

RECORDING REQUESTED BY:

CITY AND COUNTY OF SAN FRANCISCO

When Recorded Mail To:

CITY AND COUNTY OF SAN FRANCISCO

Office of the City Attorney

City Hall

1 Dr. Carlton B. Goodlett Place, Room 234

San Francisco, California 94102

Attention: Mark Blake

[FIFTH] SUPPLEMENT TO PROJECT LEASE

by and between

**U.S. BANK NATIONAL ASSOCIATION,
as Lessor**

and the

**CITY AND COUNTY OF SAN FRANCISCO,
as Lessee**

Dated as of [Dated Date]

Relating to:

#[Amount]

**CITY AND COUNTY OF SAN FRANCISCO
CERTIFICATES OF PARTICIPATION, SERIES [2020_]
(MULTIPLE CAPITAL IMPROVEMENT PROJECTS)**

NO DOCUMENTARY TRANSFER TAX IS DUE PURSUANT
TO REVENUE AND TAXATION CODE SECTION 11922
AND THIS DOCUMENT IS EXEMPT FROM RECORDING FEES
PURSUANT TO GOVERNMENT CODE SECTION 27383

THIS [FIFTH] SUPPLEMENT TO PROJECT LEASE, dated as of [DATED DATE] (this “[Fifth] Supplement to Project Lease”), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation organized and existing under its charter and the Constitution and laws of the State of California (the “City”), as lessee, and U.S. BANK NATIONAL ASSOCIATION, a national banking association, solely in its capacity as Trustee under the hereinafter defined Trust Agreement, as lessor (the “Trustee”);

WITNESSETH:

WHEREAS, the City and the Trustee have previously entered into a Property Lease, dated as of May 1, 2009 (the “Original Property Lease”), pursuant to which the City has leased certain real property and all works, property, improvements, structures and fixtures thereon (collectively, the “Original Leased Property”) to the Trustee; and

WHEREAS, the City and the Trustee have previously entered into a Project Lease, dated as of May 1, 2009, recorded in the Official Records of San Francisco on May 26, 2009, in Reel J898, Image 0417, DOC-2009-1769826-00 (the “Original Project Lease”), under which the Trustee has leased the Original Leased Property back to the City;

WHEREAS, in order to provide funds for certain capital improvements of the City consisting of health care and assisted living facilities located at 375 Laguna Honda Boulevard in the City (the “2009A Project”), the Trustee executed and delivered certificates of participation captioned “\$163,335,000 City and County of San Francisco Certificates of Participation, Series 2009A (Multiple Capital Improvement Projects)” (the “2009A Certificates”) under a Trust Agreement, dated as of May 1, 2009, between the City and the Trustee (the “Original Trust Agreement” and, together with the Original Property Lease and the Original Project Lease, the “Original Agreements”);

WHEREAS, the 2009A Certificates evidence direct undivided interests in the lease payments made by the City under the Original Project Lease in connection with the financing of the 2009A Project and certain related matters;

WHEREAS, in order to provide funds for certain street improvements of the City (the “2009B Project”), the Trustee subsequently executed and delivered a series of certificates of participation captioned “\$37,885,000 City and County of San Francisco Certificates of Participation, Series 2009B (Multiple Capital Improvement Projects)” (the “2009B Certificates”) under a First Supplement to Trust Agreement dated as of September 1, 2009 (the “First Supplement to Trust Agreement”);

WHEREAS, in connection with the execution and delivery of the 2009B Certificates, pursuant to Section 5 of the Original Property Lease, the City and the Trustee have previously entered into a First Supplement to Property Lease, dated as of September 1, 2009 (the “First Supplement to Property Lease”), supplementing the Original Property Lease to provide for additional rental to be paid by the Trustee in connection with the financing of the 2009B Project and certain related matters;

WHEREAS, in connection therewith, under Section 3.2 of the Original Project Lease, the City and the Trustee simultaneously entered into a First Supplement to Project Lease, dated as of

September 1, 2009, by and between the City and the Trustee (the “First Supplement to Project Lease”), supplementing the Original Project Lease to provide for additional Base Rental to be paid by the City in connection with the financing of the 2009B Project and certain related matters;

WHEREAS, the 2009B Certificates were executed and delivered as Additional Certificates pursuant to Section 7.04 of the Original Trust Agreement, and evidence direct undivided interests in the Base Rental payments to be made by the City under the Original Project Lease, as supplemented by the First Supplement to Project Lease, on a parity basis with the 2009A Certificates;

