or for, in, upon or about the Property and which may be secured by any mechanic's, materialman's or other lien against the Property, or the interest of the Corporation therein, and shall cause each such lien to be fully discharged and released; provided, however, that the County (i) may contest any such claim or lien without payment thereof so long as such non-payment and contest stays execution or enforcement of the lien, but if such lien is reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not stayed, or if stayed and the stay thereafter expires, then and in any such event the County shall forthwith pay and discharge such judgment or lien; or (ii) may delay payment without contest so long as and to the extent that such delay will not result in the imposition of any penalty. The County shall promptly, upon the request of the Agent or the Banks, take such action from time to time as may be reasonably necessary or proper to remedy or cure any cloud upon or defect in the title to the Property or any part thereof, whether or not existing or hereafter developing, prosecute all actions, suits, or other proceedings as may be reasonably appropriate for such purpose and, to the extent permitted by law, indemnify and hold the Agent and the Banks harmless from all cost, damage, expense, or loss, including attorneys' fees, that it may incur by reason of any such cloud, defect, action, suit or other proceeding.

**5.5 Laws and Ordinances.** The County agrees to observe and comply with all rules, regulations, laws (including Environmental Laws) and ordinances applicable to the County with respect to the Property and the operation thereof. The cost, if any, of such observance and compliance shall be borne by the County, and the Corporation shall not be liable therefor. The County agrees further to place, keep, use, maintain and operate the Property in such a manner and condition as will provide for the safety of its agents, employees, invitees, subtenants, licensees and the public. The County shall take all necessary and appropriate action to ensure the continuance in force of all material consents, licenses, permits, orders, decrees, approvals, authorizations, registrations and filings obtained or made in connection with the Property, this Sublease or the Related Documents to which the County is a party or necessary to authorize the execution, delivery and performance by the County of this Sublease and the Related Documents to which the County is a party.

**5.6 Financial Statements.** (a) The County shall deliver to the Banks as soon as possible, and in any event no later than February 15<sup>th</sup> of each year, the audited financial statements of the County, including a balance sheet as of the end of such year and such accompanying statements for the period then ending as are required by generally accepted accounting principles, each of which shall have been audited by a firm of certified public accountants.



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(b) Annually, on or before December 1, the County shall deliver to the Banks a certificate of an Authorized Representative of the County, stating (i) whether there exists on the date of such certificate any Default or Event of Default and, if any Default or Event of Default then exists, setting forth the details thereof and the actions which the County is taking or proposes to take with respect thereto, and (ii) whether an event has occurred which adversely affects the fair rental value of any of the Property or otherwise permits an abatement of Base Rental otherwise payable under this Sublease.

(c) The County shall deliver to the Banks, as soon as practicable after they become available, (i) a copy of the County's proposed and final budget including all Base Rental, Additional Base Rental (if required), Additional Rental and all other amounts due hereunder during such period together with other debt service obligations of the County on an aggregate basis as a separate line item, and (ii) a separate document that shows a breakdown of such aggregate amount.

(d) At the request of the Banks, the County shall deliver to the Banks, as soon as available, a copy of any report relating to the Certificates or any fund or account relating to the Certificates delivered by the Trustee to the County.

(e) The County shall provide, or cause the Trustee to provide, to the Banks a copy of all notices, certificates, instruments, letters and written commitments given by the Trustee, the Corporation or by any third party to the County or by the County to the Trustee or the Corporation under or in connection with any Related Document.

(f) The County shall promptly provide notice to the Banks of any change in the County's Investment Policy together with a written copy of such changed policy.

(g) The County shall give prompt notice in writing to the Banks of any litigation, administrative proceeding or business development which, in the reasonable judgment of the County, could reasonably be expected to materially adversely affect the ability of the County to perform its obligations as set forth under this Sublease or any of the Related Documents or the enforceability or validity of this Sublease or any of the Related Documents.

(h) The County shall also give prompt written notice to the Banks of the occurrence of any Default or Event of Default, which notice shall set forth the details of, and the actions which the County proposes to take with respect to such Event of Default.

(i) The County shall provide, or cause to be provided, to the Banks a copy of all preliminary and final official statements (or equivalent disclosure documents) printed in connection with the issuance of new Indebtedness payable from or secured by the general fund of the County.

(j) Upon the substitution of any Property under this Sublease, a certificate of an authorized officer of the County setting forth the fair rental value of such substituted Property.

(k) The County shall give prompt notice in writing to the Banks of the certification of any initiative or referendum for placement on the ballot which could lead to the diminution or reallocation of the Base Rental, Additional Base Rental or Additional Rental or





any portion thereof or any other event which, in the reasonable judgment of the County, is likely to have a materially adversely affect on the ability of the County to perform its obligations as set forth under this Sublease or any of the Related Documents or the enforceability of validity of this Sublease or any of the Related Documents.

(l) The County shall provide such other information respecting the financial position, property, assets, prospects, projections, results of operations or condition, financial or otherwise, of the County, as the Agent or the Banks may from time to time reasonably request.

**5.7 Maintenance of Existence.** The County shall maintain its existence as a political subdivision under the laws of the State. The County shall not dissolve or otherwise dispose of all or substantially all of its assets, consolidate with or merge into another person or permit one or more other persons to consolidate with or merge into it.

**5.8 Books and Records.** The County shall keep proper books of record and account in which full and correct entries shall be made of its financial transactions and assets and business of the County in accordance with generally accepted accounting principles. The County shall permit, during normal business hours and from time to time, upon reasonable notice, the Banks or any of their respective agents or representatives to examine and make copies of and abstracts from the records and books of account of the County, (except records and books of accounts the examination of which by the Banks are prohibited by law), and to discuss the affairs, finances and accounts of the County with any representative or any other appropriate officer of the County or the County's certified public accountants.

**5.9 No Impairment; No Amendment.** The County shall not take any action, or cause or permit the Trustee to take any action, under the Trust Agreement, this Sublease or any other Related Document inconsistent with the rights of the Banks under this Sublease including, without limitation, its obligations to make payments to the Banks under Section 4 hereof. The County shall not agree to any amendment, modification or supplement to the Trust Agreement, this Sublease or any other Related Document to which it is a party without the prior written consent of the Banks, nor shall the County waive or consent to any waiver of any condition under any of the Related Documents.

**5.10 Performance.** The County shall observe and perform all of its obligations under this Sublease and the Related Documents to which it is a party, which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety. To the extent that any such incorporated provision permits any person to waive compliance with or consent to such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to any person, for purposes of this Sublease, such provision shall be complied with only if it is waived or consented to by the Banks, and such document, opinion or other instrument shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Banks. The County shall take all actions as may be reasonably requested by the Banks to enforce the obligations under the Related Documents of each of the other parties thereto.

**5.11 Lease Payments.** The County shall not issue or authorize the issuance of any obligation payable from the Base Rental, Additional Base Rental, Additional Rental or other



payments due under this Sublease, except as permitted under the Trust Agreement and this Sublease. The County shall defend against every action, suit, or other proceeding at any time brought against either Bank upon any claim arising out of the receipt, deposit, or disbursement of any of the Base Rental, Additional Base Rental or Additional Rental or the moneys and investments held by the Trustee under the Trust Agreement, or involving the rights of the Banks under this Sublease, the Certificates or any Related Document; provided, however, that such Bank at its election may appear in and defend any such action, suit, or other proceeding. To the extent permitted by law, the County will indemnify and hold harmless the Banks against any and all liability claimed or asserted by any person arising out of any such receipt, deposit, or disbursement, and will, to the extent permitted by law, indemnify and hold harmless the Banks against any attorneys' fees or other expenses that it may incur in connection with the foregoing to which it may become a party in order to enforce its rights hereunder or under the Related Documents.

**5.12 Trustee, Remarketing Agent and Tender Agent.** Without the consent of the Banks, the County shall not (i) remove, or seek to remove, or consent to the resignation of, the Trustee, the Remarketing Agent or the Tender Agent or (ii) appoint or consent to the appointment of any successor thereto. The County shall, immediately upon receipt of notice thereof, provide notice to the Banks of any resignation or appointment of the Trustee, the Tender Agent or the Remarketing Agent.

**5.13 References to the Banks.** The County shall not refer to the Banks in any official statement, offering memorandum, or private placement memorandum or make any changes in reference to the Banks in any revision of the Official Statement without the Banks' prior written consent thereto, which consent shall not be unreasonably withheld.

**5.14 Further Assurances.** The County shall execute and deliver to the Banks such additional assignments, agreements, documents, consents and instruments and do all such other acts and things as may be reasonably necessary or required by the Banks to enable the Banks to exercise and enforce their rights under this Sublease and the Related Documents and to realize thereon, and record and file and re-record and re-file all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or required by the Banks to validate, preserve and protect the position of the Banks under this Sublease and the Related Documents and to pay all taxes, charges, fees and expenses (including reasonable attorneys' fees) incident to compliance with this provision.

**5.15 Repayment of Banks.** In the event the Banks hold Bank Certificates for a period in excess of 180 days and the County is paying Additional Base Rental, the County agrees to cause the Base Rental and Additional Base Rental to be increased so that the aggregate rental payments in each Lease Year equal the annual Fair Market Rental Value of the Property. The County shall, solely at the request of the Banks', redetermine or cause to be redetermined the Fair Market Rental Value of the Property as of the date of any such event. If the County is unable, or reasonably foresee that both will be unable, to increase Base Rental or Additional Base Rental in an amount sufficient to pay such amounts as required by Section 3.1(b) hereof, the County shall either: (i) provide for the substitution of new real property for all or any portion of the Property, such new real property to have a fair rental value sufficient to support Base Rental and Additional Base Rental sufficient to pay such amounts as required by Section 3.1(b)



hereof, and to reimburse the Banks for all other amounts due hereunder, or (ii) support the issuance of bonds or other certificates of participation sufficient in value to pay all Bank Certificates and to reimburse the Banks for all other amounts due hereunder. The County agrees to maintain at all times unencumbered assets with a Fair Market Rental Value sufficient to meet the foregoing covenant.

