

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

TRANSBAY JOINT POWERS AUTHORITY
201 Mission Street, Suite 2100
San Francisco, California 94105
ATTENTION: Executive Director

(Space Above This Line For Recorders Use Only)

SITE LEASE – TJPA PROPERTY

Dated as of [June 1, 2016]

by and between

**TRANSBAY JOINT POWERS AUTHORITY,
as Lessor**

and

_____,
**in its capacity as Trustee,
as Lessee**

NO DOCUMENTARY TRANSFER TAX DUE. This Site Lease – TJPA Property is recorded for the benefit of the Transbay Joint Powers Authority and the recording is exempt under Section 27383 of the California Government Code and Section 11928 of the California Revenue and Taxation Code.

SITE LEASE – TJPA PROPERTY

THIS SITE LEASE – TJPA PROPERTY, dated as of [June] 1, 2016 (as amended, supplemented or modified from time to time, this “TJPA Site Lease”), is made between the TRANSBAY JOINT POWERS AUTHORITY, a joint exercise of powers agency duly created and existing under the Joint Exercise of Powers Act of the State of California, California Government Code Sections 6500 et seq. (the “TJPA”), as lessor, and the _____, a national banking association, solely in its capacity as Trustee (the “Trustee”) under the Trust Agreement – TJPA Property dated as of [June] 1, 2016 (as amended, supplemented or modified from time to time, the “TJPA Trust Agreement”) between the City and County of San Francisco (the “City”) and the Trustee, as lessee.

WITNESSETH:

That in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

Section 1. Definitions. All capitalized terms used herein without definition shall have the meanings given to such terms in the Leaseback Lease – TJPA Property, dated as of the date hereof, by and between the City and the TJPA (the “TJPA Leaseback”).

“Additional Series” means the Series of Lease Revenue Certificates executed and delivered pursuant to a Supplemental Trust Agreement.

“Advance” means (i) with respect to a Credit Facility, each advance or loan (whether a revolving loan or term loan) of funds made under and subject to the provisions contained in such Credit Facility or the related Reimbursement Agreement, as applicable, (ii) with respect to a Direct Placement Revolving Credit Agreement, each advance or loan (whether a revolving loan or term loan) of funds made under and subject to the provisions contained in such Direct Placement Revolving Credit Agreement, and (iv) with respect to a Certificate Purchase Agreement, each purchase of Direct Placement Revolving Certificates thereunder.

“Certificate Purchase Agreement” means (i) the Certificate Purchase Agreement dated [June] 1, 2016 by and between the City and Wells Fargo Bank, National Association relating to City and County of San Francisco Lease Revenue Direct Placement Revolving Certificates of Participation, (ii) the Certificate Purchase Agreement dated [June] 1, 2016 by and between the City and the Metropolitan Transportation Commission relating to City and County of San Francisco Lease Revenue Direct Placement Revolving Certificates of Participation, and (iii) any other Certificate Purchase Agreement by and between the City and any other Direct Placement Purchaser.

“City Trust Agreement” means the Trust Agreement – City Property dated as of [June] 1, 2016 (as amended, supplemented or modified from time to time, the “City Trust Agreement”) between the City and County of San Francisco (the “City”) and the Trustee

“Commercial Paper Certificates” means, collectively, (a) any Tax Exempt Commercial Paper Certificates, (b) any Taxable Commercial Paper Certificates, and (c) the City and County of San Francisco Lease Revenue Commercial Paper Certificates.

“Component” means, as the context requires, any of the following or any property added thereto or substituted therefor pursuant to this TJPA Site Lease or the TJPA Leaseback, but does not include any property released pursuant to the TJPA Leaseback:

- (i) [to come – make reference to Exhibit A]

“Credit Facility” means (a)(i) with respect to any Series of Commercial Paper Certificates, any irrevocable letter of credit, a line or lines of credit, a non-cancellable insurance policy or other credit facility provided by an LC Bank to facilitate the payment of Commercial Paper Certificates of such Series and (b) any Alternate Credit Facility.

“Credit Provider” means any LC Bank or any Direct Placement Bank.

“Credit Provider Agreement” means any Reimbursement Agreement, any Direct Placement Revolving Credit Agreement or Certificate Purchase Agreement.

“Direct Placement Bank” means, as applicable, any provider obligated to make Advances to the City under a Direct Placement Revolving Credit Agreement evidenced by one or more Direct Placement Revolving Certificate(s) executed and delivered as a Series pursuant to the provisions of the Trust Agreements.

“Direct Placement Purchaser” means a purchaser of Direct Placement Revolving Certificates under a Certificate Purchase Agreement.