WHEREAS, in order to provide funds for certain street improvements of the City (the “2012A Project”), the Trustee subsequently executed and delivered a series of certificates of participation captioned “\$42,835,000 City and County of San Francisco Certificates of Participation, Series 2012A (Multiple Capital Improvement Projects)” (the “2012A Certificates”) under a Second Supplement to Trust Agreement dated as of June 1, 2012 (the “Second Supplement to Trust Agreement”);

WHEREAS, in connection with the execution and delivery of the 2012A Certificates, pursuant to Section 5 of the Original Property Lease, the City and the Trustee have previously entered into a Second Supplement to Property Lease, dated as of June 1, 2012 (the “Second Supplement to Property Lease”), supplementing the Original Property Lease to provide for additional rental to be paid by the Trustee in connection with the financing of the 2012A Project and certain related matters;

WHEREAS, in connection therewith, under Section 3.2 of the Original Project Lease, the City and the Trustee simultaneously entered into a Second Supplement to Project Lease, dated as of June 1, 2012, by and between the City and the Trustee (the “Second Supplement to Project Lease”), supplementing the Original Project Lease to provide for additional Base Rental to be paid by the City in connection with the financing of the 2012A Project and certain related matters;

WHEREAS, the 2012A Certificates were executed and delivered as Additional Certificates pursuant to Section 7.04 of the Original Trust Agreement, and evidence direct undivided interests in the Base Rental payments to be made by the City under the Original Project Lease, as supplemented by the First Supplement to Project Lease and Second Supplement to Project Lease, on a parity basis with the 2009A Certificates and the 2009B Certificates;

[WHEREAS, in order to provide funds for the acquisition of capital equipment, including mechanical street sweepers and other capital expenditures and the prepayment of all or a portion of the 2009A Certificates and all or a portion of the 2009B Certificates (collectively, the “2019-R1 Project”), the Trustee is executing and delivering, or has executed and delivered, a series of certificates of participation captioned “\$[___] City and County of San Francisco Refunding Certificates of Participation, Series 2019-R1 (Multiple Capital Improvement Projects)” (the “2019-R1 Certificates”) under a Third Supplement to Trust Agreement dated as of [DATED DATE], 2019 (the “Third Supplement to Trust Agreement”);

WHEREAS, in connection with the execution and delivery of the 2019-R1 Certificates, the City and the Trustee will enter into, or have previously entered into, a Third Supplement to Property Lease, dated as of [DATED DATE], 2019 (the “Third Supplement to Property Lease”),

supplementing the Original Property Lease to provide for additional or adjusted rental to be paid by the Trustee in connection with the financing of the 2019-R1 Project and certain related matters;

WHEREAS, in connection therewith, the City and the Trustee will simultaneously enter into, or have simultaneously entered into, a Third Supplement to Project Lease, dated as of [DATED DATE], 2019, by and between the City and the Trustee (the “Third Supplement to Project Lease”), supplementing the Original Project Lease to provide for additional or adjusted Base Rental to be paid by the City in connection with the financing of the 2019-R1 Project and certain related matters;

WHEREAS, the 2019-R1 Certificates will be, or were, executed and delivered as Additional Certificates pursuant to Section 7.04 of the Original Trust Agreement, and evidence direct undivided interests in the lease payments made by the City under the Original Project Lease, as supplemented by the First Supplement to Project Lease, the Second Supplement to Project Lease and the Third Supplement to Project Lease, on a parity basis with the outstanding 2009A Certificates, 2009B Certificates and 2012A Certificates and any other certificates of participation of the City authorized and issued pursuant to additional, respective, executed and delivered supplements to the Original Agreements, prior to the issuance of the 2019-R1 Certificates;

WHEREAS, in order to provide funds for the (i) the acquisition of certain real property located at 814-820 Bryant Street and 470 6th Street within the City and related site demolition, preparation and improvement, including through the repayment of certain taxable commercial paper notes of the City issued for such purposes, and (ii) the acquisition of certain additional property located at 1828 Egbert Avenue within the City and related site demolition, preparation and improvement (collectively, the “[2020A] Project”), all in connection with the City’s planned relocation of certain Hall of Justice facilities currently located at and adjacent to 850 Bryant Street within the City, the Trustee is executing and delivering, or has executed and delivered, a series of certificates of participation captioned “\$[___] City and County of San Francisco Certificates of Participation, Series [2020A] (Multiple Capital Improvement Projects)” (the “[2020A] Certificates”) under a [Fourth] Supplement to Trust Agreement dated as of [MONTH 1], 2020 (the “[Fourth] Supplement to Trust Agreement”);