**5.16 Conversion to Fixed Rate; Optional Prepayment; Alternate Letter of Credit; Termination of this Sublease.** The County shall not cause the conversion of the interest rate on the Certificates to a Fixed Interest Rate unless prior to the Fixed Rate Date the County shall have a firm commitment from an underwriter or other purchaser to purchase all of such Certificates on such Fixed Rate Date. The County shall not optionally prepay any Certificates unless all funds required to prepay such Certificates are on deposit with the Trustee prior to the prepayment date. The County shall not cause the delivery of an Alternate Letter of Credit in substitution for the Letter of Credit unless prior to the substitution the County or the issuer of the Alternate Letter of Credit shall provide funds on the date of such substitution, which funds, together with funds available to the Banks under the Trust Agreement, will be sufficient to pay all amounts owing to the Banks hereunder, including, without limitation, repurchase of any Bank Certificates. The County shall not terminate this Sublease so long as any amounts remain owing to the Banks hereunder.

**5.17 Covenants and Legal Duties.** The covenants on the part of the County herein contained and in the other Related Documents 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 such covenants and agreements.

**5.18 Environmental Matters.**

(a) **Compliance with Environmental Laws.** The County will comply in all material respects with all Environmental Laws applicable to ownership or use of the Property, and will cause all tenants and other persons occupying the Property to comply in material respects with all such Environmental Laws, will immediately pay or cause to be paid all costs and expenses incurred in such compliance, and will keep or cause to be kept all the Property free and clear of any liens imposed pursuant to such Environmental Laws.

(b) **Inspection of Property.** On a Bank's written request, at any time and from time to time if, in the exercise of such Bank's reasonable judgment, a Bank believes that the County has not complied with any Environmental Law or that there has been a Release of any Hazardous Materials on the Property, the County will provide an environmental site assessment report concerning the Property, prepared by an environmental consulting firm approved by such Bank, indicating the presence or absence of such Hazardous Materials and the potential cost of any removal or remedial action in connection with any Hazardous Materials on the Property. Each such site assessment report shall be provided at the County's sole cost and expense. If the County fails to cause a qualified environmental consultant or engineer to commence such report within 30 days of such request and to diligently pursue preparation of such report, such Bank may order the same, and the County shall grant and hereby grants to such



Bank and its agents access to the Property and specifically grants such Bank an irrevocable non-exclusive license, subject to the rights of subtenants, to undertake such an assessment; and the cost of such assessment shall be deemed to be Additional Rental hereunder, and shall be immediately due and payable on demand and with interest at the Default Rate.

(c) **Notice of Environmental Matters.** The County will notify the Banks in writing of any of the following immediately after obtaining knowledge thereof:

(i) Any pending or threatened Environmental Claim against the County or the Property, unless such Environmental Claim could not, individually or when aggregated with all other such Claims, have a material adverse effect on the financial position, property, assets, prospects, projections, results of operations or condition, financial or otherwise, of the County or the Property;

(ii) Any condition or occurrence on the Property that (A) results in material noncompliance by the County with any applicable Environmental Law, or (B) could reasonably be anticipated to form the basis of an Environmental Claim against the County or the Property, unless such noncompliance or Environmental Claim could not, individually or when aggregated with all other such Claims, have a material adverse effect on the financial position, property, assets, prospects, projections, results of operations or condition, financial or otherwise, of the County or the Property;

(iii) Any condition or occurrence on the Property or any property adjoining or in the vicinity of the Property that could reasonably be anticipated to cause the Property to be subject to any material restrictions on the ownership, occupancy, use or transferability of the Property under any Environmental Law.

All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence, or removal or remedial action and the County's response thereto. In addition, the County will provide the Banks with copies of all communications with any government or governmental agency relating to Environmental Laws, all communications with any person relating to Environmental Claims, and such detailed reports of any Environmental Claim as may be requested by any Bank.

(d) **Bank Approval.** The Banks shall have the right but not the obligation to participate in, as a party if it so elects, any legal proceeding or action initiated in connection with any Environmental Claim. Without the Banks' prior written consent, the County shall not enter into any settlement, consent, or compromise with respect to any Environmental Claim that might impair the value of the Banks' interests under this Sublease and the Related Documents; provided, however, that the Banks' prior consent shall not be necessary for the County to take any removal or remedial action if ordered by a court of competent jurisdiction or if the presence of Hazardous Materials at the Property poses an immediate significant threat to the health, safety, or welfare of any individual or otherwise requires an immediate removal or remedial response.

(e) **County's Remedial Action.** The County will conduct any investigation, study, sampling, and testing, and undertake any cleanup, removal, remedial, or other action reasonably necessary to remove and clean up all Hazardous Materials from the Property in



accordance with the requirements of all applicable Environmental Laws, to the reasonable satisfaction of the Banks, and in accordance with orders and directives of all governmental authorities.

**5.19 Investments.** The County shall comply with (a) the provisions of Sections 53601 and 53635 of the State Government Code and (b) the provisions of the County Treasurer's Statement of Investment Policy, as such provisions may be supplemented and amended after the date of this Sublease.

**Section 6. Eminent Domain.** If any portion of the Property shall be taken under the power of eminent domain, then this Sublease shall terminate as to such portion as of the day possession shall be so taken, or, if the County is the condemnor, then this Sublease shall terminate as to such portion as of the date of entry of the interlocutory judgment. In the event of a taking by eminent domain, there shall be an abatement of Base Rental in accordance with the provisions of Section 3.5 of this Sublease. If less than a substantial portion of the Property shall be taken under the power of eminent domain, and the remainder is usable for County purposes, then there shall be an abatement of Base Rental only to the extent of the portion of the portion which is unusable and this Sublease shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary. The County shall take such action as is reasonably necessary to obtain compensation for a taking by eminent domain at least equal to the proportionate amount of Outstanding Certificates relating to the Property or portion thereof so taken. Any award made in eminent domain proceedings for the taking of any portion of the Property shall be paid to the Trustee for application in accordance with the provisions of Section 5.09 of the Trust Agreement. If the County elects pursuant to such Section 5.09 of the Trust Agreement to apply such proceeds to the replacement of the condemned portion of the Property, then the Base Rental shall again begin to accrue with respect thereto upon restoration of the Property to tenantable condition.

**Section 7. Assignment and Sublease; Addition, Substitution or Release of Property.**

**7.1 Assignment and Sublease.** The County shall not mortgage, pledge, assign or transfer any interest of the County in this Sublease by voluntary act or by operation of law, or otherwise; provided, however, that the County may sublease all or any portion of the Property, may grant concessions to others involving the use of any portion of the Property, whether such concessions purport to convey a leasehold interest or a license to use all or any portion of the Property, and may assign its right to purchase all or any part of the Property pursuant to Section 15 hereof. The County shall at all times remain liable for the performance of the covenants and conditions on its part to be performed under this Sublease, notwithstanding any subletting or granting of concessions which may be made. Nothing herein contained shall be construed to relieve the County from its obligation to pay Base Rental and Additional Rental as provided in this Sublease or to relieve the County from any other obligations contained herein.

The Corporation has assigned certain of its rights, title and interest in and to this Sublease, including its right to receive Base Rental payable hereunder, to the Trustee pursuant to the Assignment Agreement. The parties hereto agree to execute any and all documents necessary and proper in connection therewith.



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**7.2 Addition, Substitution or Release of Property.** Notwithstanding Section 7.1 above, if no Default or Event of Default has occurred and is continuing hereunder and only with the prior written consent of the Banks, the County may acquire from the Corporation, or its assignee, free and clear of the Corporation's or its assignee's rights under this Sublease and the Ground Lease, the release or substitution of any portion of the Property, or the County may add real property to this Sublease and the Ground Lease, upon compliance with the conditions set forth below.

(a) No substitution or removal of Property shall take place until the County delivers to the Trustee and the Banks the following:

(i) A written description of all or part of the Property to be released and, in the event of a substitution, a description of the substituted property;

(ii) A certificate of the County (A) stating that the annual Fair Market Rental Value of the Property remaining is at least equal to the aggregate rental payments due in each Lease Year for the remaining term of this Sublease; (B) demonstrating that the useful life of the Property after such substitution or removal equals or exceeds the remaining term of this Sublease; and (C) stating that the Property remaining after such substitution or removal is as essential to the operations of the County as was the Property immediately prior to such substitution or removal;

(iii) An opinion of Independent Counsel to the effect that the amendments to this Sublease and to the Ground Lease contemplating substitution or removal have been duly authorized, executed and delivered and constitute the valid and binding obligations of the County enforceable in accordance with their terms, and that the Sublease and the Ground Lease remain in full force and effect;

(iv) (A) In the event of a substitution, a CLTA policy of title insurance, or endorsement to an existing CLTA policy of title insurance, such that the total title insurance on the Property in favor of the Trustee and the Banks is not less than the amount of Outstanding Certificates, insuring the County's leasehold interest in the substituted property (except any portion thereof which is not real property) subject only to Permitted Encumbrances, together with an endorsement thereto making said policy payable to the Trustee and the Banks and (B) in the event of a partial removal, evidence that the title insurance in effect immediately prior thereto is not affected;

(v) Evidence that the County has complied with the insurance covenants contained in Section 5.3 hereof with respect to the substituted property; and

(vi) Evidence that the substitution or removal, in and of itself, has not and will not cause a downgrade or withdrawal of the then existing credit ratings on the Certificates;

(b) No addition of Property shall take place until the County delivers to the Trustee and the Banks the following:



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(i) Executed amendments or supplements to the Ground Lease and this Sublease setting forth, among other things, a written description of the additional property, the term of the Ground Lease and this Sublease for the additional property, and, in the case of this Sublease, a schedule setting forth the Base Rental for the additional property;

(ii) An opinion of Independent Counsel to the effect that the amendments to this Sublease and to the Ground Lease contemplating the addition of property have been duly authorized, executed and delivered and constitute the valid and binding obligations of the County enforceable in accordance with their terms, and that the Sublease and the Ground Lease remain in full force and effect; and

(iii) Evidence that the County has complied with the insurance requirements contained in Section 5.3 hereof with respect to the additional property.