“Direct Placement Revolving Certificates” means, as applicable, (a) the [Series ___] Direct Placement Revolving Certificates of Participation, and (b) one or more other certificates of participation executed and delivered as an additional series pursuant to the provisions of the Trust Agreements evidencing Advances made (i) by a Direct Placement Bank to the City pursuant to a Direct Placement Revolving Credit Agreement, or (ii) by a Direct Placement Purchaser pursuant to a Certificate Purchase Agreement.

“Direct Placement Revolving Credit Agreement” means, as applicable, (a) the [Series ___] Direct Placement Revolving Credit Agreement, and (b) any other revolving credit agreement and related fee letter agreement entered into among the City and a Direct Placement Bank providing for Advances made by such Direct Placement Bank to the City evidenced by one or more Direct Placement Revolving Certificate(s) executed and delivered as an Additional Series pursuant to the provisions of the TJPA Trust Agreement.

“LC Bank” means any issuer of a Credit Facility for any Series of Commercial Paper Certificates.

“Lease Revenue Certificate” means any Commercial Paper Certificate, any Revolving Certificate, or any Direct Placement Revolving Certificate, and “Lease Revenue Certificates” means the Commercial Paper Certificates, the Revolving Certificates and the Direct Placement

Revolving Certificates. A Series of Lease Revenue Certificates consisting of Commercial Paper Certificates shall also include the related Revolving Certificates.

“Permitted Encumbrances” means, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to Section 4.4 of the TJPA Sublease, permit to remain unpaid; (ii) the TJPA Sublease, as it may be amended from time to time; (iii) this TJPA Site Lease, as it may be amended from time to time; (iv) the TJPA Leaseback, dated as of [June] 1, 2016, by and between the City and TJPA pursuant to which the City subleases the Property to the TJPA for the duration of the TJPA Sublease; (v) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law or which the City may, pursuant to Section 4.4 of the TJPA Sublease, permit to remain unpaid; (vi) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions, all of a non-monetary nature, which exist of record as of the Closing Date, or with respect to any property that is added to or substituted for any Component, as of the date any such property is added to or substituted for any such Component, and, in each case, included in the exceptions and exclusions set forth in the title policies delivered pursuant to Section 4.3 of the TJPA Sublease; and (vii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions, all of a non-monetary nature, established following the Closing Date, or with respect to any property that is added to or substituted for any Component, as of the date any such property is added to or substituted for any such Component, and to which the City and the Credit Providers consent in writing.

“Reimbursement Agreement” means, collectively, (a) the Reimbursement Agreement, (b) the [Series B] Reimbursement Agreement, (c) the [Series A] or [Series C] Reimbursement Agreement, and (d) any reimbursement agreement and related fee letter agreement entered into between the City and any LC Bank in connection with the delivery of any Credit Facility supporting the payment of an Additional Series of Commercial Paper Certificates.

“Revolving Certificate” means, collectively, (a) any [Series A] Revolving Certificate, (b) any [Series B] Revolving Certificate, (c) any [Series C] Revolving Certificate, and (d) any promissory note or promissory notes executed and delivered pursuant to the provisions of the Trust Agreements and/or a Reimbursement Agreement in evidence of Advances made by an LC Bank under a Reimbursement Agreement to support the payment of Commercial Paper Certificates of an Additional Series, having the terms and characteristics contained therein and executed and delivered in accordance therewith.

“Supplemental Trust Agreement” means any agreement amending or supplementing either of the Trust Agreements or another Supplemental Trust Agreement.

“Tax Exempt Commercial Paper Certificates” means any Series of Commercial Paper Certificates bearing interest that is excludable from the gross income of the Owners thereof for federal income tax purposes.

“Tax Exempt Direct Placement Revolving Certificates” means (a) [the Series D Tax Exempt Direct Placement Revolving Certificate], and (b) any Direct Placement Revolving Certificates executed and delivered as an Additional Series evidencing Advances for the purpose

of financing Project Costs of the Tax Exempt Projects and bearing interest which is excludable from the gross income of the Owners thereof for federal income tax purposes.

“Tax Exempt Lease Revenue Certificates” means the Tax Exempt Commercial Paper Certificates, and the Tax Exempt Direct Placement Revolving Certificates.

“Taxable Commercial Paper Certificates” means any Series of Commercial Paper Certificates bearing interest that is not intended to be excluded from the gross income of the Owners thereof for federal income tax purposes.

“Taxable Direct Placement Revolving Certificates” means (a) [the Series D Taxable Direct Placement Revolving Certificate and (b) any Direct Placement Revolving Certificates (other than Tax Exempt Direct Placement Revolving Certificates) executed and delivered as an Additional Series for the purpose of financing Project Costs of the Taxable Projects and bearing interest that is not intended to be excluded from the gross income of the Owners thereof for federal income tax purposes.

“Taxable Lease Revenue Certificates” means the Taxable Commercial Paper Certificates and the Taxable Direct Placement Revolving Certificates.