**Section 8. Additions and Improvements; Removal.** The County shall have the right during the Term of this Sublease to make any additions or improvements to the Property, to attach fixtures, structures or signs, and to affix any personal property to the Property, so long as the Fair Market Rental Value of the Property is not thereby reduced. Title to all fixtures, equipment or personal property placed by the County on the Property shall remain in the County. The title to any personal property, improvements or fixtures placed on the Property by any sublessee or licensee of the County shall be controlled by the sublease or license agreement between such sublessee or licensee and the County, which sublease or license agreement shall not be inconsistent with this Sublease.

**Section 9. Right of Entry.** Representatives of the Corporation and the Banks, or their respective assignees, shall, subject to reasonable security precautions, have the right to enter upon the Property during reasonable business hours (and in emergencies at all times) (i) to inspect the same, (ii) for any purpose connected with the rights or obligations of the Corporation and the Banks, or their assignees, under this Sublease, or (iii) for all other lawful purposes.

**Section 10. Quiet Enjoyment.** Provided that no Event of Default has occurred and is continuing, the Banks covenant and agree that the County, by keeping and performing the covenants and agreements herein contained, shall, at all times during the term hereof, peaceably and quietly have, hold and enjoy the Property.

**Section 11. Indemnification.** (a) The County agrees, to the fullest extent permitted by law, to protect, indemnify, pay and hold the Corporation, the Agent and each Bank harmless from and against any and all claims, demands, liability, damages, losses, costs, charges, and expenses (including reasonable attorneys' fees) which the Corporation, the Agent and the Banks may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of the Letter of Credit, other than as a result of the gross negligence or willful misconduct of the Corporation, the Agent or any Bank, as applicable, as determined by a court of competent jurisdiction, (ii) the failure of any Bank to honor a drawing under the Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or governmental authority, (iii) any breach by the County of any warranty, covenant, term, or condition in, or the occurrence of any default under, this Sublease or any Related



Document, together with all expenses resulting from the compromise or defense of any claims or liabilities arising as a result of any such breach or default, (iv) the relationships among the County, the Corporation, the Agent and the Banks and the transactions contemplated hereunder including, without limitation, the making of any advance hereunder, other than as a result of the gross negligence or willful misconduct of the Corporation, the Agent or any Bank, as applicable, as determined by a court of competent jurisdiction, (v) the defense against any legal action commenced to challenge the validity of this Sublease and the Related Documents, and (vi) the execution, delivery and sale of the Certificates, including without limitation, any of the foregoing resulting from any untrue statement or alleged untrue statement of any material fact (other than statements relating to the Banks or the Corporation supplied in writing by the Banks or the Corporation, respectively) contained or incorporated by reference in any offering memorandum or the omission or alleged omission to state in any other offering memorandum a material fact necessary to make such statements, in the light of the circumstances under which they are or were made, not misleading.

(b) The County agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Corporation, the Agent and each Bank and any officer, director, employee or agent thereof against any and all liability claimed or asserted by any person arising out of the receipt, deposit, or disbursement of any amounts under the Letter of Credit, this Sublease or the Related Documents or as a result of (i) the presence of Hazardous Materials on the Property, (ii) any Environmental Claim, or (iii) the exercise of the Banks' rights under any of the provisions of Section 5.18 hereof related to the County or its facilities or properties or involving the rights or obligations of the Corporation, the Agent or any Bank under this Sublease, the Letter of Credit or any Related Document, and the County further agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Corporation, the Agent and each Bank and their respective officers, directors, employees and agents against any attorneys' fees or other expense which it or they may reasonably incur in connection with the foregoing or in order to enforce its or their rights hereunder or under the Related Documents.

(c) Notwithstanding anything to the contrary contained in this Section 11, and without limitation of the provisions of Section 4.2 pertaining to the Letter of Credit, (i) the County shall have no obligation to indemnify the Corporation, the Agent or any Bank for damages that the County proves were caused solely out of that party's gross negligence or willful misconduct, as determined by a court of competent jurisdiction, and (ii) the County shall have a claim against the Agent or a Bank, and the Agent or such Bank shall be liable to the County, to the extent of any direct, as opposed to consequential, damages suffered by the County which the County proves were caused solely by that party's gross negligence or willful misconduct, as determined by a court of competent jurisdiction.

**Section 12. [Reserved]**

**Section 13. Default by County.** The occurrence and continuance of one or more of the following events shall constitute an Event of Default ("Event of Default"):

(a) the County shall fail to pay any Base Rental payment when due or shall fail to deposit with the Trustee any Base Rental payment required to be so deposited pursuant to



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the provisions of subsection (a) of Section 3.1 of this Sublease by the time such deposit is required,

(b) the County shall fail to pay any item of Additional Base Rental or Additional Rent or any amount due to the Agent or the Banks as and when the same shall be due and payable,

(c) (1) the County shall breach any terms, covenants or conditions contained in Sections 5.3, 5.4, 5.7, 5.9, 5.11, 5.13 and 5.16 hereof, or (2) the County shall breach any other terms, covenants or conditions contained herein or in the Trust Agreement, and shall fail to remedy any such breach with all reasonable dispatch (solely in the case of clause (2)) within a period of 30 days after written notice thereof from the Agent to the County,

(d) any representation or warranty of the County contained herein or in any of the other Related Documents or in any writing required to be furnished to the Banks in connection with or pursuant to this Sublease or the Related Documents shall be found to have been untrue when made or deemed made,

(e) any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency, or similar law or any law providing for the appointment of a receiver, liquidator, trustee or similar official of the County or of all or substantially all of its assets, or of its interest in the Property or any part thereof or of the rents, fees, charges or other revenues therefrom, is instituted by or with the consent of the County, or is instituted without its consent and is not permanently stayed or dismissed within 60 days, or if the County makes any offer to the County's creditors to effect a composition or extension of time to pay the County's debts or asks, seeks or prays for a reorganization or to effect a plan of reorganization, or for a readjustment of the County's debts, or if the County shall make a general or any assignment for the benefit of the County's creditors,

(f) an "event of default" shall have occurred under any of the Related Documents,

(g) any material provision of this Sublease shall at any time for any reason cease to be valid and binding on the County, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the County, or a proceeding shall be commenced by any governmental agency or authority having jurisdiction over the County seeking to establish the invalidity or unenforceability thereof, or the County shall deny that it has any or further liability or obligation under this Sublease,

(h) (1) a default in any payment of any Indebtedness described in clause (c) of the definition thereof or in excess of \$10,000 on any other Indebtedness of the County payable from its General Fund of an outstanding principal amount in excess of \$10,000,000 (other than any Indebtedness payable under this Sublease or the Related Documents) beyond the period of grace (not to exceed 30 days), if any, provided in the instrument or agreement under which such Indebtedness was created, (2) a default in the observance or performance of any agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the



effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause (determined without regard to whether any notice is required), any such Indebtedness to become due prior to its stated maturity, (3) any such Indebtedness shall be declared to be due and payable, or required to be prepaid other than by a regularly scheduled required payment, prior to the stated maturity thereof, or (4) a moratorium shall have been declared with respect to the County's payment of any such Indebtedness,

(i) a final nonappealable judgment or order for the payment of money the portion of which that is not covered by insurance (or any self-insurance program complying with the terms of this Sublease and the Related Documents) exceeds \$1,000,000 shall be rendered against the County and such judgment or order shall continue unstayed, unbonded or unsatisfied for a period of 30 days or such longer period as the County may legally be allowed to make such payments,

(j) any funds on deposit in, or otherwise to the credit of, any of the funds or accounts established under the Trust Agreement shall become subject to any writ, judgment, warrant or attachment, execution or similar process, or

(k) for any reason (other than release by the Banks) any of the pledges and security interests created pursuant to this Sublease and the Related Documents in favor of the Banks or the Trustee or to secure the Certificates or any Base Rental attributable to such Certificates, shall cease to be in full force and effect or to constitute a first and prior perfected lien on the property, rights or interests subject to such pledge.

Upon the occurrence of any Event of Default the Corporation or any assignee of the rights of the Corporation hereunder shall have the right, at its option, without any further demand or notice (1) to re-enter the Property and eject all parties in possession therefrom, and, without terminating this Sublease, re-let the Property as the agent and for the account of the County upon such terms and conditions as the Corporation may deem advisable, in which event the rental received on such re-letting shall be applied first to the expenses of re-letting and collection, including expenses necessary for repair or restoration of the Property to its original condition (taking into account normal wear and tear), reasonable attorneys' fees and any real estate commission actually paid, and second to the Base Rental Fund for the payment of Base Rental in accordance with this Sublease and the Trust Agreement and if a sufficient sum shall not be thus realized to pay such sums and other charges, then the County shall pay to the Corporation any net deficiency existing on the date when Base Rental or Additional Rental is due hereunder; provided, however, that such re-entry and re-letting under this Section 13 shall be done only with the consent of the County, which consent is hereby irrevocably given; or (2) in lieu of the above, so long as the Corporation does not terminate the County's right to possession, this Sublease shall continue in effect and the Corporation shall have the right, pursuant to Section 1951.4 of the California Civil Code, to enforce all of its rights and remedies under this Sublease, including the right to recover Base Rental payments as they become due under this Sublease. The foregoing remedies of the Corporation are in addition to and not exclusive of any other remedy of the Corporation, or any assignee of the rights of the Corporation hereunder. Any re-entry shall be allowed by the County without hindrance, and the Corporation, or any assignee of the rights of the Corporation hereunder, shall not be liable in damages for any such re-entry or be



guilty of trespass. Notwithstanding any other provision of this Sublease or the Trust Agreement, in no event shall the Corporation, or any assignee of the rights of the Corporation hereunder, have the right to accelerate the payment of any Base Rental hereunder and the Banks may independently enforce all obligations of the County hereunder. Any provision herein to the contrary notwithstanding, when a Letter of Credit is in effect and so long as the Banks have not wrongfully dishonored a drawing thereunder or so long as any amounts remain owing to the Banks under the Sublease, the Corporation or any assignee of the rights of the Corporation hereunder shall exercise the remedies provided for hereunder only if and as directed in writing by the Banks and shall not waive any Event of Default without the prior written consent of the Banks.

No failure or delay on the part of the Agent or any Bank or the Corporation in exercising any right, power or privilege hereunder or under any other Related Document and no course of dealing between the County and the Agent or any Bank or the Corporation shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Related Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein or in any other Related Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which the Agent or any Bank or the Corporation would otherwise have. No notice to or demand on the County in any case shall entitle the County to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Agent or any Bank or the Corporation to any other or further action in any circumstances without notice or demand.

**Section 14. Waiver.** The waiver by the Corporation or the Banks of any breach by the County, and the waiver by the County of any breach by the Corporation or the Banks, of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

**Section 15. Option to Purchase.** The County shall have the exclusive right and option, which shall be irrevocable during the Term of this Sublease, but only if the County is not in default under this Sublease or the Trust Agreement and only in the manner provided in this Section 15, to purchase all or any portion of the Property.

The option price for the Property in any particular Lease Year shall be determined by reference to Exhibit C to this Sublease. The County may, with the prior written consent of the Banks, adjust the option prices from time to time to take into account actual construction costs, completion dates, repayment premiums, if any and such other factors as may be appropriate; provided, however, that such adjusted option price shall in no event be less than 102% of the principal amount of Certificates Outstanding at the time of such adjustment. The County shall exercise its option to purchase by giving notice (specifying the portion, if applicable, thereof to be purchased) to the Trustee not later than 45 days prior to the Business Day on which it desires to purchase the Property or portion thereof; provided that the County shall not exercise its option to purchase any portion of the Property unless (i) the ratio of Fair Market Rental Value of the Property remaining to aggregate principal amount of Certificates Outstanding after such purchase is at least equal to the ratio of Fair Market Rental Value of the Property to aggregate principal amount of Certificates Outstanding that existed prior to such sale and (ii) the aggregate



option price of all the Property after such sale shall be at least equal to 102% of the principal amount of Certificates Outstanding immediately thereafter.

The County, concurrently with the giving of notice of its intention to exercise its option to purchase hereunder, shall deposit with the Trustee an amount equal to the option price for the applicable Lease Year with the Trustee, which amount shall be in addition to the Base Rental, Addition Base Rental and Additional Rental due in such Lease Year, and shall certify to the Trustee and the Banks that the annual Fair Market Rental Value of that portion of the Property which it has not purchased is sufficient to provide for the payment of the principal and interest components of the Certificates still Outstanding after its exercise of the option to purchase hereunder in accordance with the terms of such Certificates (assuming an interest rate of 15% per annum for Certificates bearing interest at the Adjustable Interest Rate).

If the County shall properly exercise the option provided in this Section 15 with respect to all of the Property prior to the expiration of the Term of this Sublease and shall provide for payment in full of all amounts owing to the Banks hereunder, then this Sublease shall terminate.

**Section 16. Notices.** All notices, requests, demands and other communications under this Sublease shall be in writing or by telex or other telecommunication facility and shall be deemed to have been sufficiently given on the date of service if served personally upon the person to whom notice is to be given or on receipt if sent by telex or other telecommunication facility or courier or if mailed by United States registered mail, return receipt requested, postage prepaid and properly addressed as follows:

(a) if to the County, to: County of Riverside County Executive Office, 4080 Lemon Street, 4<sup>th</sup> Floor, Riverside, California 92501, Attention: Clerk of the Board of Supervisors, with a copy to the County Executive Officer;

(b) if to the Trustee, to: U.S. Bank National Association, 550 South Hope Street, Suite 500, Los Angeles, California 90071, Attention: Corporate Trust Services;

(c) if to the Agent, to: State Street Bank & Trust Company, 225 Franklin Street, 18th Floor, Boston, Massachusetts 02110, Attention: Darren De Gennaro;

(d) if to the Banks, to: State Street Bank & Trust Company, 225 Franklin Street, 18th Floor, Boston, Massachusetts 02110, Attention: Darren De Gennaro;

(e) if to the Tender Agent, to U.S. Bank Trust National Association, 100 Wall Street, Suite 1600, New York, New York 10005;

or to such other address or addresses as such party may designate to the others by notice given in accordance with the provisions of this Section 16.

**Section 17. Validity and Severability.** If any one or more of the terms, provisions, promises, covenants or conditions of this Sublease shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions, promises, covenants and



conditions of this Sublease shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

If for any reason it is held by such a court that any of the covenants and agreements of the County hereunder, including the covenant to pay Base Rental, Additional Base Rental and Additional Rental hereunder, is unenforceable for the full term hereunder, then and in such event for and in consideration of the right of the County to possess, occupy and use the Property, which right in such event is hereby granted, this Sublease shall thereupon become and shall be deemed to be a lease from year to year under which the annual Base Rental payments, Additional Base Rental payments and Additional Rental payments herein specified will be paid by the County.

**Section 18. Amendments.** This Sublease may be amended only by a written instrument signed by the County, the Agent and the Banks and consented to in writing by the Trustee. If any such amendment shall in any way affect the rights of the Corporation hereunder, such amendment shall not be effective until it is consented to in writing by the Corporation or its assignee.

**Section 19. Execution.** This Sublease may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all of which together shall constitute one and the same Sublease.

**Section 20. Law Governing.** This Sublease is made in the State under the Constitution and laws of the State and is to be so construed.

**Section 21. Benefit of Agreement.** This Sublease shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; provided, however, that except as provided in Section 7 hereof, neither the County nor the Corporation or its assignee may assign or transfer any of its rights or obligations hereunder without the prior written consent of the Banks, which consent shall not be unreasonably withheld; provided, however, that no consent shall be required (i) in connection with the assignment to a successor Trustee in accordance with the Trust Agreement or (ii) if the Banks are in default under the Letter of Credit. Any Bank may assign to one or more banks or other institutions all, or a proportionate part of all of its rights and obligations under the Letter of Credit, this Sublease and any Bank Certificates; provided, however, that such assignment will not be permitted if it will result in (i) a higher borrowing cost to the County as certified by the Remarketing Agent, or (ii) an increase in costs, fees or expenses to be paid by the County. This Section 21 does not apply to the sale of Bank Certificates other than in conjunction with an assignment of such Bank's obligations under the Letter of Credit. Upon execution and delivery of an instrument of assignment and assumption hereunder, payment by the assignee Bank (an "Assignee") to such transferor Bank of an amount equal to the purchase price agreed between such transferor Bank and such Assignee and amendment or substitution of the Letter of Credit to reflect such assignment, such Assignee shall be a "Bank" party to this Sublease and shall have all of the rights and obligations of a "Bank" as set forth in such instrument of assignment and assumption; and the transferor Bank shall be released from its obligations under the Letter of Credit to a corresponding extent, and no further consent or action by any party shall be required. Any Bank may grant to one or more participant banks participating interests in such Bank's



obligations under the Letter of Credit, this Sublease and any Bank Certificates; provided that, although such Bank may grant such participation, such Bank shall remain a "Bank" for all purposes hereunder and the participant shall not constitute a "Bank" hereunder, except that the participant shall be entitled to the benefits of Section 11 and Section 4.2 (c), (f), (g) and (h) of this Sublease to the extent that such Bank would be entitled to such benefits if the participation had not been made.

**Section 22. WAIVER OF TRIAL BY JURY.** EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS SUBLEASE. THE PARTIES HERETO (i) CERTIFY THAT NO REPRESENTATIVE OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, AND (ii) ACKNOWLEDGE THAT THEY HAVE BEEN INDUCED TO ENTER INTO THIS SUBLEASE AND THE TRANSACTIONS CONTEMPLATED BY THIS SUBLEASE AND THE OTHER RELATED DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION.

**Section 23. Right of Set-off.** Upon the occurrence and during the continuance of any Event of Default, each Bank is hereby authorized at any time and from time to time, without notice to the County (any such notice being expressly waived by the County) and to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Bank to or for the credit or the account of the County (other than moneys held for payment of the Bonds) against any and all of the obligations of the County now or hereafter existing under this Sublease or the Related Documents, irrespective of whether or not such Bank shall have made any demand hereunder and although such obligations may be unmatured.

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IN WITNESS WHEREOF, the parties hereto have executed this Sublease as of the day and year first above written.