“TJPA Leaseback” means the Leaseback Lease – TJPA Property, dated as of the date hereof, between the City, as lessor, and the TJPA, as lessee, pursuant to which the City subleases the Property to the TJPA for the duration of the TJPA Sublease.

“TJPA Sublease” means the Sublease – TJPA Property, dated as of the date hereof, between the Trustee, as lessor, and the City, as lessee, pursuant to which the Trustee subleases the Property to the City.

“Trust Agreements” means the TJPA Trust Agreement and the City Trust Agreement.

Section 2. Property. The TJPA hereby leases to the Trustee the real property located in the City more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “Property”), subject to the terms hereof and subject to any and all covenants, conditions, reservations, exceptions and other matters which are of record.

Section 3. Ownership. The TJPA represents and covenants that it is the sole owner of and holds fee title to the Property free and clear of any encumbrances other than Permitted Encumbrances, and has full power and authority to enter into this TJPA Site Lease and the TJPA Leaseback.

Section 4. Term. With respect to each Component, the term of this TJPA Site Lease shall begin on the date of recordation hereof and end on the earlier to occur of: (a) the date set forth with respect to such Component in Exhibit B to the TJPA Sublease; or (b) the date of termination of the TJPA Sublease with respect to such Component as provided in Section 2.2 thereof. Notwithstanding anything to the contrary contained herein, the term of this TJPA Site Lease with respect to each Component subject to this TJPA Site Lease at such time shall be extended such that the term of this TJPA Site Lease is coterminous with the term of the TJPA Sublease as extended pursuant to Section 2.2 of the TJPA Sublease.

Section 5. Rent. The Trustee shall pay to the TJPA an advance rent of \$1.00 as full consideration for this TJPA Site Lease over its term, the receipt of which is hereby acknowledged by the Trustee.

Section 6. Purpose. The Trustee shall use the Property solely for the purpose of subletting it to the City pursuant to the TJPA Sublease and for no other purpose whatsoever.

Section 7. Assignment and Lease. The Trustee shall not assign, mortgage, hypothecate or otherwise encumber this TJPA Site Lease or any rights hereunder or the leasehold created hereby by trust agreement, indenture or deed of trust or otherwise or sublet the Property or any Component without the written consent of the City (unless a default or event of default under the TJPA Sublease or the TJPA Trust Agreement shall have occurred and be continuing, in which case the consent of the City shall not be required), except that the Trustee expressly approves and consents to the TJPA Sublease, the TJPA Leaseback and the TJPA Trust Agreement, and the pledge of the Trustee's right, title and interest in and to this TJPA Site Lease and the TJPA Sublease, including the Base Rentals and other payments under the TJPA Sublease.

Section 8. Right of Entry. The TJPA reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time.

Section 9. Expiration. The Trustee agrees, upon the expiration of this TJPA Site Lease, to quit and surrender the Property.

Section 10. Quiet Enjoyment. The Trustee at all times during the term of this TJPA Site Lease shall peaceably and quietly have, hold and enjoy all of the Property, subject to the TJPA Sublease and the TJPA Leaseback.

Section 11. Taxes. The TJPA covenants and agrees to pay any and all taxes and assessments levied or assessed upon the Property and improvements thereon.

Section 12. Eminent Domain. If the Property or any Component shall be taken under the power of eminent domain, the interest of the Trustee shall be recognized and is hereby determined to be the aggregate amount of unpaid Base Rental and Additional Rental with respect to the Property or Component under the TJPA Sublease through the remainder of its term (excluding any contingent or potential liabilities), and such proceeds shall be paid to the Trustee, in accordance with the terms of the TJPA Sublease and the TJPA Trust Agreement.

Section 13. Default. In the event that the Trustee or its assignee shall be in default in the performance of any obligation on its part to be performed under the terms of this TJPA Site Lease, the TJPA may exercise any and all remedies granted by law, except that no merger of this TJPA Site Lease and of the TJPA Leaseback shall be deemed to occur as a result thereof; provided, however, that the TJPA shall have no power to terminate this TJPA Site Lease by reason of any default on the part of the Trustee or its assignee if such termination would prejudice the exercise of the remedies provided the Trustee in Section 12 of the TJPA Sublease. So long as any such assignee of the Trustee or any successor in interest to the Trustee shall duly perform the terms and conditions of this TJPA Site Lease, such assignee shall be deemed to be and shall become the tenant of the TJPA hereunder and shall be entitled to all of the rights and privileges granted under any such assignment.