COUNTY OF RIVERSIDE

By [Signature]  
County Executive Officer

ATTEST:

By [Signature]  
Clerk of the Board of Supervisors

STATE STREET BANK AND TRUST  
COMPANY,  
as a Bank and the Banks

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY, as the Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CONSENTED TO  
as assignee of the rights of the  
DESERT FACILITIES CORPORATION  
this 1st day of May, 2003:

U.S. BANK NATIONAL ASSOCIATION, as successor Trustee

By: [Signature]  
Name: John Axt  
Title: Vice President



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IN WITNESS WHEREOF, the parties hereto have executed this Sublease as of the day and year first above written.

COUNTY OF RIVERSIDE

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

ATTEST:

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

Timothy Butler personally appeared  
before me before this 9<sup>th</sup> day of May, 2003

By: Nicole McFadden  
(Notary Public)

My Commission Expires June 20, 2008

County of Middlesex State of Massachusetts

Nicole McFadden, Notary Public  
My Commission Expires June 20, 2008

STATE STREET BANK AND TRUST  
COMPANY,  
as a Bank and the Banks

By: Timothy Butler  
Name: Timothy Butler  
Title: Vice President

STATE STREET BANK AND TRUST  
COMPANY, as the Agent

By: Timothy Butler  
Name: Timothy Butler  
Title: Vice President

CONSENTED TO  
as assignee of the rights of the  
DESERT FACILITIES CORPORATION  
this 1st day of May, 2003:

U.S. BANK NATIONAL ASSOCIATION, as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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STATE OF CALIFORNIA

COUNTY OF Riverside

) SS.  
)

On the 29th day of May, 2003, before me personally came Larry Parrish to me known, who, being by me duly sworn, did depose and say that (~~s~~)he resides at 4080 Lemon Street, Fourth Floor, Riverside, that (~~s~~)he is the Chief Exec. Ofcr. of the County of Riverside, the association described in and which executed the foregoing instrument; that (~~s~~)he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation and that (~~s~~)he signed his ~~own~~ name thereto by like order.



Cheri Andelkovic  
Printed name Cheri Andelkovic  
Notary Public

My commission expires: May 21, 2006



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STATE OF CALIFORNIA

COUNTY OF LOS ANGELES ) SS.  
 )

On the 9th day of June, 2003, before me personally came John W. Axt to me known, who, being by me duly sworn, did depose and say that (s)he resides at 2700 N. Cahuenga Blvd. E 1204 Los Angeles, CA; that (s)he is the Vice President of U.S. Bank National Association the association described in and which executed the foregoing instrument; that (s)he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation and that (s)he signed his/her name thereto by like order.

Patricia A. Centrone  
Printed name  
Notary Public

My commission expires: May 12, 2004



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**LEGAL DESCRIPTION OF THE PROPERTY**

COUNTY PROPERTY (INDIO)-OLD CAC PROPERTY (EXCLUDING JAIL SITE)

ALL THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 7 EAST, S.B.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 111 (80.00 FEET WIDE) AND THE WESTERLY RIGHT-OF-WAY LINE OF OASIS STREET (100.00 FEET WIDE);

THENCE S 00°28'18" W, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID OASIS STREET, A DISTANCE OF 101.35 FEET;

THENCE S 89°37'40" W, PARALLEL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 111, A DISTANCE OF 173.72 FEET;

THENCE S 00°28'18" W, PARALLEL WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID OASIS STREET, A DISTANCE OF 246.13 FEET;

THENCE N 89°37'40" E, PARALLEL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 111, A DISTANCE OF 173.72 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID OASIS STREET;

THENCE S 00°28'18" W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 262.52 FEET;

THENCE S 89°37'40" W, PARALLEL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 111, A DISTANCE OF 450.00 FEET;

THENCE N 00°28'18" E, PARALLEL WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID OASIS STREET, A DISTANCE OF 610.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 111;

THENCE N 89°37'40" E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 450.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 231.742 SQUARE FEET, 5.320 ACRES MORE OR LESS.



## EXHIBIT A

### INTEREST PORTION OF BASE RENTAL

The interest portion of the Base Rental for any period, is equal to the sum of the amount of interest accrued in accordance with the terms of the Certificates Outstanding at the Adjustable Interest Rate or Fixed Interest Rate in effect from time to time during such period. Interest payable with respect to Certificates bearing interest at the Adjustable Interest Rate shall be computed on the basis of a year of 365 or 366 days, as appropriate. Interest payable with respect to any Certificates from and after the Fixed Rate Date shall be computed on the basis of a year of 360 days consisting of 12 months of 30 days each. The Adjustable Interest Rate is that single interest rate for all the Certificates bearing interest at the Adjustable Interest Rate determined on each Rate Determination Date by the Remarketing Agent and effective on each Rate Adjustment Date for such Certificates. On each Rate Determination Date, the Remarketing Agent shall determine the Adjustable Interest Rate as that interest rate which in its judgment, having due regard for prevailing financial market conditions, is the interest rate, but not in excess of the interest rate, which would be necessary to enable the Remarketing Agent to remarket such Certificates on such day at a price equal to 100% of the principal amount thereof, plus accrued interest, if any, with respect thereto. If the Remarketing Agent fails, refuses or is unable to determine the Adjustable Interest Rate on any Rate Determination Date, the Adjustable Interest Rate shall be determined as set forth in Section 2.02 of the Trust Agreement. The Fixed Interest Rate is that single interest rate for the Certificates determined in accordance with the terms of the Trust Agreement on or before the 10th day prior to the Fixed Rate Date and effective on the Fixed Rate Date. The Remarketing Agent shall determine the Fixed Interest Rate as that interest rate which in its judgment, having due regard for prevailing financial market conditions, is the interest rate, but not in excess of the interest rate, which would enable the Remarketing Agent to sell all Certificates with a Fixed Interest Rate until maturity on the Fixed Rate Date at a purchase price equal to 100% of the principal amount thereof, plus accrued interest, if any, with respect thereto. The Remarketing Agent shall promptly give notice of the Adjustable Interest Rates and Fixed Interest Rate to the County, the Corporation, the Agent, the Trustee and the Tender Agent. In no event shall the interest rate payable with respect to any Certificate at any time exceed the Maximum Interest Rate. Notwithstanding anything herein to the contrary, the maximum amount of the interest portion of Base Rental (excluding any Excess Amount) shall not exceed in any Lease Year \$1,320,000.



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**EXHIBIT B**

**PRINCIPAL PORTION OF BASE RENTAL**

<u>Payment Date</u>	<u>Principal Amount</u>
November 1, 1993	\$100,000
November 1, 1994	\$100,000
November 1, 1995	\$100,000
November 1, 1996	\$100,000
November 1, 1997	\$100,000
November 1, 1998	\$100,000
November 1, 1999	\$100,000
November 1, 2000	\$100,000
November 1, 2001	\$200,000
November 1, 2002	\$200,000
November 1, 2003	\$200,000
November 1, 2004	\$200,000
November 1, 2005	\$200,000
November 1, 2006	\$200,000
November 1, 2007	\$300,000
November 1, 2008	\$300,000
November 1, 2009	\$300,000
November 1, 2010	\$300,000
November 1, 2011	\$400,000
November 1, 2012	\$400,000
November 1, 2013	\$400,000
November 1, 2014	\$500,000
November 1, 2015	\$500,000
November 1, 2016	\$600,000
November 1, 2017	\$600,000
November 1, 2018	\$700,000
November 1, 2019	\$700,000
November 1, 2020	\$800,000



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## EXHIBIT C

### OPTION PRICE

The option price with respect to the Property or any portion thereof shall equal the proportionate principal amount of Certificates Outstanding relating to the Property or portion thereof so purchased, plus the interest component attributable to such Certificates, to the date such Certificates are to be prepaid or paid in accordance with the terms of the Trust Agreement.

If the date on which the County intends to exercise its option hereunder is not a date on which Certificates are subject to optional prepayment pursuant to the terms of the Trust Agreement, then the option price shall be payable in installments. Each such installment (x) shall be payable at each time at which a payment of Base Rental would have been payable had such option not been exercised until the due date of the final installment referred to in the proviso set forth below in this paragraph, and (y) shall equal the principal and interest component of the proportionate principal amount of Certificates Outstanding relating to the Property or portion thereof so purchased; provided, however, that the final installment shall be payable on the first date on which the Certificates are subject to optional prepayment pursuant to the terms of the Trust Agreement and shall be in an amount sufficient to pay the principal with respect to such Certificates Outstanding.

In order to secure its obligations to pay the installments referred to above, the County, concurrently with the giving of notice of its intention to exercise its option under this Sublease, shall deposit or cause to be deposited with the Trustee, in trust, cash or investments of the type described in Section 6.06 of the Trust Agreement in such amount as will, together with the interest to accrue thereon without the need for further investment, be fully sufficient to pay the installments (including all principal and interest) referred to above at the times at which such installments are required to be paid. Such deposit shall be in addition to any Base Rental due on such date. The excess, if any, to the amount so deposited over the installments actually required to be paid by the County shall be remitted to the County.



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**EXHIBIT D**

**FORM OF LETTER OF CREDIT**

[See attached]



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IRREVOCABLE LETTER OF CREDIT NO. ILC-1305/BSN

June 11, 2003

U.S. Bank National Association, as successor Trustee  
550 South Hope Street, Suite 500  
Los Angeles, California 90071

Ladies and Gentlemen:

1. We, the undersigned bank (the "Bank") hereby establish, at the request and for the account of the County of Riverside (the "Account Party"), in your favor, as Trustee on behalf of the holders from time to time of the \$7,600,000 outstanding County of Riverside 1990 Taxable Variable Interest Rate Certificates of Participation (the "Certificates") executed and delivered under the Trust Agreement, dated as of June 1, 1990, among the Account Party, Security Pacific National Bank, as original trustee, and Security Pacific National Trust Company (New York), as original tender agent, as amended and supplemented by the First Amendment to Trust Agreement, dated as of January 26, 1996, by and among the Account Party, U.S. Bank Trust National Association, as predecessor trustee and U.S. Bank Trust National Association, as predecessor tender agent and by the Second Amendment to Trust Agreement, dated as of May 1, 2003, by and among the Account Party, you, as successor trustee to U.S. Bank Trust National Association, formerly known as First Trust of California, National Association, as successor in interest to Security Pacific National Bank, as original trustee (the "Trustee") and U.S. Bank Trust National Association, formerly known as First Trust of New York, N.A., as successor in interest to Security Pacific National Trust Company (New York), as original tender agent (the "Tender Agent") (as so amended and supplemented and as it may be further amended and supplemented from time to time, the "Trust Agreement"), our irrevocable Letter of Credit No. ILC-1305/BSN, in the initial amount of \$7,734,302 (as more fully described below, the "Stated Amount"), effective immediately and expiring at the close of banking business in Boston, Massachusetts, on June 11, 2006 (the "Stated Termination Date"), unless otherwise extended or terminated pursuant to the terms hereof. This Letter of Credit is only available to be drawn upon with respect to the Certificates in a weekly mode or a monthly mode pursuant to the Trust Agreement.

2. The Stated Amount consists of: (a) the amount of \$7,600,000 (as said amount may be reduced or reinstated from time to time as herein provided) (the "Stated Principal Amount") available to be drawn upon by you hereunder for the purpose of paying (i) the principal with respect to the Certificates at maturity and upon prepayment pursuant to Article VI of the Trust Agreement and (ii) the principal portion of the purchase price of any Certificate tendered or deemed tendered by the registered owner thereof (a "Holder") pursuant to Sections 3.01, 3.05 and 3.06 of the Trust Agreement; and (b) the amount of \$134,302 (as said amount may be reduced or reinstated from time to time as herein provided) (the "Stated Interest Amount"), representing 43 days' interest on the Stated Principal Amount (calculated at the maximum rate of fifteen percent per annum on the basis of a 365-day year), which is the amount available to be drawn by you hereunder for the purpose of paying (i) the interest owing with respect to the Certificates on each interest payment date or date on which accrued interest is due and payable



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upon prepayment pursuant to Article VI of the Trust Agreement and (ii) the interest portion of the purchase price of any Certificate tendered or deemed tendered by a Holder pursuant to Sections 3.01, 3.05 and 3.06 of the Trust Agreement.

3. All reductions or reinstatements of the Stated Principal Amount or the Stated Interest Amount shall result in a corresponding reduction or reinstatement of the Stated Amount. The Bank will pay each drawing made under this Letter of Credit from its own funds, and the Bank shall not be required to pay more than the Stated Amount.

4. The Bank hereby irrevocably authorizes you to make the following drawings, in accordance with the terms and conditions and subject to the reductions and/or reinstatements in amount as hereinafter set forth:

(a) in one or more drawings by one or more of your drafts delivered to the Bank (in the form of Annex H attached hereto) payable on a Business Day (as defined below), and accompanied by your written and completed certificate signed by you in the form of Annex A attached hereto (such draft accompanied by such certificate being your "Interest Payment Draft"), an aggregate amount not exceeding the Stated Interest Amount for the purpose of paying interest with respect to the Certificates due on each interest payment date;

(b) in one or more drawings by one or more of your drafts delivered to the Bank (in the form of Annex H attached hereto) payable on a Business Day, and accompanied by your written and completed certificate signed by you in the form of Annex B attached hereto (such draft accompanied by such certificate being your "Prepayment Draft"), an aggregate amount not exceeding the Stated Amount for the purpose of paying the prepayment price in connection with a prepayment of less than all outstanding Certificates pursuant to Section 6.01(a)(i) or (ii) or (b) of the Trust Agreement;

(c) in one or more drawings, by one or more of your drafts delivered to the Bank (in the form of Annex H attached hereto) payable on a Business Day, and accompanied by your written and completed certificate signed by you in the form of Annex C attached hereto (such draft accompanied by such certificate being your "Tender Draft"), an aggregate amount not exceeding the Stated Amount for the purpose of paying the purchase price of Certificates purchased pursuant to Section 3.01 and 3.02 of the Trust Agreement;

(d) in one drawing, by your draft delivered to the Bank (in the form of Annex H attached hereto) payable on a Business Day, and accompanied by your written and completed certificate signed by you in the form of Annex D attached hereto (such draft accompanied by such certificate being your "Final Payment Draft"), an aggregate amount not exceeding the Stated Amount for the purpose of (i) paying the principal and interest with respect to the Certificates at their final maturity, (ii) paying the prepayment price in connection with a redemption of all outstanding Certificates pursuant to Section 6.01(a)(i) or (ii) or (b) of the Trust Agreement or (iii) paying the purchase price



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in connection with a mandatory purchase of all outstanding Certificates pursuant to Section 3.05 or 3.06 of the Trust Agreement.

5. The Stated Principal Amount, the Stated Interest Amount and the Stated Amount shall be reduced and reinstated pursuant to this paragraph.

(a) Payment by us of an Interest Payment Draft shall reduce the Stated Interest Amount by the amount of such Interest Payment Draft, but the Stated Interest Amount shall be automatically reinstated as of the opening of business of the Bank in Boston, Massachusetts on the third Business Day thereafter by the amount of such Interest Payment Draft unless you shall have received written notice from us informing you that the Stated Interest Amount will not be reinstated because an "Event of Default" has occurred and is continuing under the Amended and Restated Sublease and Option to Purchase, dated as of May 1, 2003, by and among the Account Party, us, as the banks and us, as agent for the banks, and consented to by the Trustee as assignee of certain of the rights of the Desert Facilities Corporation (as so amended and restated and as it may be further amended and supplemented from time to time, the "Sublease"). The reinstatement of your right to draw on us by your Interest Payment Draft shall be applicable to successive drawings by your Interest Payment Drafts so long as this Letter of Credit shall not have terminated as set forth below.

(b) Payment by us of a Prepayment Draft shall permanently reduce the Stated Amount as follows: (1) the Stated Principal Amount shall be permanently reduced by an amount equal to the principal amount of the Certificates prepaid with the proceeds of a Prepayment Draft; and (2) the Stated Interest Amount shall be permanently reduced by an amount equal to 43 days' interest (calculated at the rate of fifteen percent per annum on the basis of a 365-day year) on the principal amount of the Certificates so prepaid.

(c) Payment by us of a Tender Draft shall reduce the Stated Amount as follows: (1) the Stated Principal Amount shall be reduced by an amount equal to the principal amount of the Certificates purchased with the proceeds of a Tender Draft; and (2) the Stated Interest Amount shall be reduced by an amount equal to 43 days' interest (calculated at the rate of fifteen percent per annum on the basis of a 365-day year) with respect to the principal amount of the Certificates so purchased. The Stated Amount shall automatically be reinstated as follows: (1) the Stated Principal Amount shall be increased by an amount equal to the principal amount of Certificates remarketed following a purchase with the proceeds of a Tender Draft and our receipt of payment therefor; and (2) the Stated Interest Amount shall be increased by an amount equal to 43 days' interest (calculated at the rate of fifteen percent per annum on the basis of a 365-day year) with respect to the principal amount of Certificates so purchased and remarketed upon our receipt of payment therefor.

(d) Payment by us of a Final Payment Draft shall permanently reduce the Stated Amount, the Stated Principal Amount and the Stated Interest Amount to zero.



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(e) Upon receipt by us of your executed certificate in the form of Annex E hereto, the Stated Principal Amount and the Stated Interest Amount shall be permanently reduced by the respective amounts set forth in your certificate.

(f) Upon receipt by us of your executed certificate in the form of Annex F hereto, the Stated Amount, the Stated Principal Amount and the Stated Interest Amount shall be permanently reduced to zero.

6. All drafts presented to the Bank under this Letter of Credit must refer to the Bank's number for this Letter of Credit and be dated the date of presentation. Drafts and certificates must be presented to the Bank to the attention of the Standby L/C Unit in the form of a facsimile transmission (facsimile number (617) 451-2127) with the originally executed drafts and certificates to follow immediately thereafter to be received by the Bank no later than two days after the receipt of such facsimile transmission. Funds under this Letter of Credit are available to you against presentation of Interest Payment Drafts, Prepayment Drafts, Tender Drafts or a Final Payment Draft (as the case may be), each in conformity with the requirements of this Letter of Credit, at the Bank's office located at 225 Franklin Street, Boston, MA 02110, Attention: Standby L/C Unit, Loan Operations, MAO/11, Telephone Number (617) 664-3871, Facsimile Number (617) 451-2127, Reference: Letter of Credit No. ILC-1305/BSN, or such other addresses, or telephone or facsimile numbers as we shall from time to time designate to you in writing, and shall make specific reference to "Irrevocable Letter of Credit No. ILC-1305/BSN, Reference: County of Riverside." If the Bank receives any of your Interest Payment Drafts, Prepayment Drafts or Final Payment Drafts in accordance with this Letter of Credit at or prior to 4:00 p.m. (New York time) on any day on or prior to the Termination Date, the Bank will honor such draft by making available to you, at or prior to 1:00 p.m. (New York time) on the next day, if such day is a Business Day, or at or prior to 1:00 p.m. (New York time) on the next Business Day, if such day is not a Business Day, an amount equal to the amount of such draft in immediately available funds. If the Bank receives any of your Interest Payment Drafts, Prepayment Drafts or Final Payment Drafts in accordance with this Letter of Credit after 4:00 p.m. (New York time) on any day on or prior to the Termination Date, the Bank will honor such draft by making available to you at or prior to 1:00 p.m. (New York time) on the second following Business Day after such presentment, an amount equal to the amount of such draft in immediately available funds. If the Bank receives any of your Tender Drafts in accordance with this Letter of Credit at or prior to 12:00 noon (New York time) on any day on or prior to the Termination Date, the Bank will honor such draft by making available to you, at or prior to 3:00 p.m. (New York time) on the same day, if such day is a Business Day, or at or prior to 3:00 p.m. (New York time) on the next Business Day, if such day is not a Business Day, an amount equal to the amount of such draft in immediately available funds. If the Bank receives any of your Tender Drafts in accordance with this Letter of Credit after 12:00 noon (New York time) on a Business Day on or prior to the Termination Date, the Bank will honor such draft by making available to you at or prior to 3:00 p.m. (New York time) on the next Business Day after such presentment, an amount equal to the amount of such draft in immediately available funds. If requested by you, payment under this Letter of Credit may be made by wire transfer of Federal Reserve Bank of New York funds to your account or your designated agent's account in a bank on the Federal Reserve Wire System or by deposit of same day funds into an account as designated by you.