In furtherance of the foregoing, the TJPA and the Trustee agree that: (i) the TJPA will simultaneously mail to each Credit Provider a copy of any notice given by the TJPA to the Trustee; (ii) prior to taking any action upon a default by the Trustee or its assignee in the performance of any obligation under the terms of this TJPA Site Lease, the TJPA shall provide written notice thereof to each Credit Provider, and thereupon such Credit Provider shall have the right, but not the obligation, to cure any such default. In that connection, the TJPA will not take action to effect a termination of this TJPA Site Lease or to re-enter or take possession of the Property or any Component as a consequence of such default except upon the prior written direction of 100% of the Credit Providers. Furthermore, if this TJPA Site Lease shall be rejected or disaffirmed pursuant to any bankruptcy law or other law affecting creditors' rights or if this TJPA Site Lease is terminated for any other reason whatsoever, the TJPA will use its best efforts to enter into a new lease of the Property at the request of the Required Credit Providers, for the remainder of the term of this TJPA Site Lease, effective as of the date of such rejection or disaffirmance or termination. So long as (x) any Credit Facility facilitating a Series of Commercial Paper Certificates is in effect or there shall remain outstanding any obligations to an LC Bank in respect of payments made under any Credit Facility, (y) any Direct Placement Revolving Credit Agreement is in effect or there shall remain outstanding any obligations to a Direct Placement Bank in respect of payments made under any Direct Placement Revolving Credit Agreement, or (z) any Certificate Purchase Agreement is in effect or there shall remain outstanding any Lease Revenue Certificate purchased thereunder, (i) the TJPA will not accept a voluntary surrender of this TJPA Site Lease and (ii) this TJPA Site Lease shall not be modified in any material respect without, in each case, the prior written consent of 100% of the Credit Providers.

Section 14. Notices. All notices, requests, demands or other communications under this TJPA Site Lease by any person shall be in writing and shall be 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 facsimile transmission or electronic facility or courier or if mailed by registered or certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

City: Transbay Joint Powers Authority
201 Mission Street, Suite 2100
San Francisco, California 94105
Attention: Executive Director

Trustee: [to come]

or to such other address or addresses as any such person shall have designated to the other by notice given in accordance with the provisions of this Section 14.

Copies of any such notices, requests, demands or other communications under this TJPA Site Lease given by either the TJPA or the Trustee shall be provided to each Credit Provider as set forth in the applicable Credit Provider Agreement, or to such other address or addresses as each Credit Provider shall have designated to the TJPA and the Trustee by notice given in accordance with the provisions of this Section 14.

Section 15. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants or conditions of this TJPA Site Lease shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this TJPA Site Lease shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 16. Governing Law; Venue. This TJPA Site Lease is made in the State under the Constitution and laws of the State and is to be so construed. If any party to this TJPA Site Lease initiates any legal or equitable action to enforce the terms of this TJPA Site Lease, to declare the rights of the parties under this TJPA Site Lease or which relates to this TJPA Site Lease in any manner, each such party agrees that the place of making and for performance of this TJPA Site Lease is the City and County of San Francisco, State of California, and the proper venue for any such action is any court of competent jurisdiction.

Section 17. Amendments. This TJPA Site Lease may be amended only in accordance with and as permitted by the terms of Section 8.02 of the TJPA Trust Agreement.

Section 18. Execution in Counterparts. This TJPA Site Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 19. No Merger. If both the TJPA's and the Trustee's estates under this TJPA Site Lease, the TJPA Sublease or the TJPA Leaseback or any other lease relating to any Property or any portion thereof shall at any time by any reason become vested in one owner, this TJPA Site Lease and the estate created hereby shall not be destroyed or terminated by the doctrine of merger unless the TJPA so elects as evidenced by recording a written declaration so stating, and, unless and until the TJPA so elects, the TJPA and the Trustee shall continue to have and enjoy all of their respective rights and privileges as to the separate estates.

Section 20. Third Party Beneficiaries. Each Credit Provider shall be a third party beneficiary of this TJPA Site Lease with the power to enforce the same until the later of (i) the date the respective Credit Facility or Direct Placement Revolving Credit Agreement has terminated and been surrendered to such Credit Provider for cancellation and (ii) the date all amounts payable under the respective Credit Provider Agreement and Revolving Certificates or Direct Placement Revolving Certificate, as applicable, have been satisfied in full.

Section 21. [TJPA Requirements. Additional requirements of the TJPA with respect to this TJPA Site Lease are attached as Exhibit B and are incorporated by reference herein, and, by executing this TJPA Site Lease, the Trustee is agreeing to comply with those provisions.]

IN WITNESS WHEREOF, the parties have executed this TJPA Site Lease as of the date first above written.

TRANSBAY JOINT POWERS AUTHORITY,
as Lessor

By: _____
Executive Director

APPROVED AS TO FORM:

By: _____
Legal Counsel

_____, as
Trustee and Lessee

By: _____
Authorized Officer

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that real property situated in the City and County of San Francisco, State of California, described as follows, and any improvements thereto:

[See attached pages]