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7. Upon the close of business on the earliest of (i) the date on which we honor payment of your Final Payment Draft; (ii) the Stated Termination Date (as such date may be extended by us from time to time by written notice to you); (iii) the day on which you deliver your certificate to the Bank in the form of Annex F attached hereto certifying that no Certificates are Outstanding (as defined in the Trust Agreement); (iv) receipt from you of your written certificate in the form of Annex F attached hereto stating that an Alternate Letter of Credit (as defined in the Trust Agreement) has been substituted pursuant to the Trust Agreement; (v) as set forth in a written certificate from you to us in the form of Annex F attached hereto, the day which is five (5) days after the date on which the Certificates have been converted to a mode other than a weekly mode or a monthly mode; or (vi) as set forth in a written notice from us to you in the form of Annex I attached hereto, the date on which we notify you that we have purchased all Outstanding Certificates pursuant to the Trust Agreement, and this Letter of Credit will no longer be reinstated (such earliest date, the "Termination Date"), this Letter of Credit shall automatically terminate. This Letter of Credit will not terminate except as stated hereinabove. On the dates specified in this paragraph 7, the Trustee shall surrender this Letter of Credit to the Bank at its offices at 225 Franklin Street, Boston, MA 02110, Attention: Standby L/C Unit, Loan Operations, MAO/11.

8. Notwithstanding Article 48 of the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500 (the "Uniform Customs"), this Letter of Credit is transferable in its entirety to any transferee who has succeeded you as Trustee under the Trust Agreement and may be successively transferred. Transfer of the available balance under this Letter of Credit to such transferee shall be effected by the presentation to us of this Letter of Credit accompanied by a certificate in the form of Annex G attached hereto and a cashier's check to us in the amount of \$1,000. Upon such presentation and receipt of payment, we shall forthwith transfer the same to your transferee or, if so requested by your transferee, issue an irrevocable letter of credit to your transferee with provisions substantially identical to this Letter of Credit.

9. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement referred to herein (including, without limitation, the Certificates), except the certificates and the drafts referred to herein and the Uniform Customs; and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement, except for such certificates and such drafts referred to herein and the Uniform Customs.

10. Except as otherwise provided herein, this Letter of Credit is subject to the Uniform Customs, and as to matters not governed by the Uniform Customs, the laws of the State of New York. Anything to the contrary in Article 41 of the Uniform Customs notwithstanding, this Letter of Credit is intended to remain in full force and effect until it expires in accordance with its terms. Any failure by you or any successor trustee to draw upon this Letter of Credit in accordance with the terms and conditions of the Trust Agreement shall not cause this Letter of Credit to be unavailable for any future drawing in accordance with the terms and conditions of the Trust Agreement.

[Remainder of this page intentionally left blank]



11. Communications with respect to this Letter of Credit shall be in writing and shall be addressed to the Bank at 225 Franklin Street, Boston, MA 02110, Attention: Standby L/C Unit, Loan Operations, MAO/11, Telephone Number (617) 664-3871, Facsimile Number (617) 451-2127, or such other addresses, or telephone or facsimile numbers as we shall from time to time designate to you in writing, and shall make specific reference to "Irrevocable Letter of Credit No. ILC-1305/BSN, Reference: County of Riverside." As used in this Letter of Credit, a "Business Day" means any day other than a Saturday or Sunday or a day on which banking institutions are authorized or required by law to be closed for commercial banking purposes in either the State of New York, the State of California or in the state in which is located our office at which demands for payment under this Letter of Credit are to be made.

Very truly yours,

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Annex A

**CERTIFICATE FOR DRAWING IN CONNECTION  
WITH AN INTEREST PAYMENT DRAFT**

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

The undersigned, a duly authorized officer of the undersigned Trustee (the "Trustee"), hereby certifies to State Street Bank and Trust Company (the "Bank"), with reference to the Irrevocable Letter of Credit described above (the "Letter of Credit"; the terms defined therein and not otherwise defined herein are used herein as therein defined) issued by the Bank in favor of the Trustee, that:

- (1) The Trustee is the Trustee under the Trust Agreement.
- (2) The amount of the Interest Payment Draft accompanying this certificate is \$ \_\_\_\_\_. The Interest Payment Draft was computed in compliance with the terms and conditions of the Certificates, the Trust Agreement, the Sublease and the Letter of Credit, and does not include any amount of interest which is included in any Prepayment Draft, Tender Draft or Final Payment Draft presented on or prior to the date of this certificate, and does not exceed the amount available to be drawn by the Trustee under the Letter of Credit.
- (3) This certificate and the Interest Payment Draft it accompanies are dated, and are being presented to the Bank, in conformity with the Letter of Credit, on the Business Day [immediately prior to the day] (delete if inapplicable) on which interest with respect to the Certificates is due and payable.
- (4) None of the amount specified in paragraph 2 is being drawn by the Trustee to pay interest with respect to any Certificates owned by, or on behalf of, the Account Party or the Corporation.

IN WITNESS WHEREOF, the Trustee has executed and delivered this certificate as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

U.S. BANK NATIONAL ASSOCIATION,  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Annex B

**CERTIFICATE FOR DRAWING IN CONNECTION  
WITH A PRINCIPAL PREPAYMENT**

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

The undersigned, a duly authorized officer of the undersigned Trustee (the "Trustee"), hereby certifies to State Street Bank and Trust Company (the "Bank"), with reference to the Irrevocable Letter of Credit described above (the "Letter of Credit"; the terms defined therein and not otherwise defined herein are used herein as therein defined) issued by the Bank in favor of the Trustee, that:

- (1) The Trustee is the Trustee under the Trust Agreement.
- (2) The amount of the Prepayment Draft accompanying this certificate is equal to the sum of (i) \$ \_\_\_\_\_ being drawn in respect of the payment of unpaid principal of Certificates to be prepaid and does not include any amount of principal of Certificates which is included in any Tender Draft or Final Payment Draft presented on or prior to the date of this certificate; and (ii) \$ \_\_\_\_\_ being drawn in respect of the payment of up to \_\_\_\_ days' accrued and unpaid interest with respect to such Certificates, and does not include any amount of interest with respect to Certificates which is included in any Interest Payment Draft or Tender Draft or Final Payment Draft presented on or prior to the date of this certificate.
- (3) The Trustee is making a drawing under the Letter of Credit with respect to a prepayment of less than all Outstanding Certificates.
- (4) If the Trustee is making a drawing under the Letter of Credit with respect to a prepayment of Certificates pursuant to Section 6.01(a)(i) or (ii) or (b) of the Trust Agreement the Trustee has on deposit with it and available for payment to the Bank an amount not less than the amount set forth in clause 2(i) above.
- (5) After payment by the Bank of the Prepayment Draft accompanying this certificate, \$ \_\_\_\_\_ principal amount of the Certificates will remain Outstanding.
- (6) The amount of the Prepayment Draft accompanying this certificate was computed in accordance with the terms and conditions of the Certificates, the Trust Agreement, the Sublease and the Letter of Credit and does not exceed the amount available to be drawn under the Letter of Credit.
- (7) This certificate and the Prepayment Draft it accompanies are dated, and are being presented to the Bank, in conformity with the Letter of Credit, on the Business Day [immediately prior to the day] (delete if inapplicable) on which the unpaid principal amount and accrued and unpaid interest with respect to the Certificates to be prepaid is due and payable in accordance with the Trust Agreement.



(8) None of the amounts specified in paragraph 2 are being drawn by the Trustee to pay any principal of or interest on any Certificates owned by, or on behalf of, the Account Party or the Corporation.

IN WITNESS WHEREOF, the Trustee has executed and delivered this certificate as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

U.S. BANK NATIONAL ASSOCIATION,  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Annex C

**CERTIFICATE FOR DRAWING  
IN CONNECTION WITH A TENDER DRAFT**

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

The undersigned, a duly authorized officer of the undersigned Trustee (the "Trustee"), hereby certifies to State Street Bank and Trust Company (the "Bank"), with reference to the Irrevocable Letter of Credit described above (the "Letter of Credit"; the terms defined therein and not otherwise defined herein are used herein as therein defined) issued by the Bank in favor of the Trustee, that:

- (1) The Trustee is the Trustee under the Trust Agreement.
- (2) The amount of the Tender Draft accompanying this certificate is equal to the sum of (i) \$ \_\_\_\_\_ being drawn in respect of the payment of unpaid principal of Certificates tendered for purchase and does not include any amount of principal of Certificates which is included in any Prepayment Draft or Final Payment Draft presented on or prior to the date of this certificate; and (ii) \$ \_\_\_\_\_ being drawn in respect of the payment of up to \_\_\_\_\_ days' accrued and unpaid interest with respect to such Certificates, and does not include any amount of interest on Certificates which is included in any Interest Payment Draft or Prepayment Draft or Final Payment Draft presented on or prior to the date of this certificate.
- (3) The Trustee is making a drawing under the Letter of Credit with respect to the payment upon a tender of Certificates made in accordance with Sections 3.01 and 3.02 of the Trust Agreement.
- (4) The amount of the Tender Draft accompanying this certificate was computed in accordance with the terms and conditions of the Certificates, the Trust Agreement, the Sublease and the Letter of Credit and does not exceed the amount available to be drawn under the Letter of Credit.
- (5) This certificate and the Tender Draft it accompanies are dated, and are being presented to the Bank, in conformity with the Letter of Credit, on the Business Day on which the purchase price of the Certificates to be purchased is due and payable.
- (6) None of the amounts specified in paragraph 2 are being drawn by the Trustee to pay the purchase price of any Certificates owned by, or on behalf of, the Account Party or the Corporation.
- (7) The undersigned Trustee will confirm that Certificates have been registered in the principal amount equal to the amount referred to in clause (i) of paragraph 2 above in the name of the Bank for the account of the Bank promptly following payment of the draft accompanying this Tender Draft.



IN WITNESS WHEREOF, the Trustee has executed and delivered this certificate as of  
the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

U.S. BANK NATIONAL ASSOCIATION,  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Annex D

CERTIFICATE FOR DRAWING  
IN CONNECTION WITH A FINAL PAYMENT DRAFT

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

The undersigned, a duly authorized officer of the undersigned Trustee (the "Trustee"), hereby certifies to State Street Bank and Trust Company (the "Bank"), with reference to the Irrevocable Letter of Credit described above (the "Letter of Credit"; the terms defined therein and not otherwise defined herein are used herein as therein defined) issued by the Bank in favor of the Trustee, that:

- (1) The Trustee is the Trustee under the Trust Agreement.
- (2) The amount of the Final Payment Draft accompanying this certificate is equal to the sum of (i) \$ \_\_\_\_\_ being drawn in respect of the payment of unpaid principal of Certificates to be paid at maturity, prepaid or purchased and does not include any amount of principal of Certificates which is included in any Prepayment Draft or Tender Draft presented on or prior to the date of this certificate; and (ii) \$ \_\_\_\_\_ being drawn in respect of the payment of up to days' accrued and unpaid interest with respect to such Certificates, and does not include any amount of interest with respect to Certificates which is included in any Interest Payment Draft or Prepayment Draft or Tender Draft presented on or prior to the date of this certificate.
- (3) The Trustee is making a drawing under the Letter of Credit with respect to [a prepayment of all Outstanding Certificates pursuant to Section 6.01(a)(i) or (ii) or (b) of the Trust Agreement] [a purchase of all Outstanding Certificates pursuant to Section 3.05 or 3.06 of the Trust Agreement ] [ payment of the Certificates at their final maturity] (delete inapplicable text) .
- (4) After payment by the Bank of the Final Payment Draft accompanying this certificate, no Certificates will remain Outstanding (as defined in the Trust Agreement).
- (5) The amount of the Final Payment Draft accompanying this certificate was computed in accordance with the terms and conditions of the Certificates, the Trust Agreement, the Sublease and the Letter of Credit and does not exceed the amount available to be drawn under the Letter of Credit.
- (6) This certificate and the Final Payment Draft it accompanies are dated, and are being presented to the Bank, in conformity with the Letter of Credit, on the Business Day [immediately prior to the day] (delete if inapplicable) on which the unpaid principal amount and accrued and unpaid interest on all Outstanding Certificates is due and payable in accordance with the Trust Agreement.



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(7) None of the amounts specified in paragraph 2 are being drawn by the Trustee to pay any principal of or interest with respect to any Certificates owned by, or on behalf of, the Account Party or the Corporation.

(8) Upon payment of the draft accompanying this Final Payment Draft this Letter of Credit will terminate and no further draw certificates may be presented by us.

(9) The undersigned Trustee holds a Certificate registered in the name of the Bank for the account of the Bank in the principal amount referred to in clause (i) of paragraph 2 above.]<sup>1</sup>

IN WITNESS WHEREOF, the Trustee has executed and delivered this certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

U.S. BANK NATIONAL ASSOCIATION,  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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<sup>1</sup> Insert this certification only in the case of a drawing in connection with a mandatory purchase of Certificates pursuant to Section [ ] or [ ] of the Trust Agreement.

Annex E

REDUCTION CERTIFICATE

State Street Bank and Trust Company  
225 Franklin Street  
Boston, Massachusetts 02110  
Attention: Standby L/C Unit, Loan Operations, MAO/11

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

Ladies and Gentlemen:

The undersigned, a duly authorized officer of the undersigned Trustee (the "Trustee"), hereby certifies to State Street Bank and Trust Company (the "Bank"), with reference to the Irrevocable Letter of Credit described above (the "Letter of Credit"; the terms defined therein and not otherwise defined herein are used herein as therein defined) issued by the Bank in favor of the Trustee, that:

- (1) The Trustee is the Trustee under the Trust Agreement.
- (2) As of the date hereof, \$ \_\_\_\_\_ principal amount of Certificates were cancelled by the Trustee pursuant to Section \_\_\_\_\_ of the Trust Agreement.
- (3) We request you to reduce the Stated Principal Amount by \$ \_\_\_\_\_ [insert the amount set forth in paragraph (2) hereof] and the Stated Interest Amount by \$ \_\_\_\_\_ [multiply the amount set forth in paragraph (2) hereof by 0.15, divide the result thereof by 365 and multiply the result thereof by 43].

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION,  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Annex F

TERMINATION CERTIFICATE

State Street Bank and Trust Company  
225 Franklin Street  
Boston, Massachusetts 02110  
Attention: Standby L/C Unit, Loan Operations, MAO/11

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

Ladies and Gentlemen:

The undersigned, a duly authorized officer of the undersigned Trustee (the "Trustee"), hereby certifies to State Street Bank and Trust Company (the "Bank"), with reference to the Irrevocable Letter of Credit described above (the "Letter of Credit"; the terms defined therein and not otherwise defined herein are used herein as therein defined) issued by the Bank in favor of the Trustee, that:

- (1) The Trustee is the Trustee under the Trust Agreement.
- (2) As of the date hereof, [there are no Certificates Outstanding (as defined in the Trust Agreement)]/[an Alternate Letter of Credit (as defined in the Trust Agreement) has been substituted pursuant to the Trust Agreement]/[the Certificates have been converted to a mode other than a weekly mode or a monthly mode].
- (3) The Letter of Credit is by its terms terminated [on the date hereof]/[on \_\_\_\_\_, \_\_\_\_\_, which is five (5) days after the date on which the Certificates have been converted to a mode other than a weekly mode or a monthly mode] and is returned to you with this certificate.

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION,  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Annex G

TRANSFER CERTIFICATE

State Street Bank and Trust Company  
225 Franklin Street  
Boston, Massachusetts 02110  
Attention: Standby L/C Unit, Loan Operations, MAO/11

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

Ladies and Gentlemen:

For value received, the undersigned beneficiary hereby irrevocably transfers to:

\_\_\_\_\_  
[Name of Transferee]

\_\_\_\_\_  
[Address]

all rights of the undersigned beneficiary to draw under the above-captioned Letter of Credit (the "Letter of Credit"). The Transferee has properly succeeded the undersigned as Trustee under and in accordance with the Trust Agreement (as defined in the Letter of Credit).

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee, and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments, whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undesigned beneficiary.



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The Letter of Credit is returned herewith, together with a cashier's check in the amount of \$1,000, and in accordance therewith we ask that this transfer be effective and that you transfer the Letter of Credit to our Transferee or that, if so requested by the Transferee, you issue a new irrevocable letter of credit in favor of the Transferee with provisions substantially identical to the Letter of Credit.

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION,  
as predecessor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SIGNATURE OF THE ABOVE PERSON,  
DULY AUTHORIZED TO ACT ON  
BEHALF OF

\_\_\_\_\_  
AUTHENTICATED BY:

\_\_\_\_\_  
[Name and Title]

ACKNOWLEDGED BY:

[INSERT NAME OF TRANSFEREE],  
as successor Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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Annex H

SIGHT DRAFT

State Street Bank and Trust Company  
225 Franklin Street  
Boston, Massachusetts 02110  
Attention: Standby L/C Unit, Loan Operations, MAO/11

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

PAY TO \_\_\_\_\_, on \_\_\_\_\_,  
(Name of Trustee)

U.S. \$ \_\_\_\_\_ ( \_\_\_\_\_ UNITED STATES DOLLARS). Drawn  
under Irrevocable Letter of Credit No. [ \_\_\_\_\_ ] of State Street Bank and Trust Company.

\_\_\_\_\_  
(Name of Trustee)

\_\_\_\_\_  
(Title)



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Annex I

BANK TERMINATION CERTIFICATE

U.S. Bank National Association, as successor Trustee  
550 South Hope Street, Suite 500  
Los Angeles, California 90071

Re: Irrevocable Letter of Credit No. ILC-1305/BSN

Ladies and Gentlemen:

The undersigned, a duly authorized officer of State Street Bank and Trust Company (the "Bank"), hereby certifies to U.S. Bank National Association, as successor Trustee (the "Trustee"), with reference to the Irrevocable Letter of Credit described above (the "Letter of Credit"; the terms defined therein and not otherwise defined herein are used herein as therein defined) issued by the Bank in favor of the Trustee, that:

(1) We hereby certify that we have purchased all outstanding Certificates under the Trust Agreement, which Certificates are registered in the name of the Bank for the account of the Bank.

(2) We hereby notify you that the Letter of Credit will no longer be reinstated and will terminate upon your receipt of this Certificate.

Very truly yours,

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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