WHEREAS, in connection with the execution and delivery of the [2020A] Certificates, the City and the Trustee will enter into, or have previously entered into, a [Fourth] Supplement to Property Lease, dated as of [MONTH 1], 2020 (the “[Fourth] Supplement to Property Lease”), supplementing and amending the Original Property Lease to add certain real property and all improvements thereon to the Original Leased Property leased by the City to the Trustee pursuant to the Property Lease, as supplemented and amended (all such real property and improvements, collectively, the “Leased Property”) and to provide for additional or adjusted rental to be paid by the Trustee in connection with the financing of the [2020A] Project and certain related matters;

WHEREAS, in connection therewith, the City and the Trustee will simultaneously enter into, or have simultaneously entered into, a [Fourth] Supplement to Project Lease, dated as of [MONTH 1], 2020, by and between the City and the Trustee (the “[Fourth] Supplement to Project Lease”), supplementing and amending the Original Project Lease to provide for the lease by the Trustee of the Leased Property back to the City and for additional or adjusted Base Rental to be

paid by the City in connection with the financing of the [2020A] Project and certain related matters;

WHEREAS, the [2020A] Certificates will be, or were, executed and delivered as Additional Certificates pursuant to Section 7.04 of the Original Trust Agreement, and evidence direct undivided interests in the lease payments made by the City under the Original Project Lease, as supplemented by the First Supplement to Project Lease, the Second Supplement to Project Lease, [the Third Supplement to Project Lease and the Fourth Supplement to Project Lease], on a parity basis with the outstanding 2009A Certificates, 2009B Certificates and 2012A Certificates and any other certificates of participation of the City authorized and issued pursuant to additional, respective, executed and delivered supplements to the Original Agreements, respectively, prior to the issuance of the [2020A] Certificates;]

WHEREAS, the City desires to provide for the (i) the acquisition of certain real property located within the City for City purposes and (ii) the improvement and equipping of certain existing real property and improvements owned and maintained by the City, including but not limited to the improvement and equipping of the existing Hall of Justice facilities located at 850 Bryant Street within the City and adjacent and related facilities, including through the repayment of certain commercial paper notes of the City issued for such purposes (collectively, the “[2020_] Project”);

WHEREAS, in order to provide funds for the [2020_] Project, the Trustee is executing and delivering a series of certificates of participation captioned “\$[PAR AMOUNT] City and County of San Francisco Certificates of Participation, Series [2020_] (Multiple Capital Improvement Projects)” (the “[2020_] Certificates”) under the [Fifth] Supplement to Trust Agreement, dated as of [DATED DATE], by and between the City and the Trustee (the “[Fifth] Supplement to Trust Agreement” and, collectively with the Original Trust Agreement, the First Supplement to Trust Agreement, the Second Supplement to Trust Agreement, the Third Supplement to Trust Agreement and the Fourth Supplement to Trust Agreement], the “Trust Agreement”);

WHEREAS, in connection with the execution and delivery of the [2020_] Certificates, the City and the Trustee are entering into the [Fifth] Supplement to Property Lease, dated as of [DATED DATE] (the “[Fifth] Supplement to Property Lease” and, collectively with the Original Property Lease, the First Supplement to Property Lease, the Second Supplement to Property Lease[, the Third Supplement to Property Lease and the Fourth Supplement to Property Lease], the “Property Lease”), supplementing the Original Property Lease (as previously supplemented and amended) to provide for the lease of the Leased Property by the City to the Trustee, additional rental to be paid by the Trustee in connection with the financing of the [2020_] Project and certain related matters;

WHEREAS, in connection therewith, under Section 3.2 of the Original Project Lease, the City and the Trustee are simultaneously entering into this [Fifth] Supplement to Project Lease, dated as of [DATED DATE] (the “[Fifth] Supplement to Project Lease” and, collectively with the Original Project Lease, the First Supplement to Project Lease, the Second Supplement to Project Lease[, the Third Supplement to Project Lease and the Fourth Supplement to Project Lease], the “Project Lease”), supplementing the Original Project Lease (as previously supplemented and amended) to provide for the lease of the Leased Property by the Trustee back to the City,

additional Base Rental to be paid by the City in connection with the financing of the [2020_] Project and certain related matters;

WHEREAS, the [2020_] Certificates are being executed and delivered as Additional Certificates pursuant to Section 7.04 of the Original Trust Agreement, and evidence direct undivided interests in the lease payments made by the City under the Project Lease, on a parity basis with the outstanding 2009A Certificates, 2009B Certificates, 2012A Certificates [and 2020A Certificates] and any other certificates of participation of the City authorized and issued pursuant to additional, respective, executed and delivered supplements to the Original Agreements, prior to the issuance of the [2020_] Certificates; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree to supplement and amend the Original Project Lease as follows:

Section 1. Base Rental. The City agrees to pay, from any legally available funds, additional aggregate Base Rental in the amounts set forth under the caption “Base Rental Schedule” in Exhibit A hereto, which constitutes the principal and interest represented by the [2020_] Certificates. The additional Base Rental consists of annual rental payments with principal and interest components, the interest components being paid semiannually as interest on the principal components computed on the basis of a 360-day year composed of twelve 30-day months. The Base Rental payable by the City shall be due on April 1 and October 1 in each year and payable on each March 25 and September 25 during the Project Lease Term, commencing [_____] 25, 20[___]. Such Base Rental provided in Exhibit A hereto is supplemental to the amounts due as provided in Section 1 and Exhibit A of the Second Supplement to Project Lease[, to the amounts due as provided in Section 1 and Exhibit A of the Third Supplement to Project Lease and to the amounts due as provided in Section 1 and Exhibit B of the Fourth Supplement to Project Lease].

The City shall deposit the Base Rental with the Trustee for application by the Trustee in accordance with the terms of the Original Trust Agreement. If any such date of deposit is not a Business Day, such deposit shall be made on the next succeeding Business Day. In no event shall the amount of Base Rental payable exceed the aggregate amount of principal and interest required to be paid or prepaid on the corresponding Interest Payment Date as represented by the Outstanding Certificates, according to their tenor.

The City has determined that such total rental in any Fiscal Year is not and will not be in excess of the total fair rental value of the Leased Property for such Fiscal Year. In making such determination, consideration has been given to the uses and purposes served by the Leased Property and the benefits therefrom that will accrue to the parties by reason of this [Fifth] Supplement to Project Lease and to the general public by reason of the City’s use of the Leased Property.

Section 2. Amendment and Restatement of the Second Paragraph of Section 2 of the Original Project Lease Relating to Project Lease Term. The Second Paragraph of Section 2 of the Original Project Lease is hereby amended and restated as follows: The term of the Project Lease shall begin on May 27, 2009, and end on the earliest of

(a) April 1, 20[___] or

(b) at such earlier date as the Certificates and all other amounts due hereunder and under the Trust Agreement have been paid or provision for their payment have been made in accordance with Section 11.01 of the Trust Agreement, or

(c) the date of termination of the Project Lease due to casualty or condemnation in accordance with the terms of Section 5 or 6 of the Project Lease;

provided, however, that, to the extent permitted by law, if Base Rental has been abated in any year in accordance with Section 3.5 of the Project Lease or has otherwise gone unpaid in whole or in part, the term of the Project Lease shall end on the earlier of the date falling 10 years after the date set forth in subparagraph (a) above, or April 1, 20[YEAR IN CLAUSE (a) PLUS 10], or the date on which no Certificates remain Outstanding and all Additional Rental has been paid.

Section 3. Original Project Lease Still in Effect. This [Fifth] Supplement to Project Lease and all the terms and provisions herein contained shall form part of the Original Project Lease, as previously supplemented by the First Supplement to Project Lease, the Second Supplement to Project Lease[, the Third Supplement to Project Lease and the Fourth Supplement to Project Lease], as fully and with the same effect as if all such terms and provisions had been set forth in the Original Project Lease. The Original Project Lease, as previously supplemented by the First Supplement to Project Lease, the Second Supplement to Project Lease[, the Third Supplement to Project Lease and the Fourth Supplement to Project Lease], is hereby ratified and confirmed and shall continue in full force and effect in accordance with the terms and provisions thereof, as supplemented and amended hereby.

Section 4. Insurance. A new Section 4.3[(i)] is hereby added to Section 4.3 of the Original Project Lease as follows:

[(i)] The City shall deliver to the Trustee, on the date of execution and delivery of the [2020_] Certificates, evidence of the commitment of a title insurance company to issue a CLTA or ALTA policy of title insurance (with no survey required), in an amount at least equal to the initial aggregate principal amount of the [2020_] Certificates, showing a leasehold interest in the Leased Property in the name of the Trustee and naming the insured parties as the City and the Trustee, for the benefit of the Owners of the [2020_] Certificates.

Section 5. Governing Law. This [Fifth] Supplement to Project Lease shall be governed by and construed in accordance with the laws of the State of California.

Section 6. Counterparts. This [Fifth] Supplement to Project Lease may be signed in several counterparts, each of which will constitute an original, but all of which shall constitute one and the same instrument.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this [Fifth] Supplement to Project Lease as of the date first above written.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

CITY AND COUNTY OF SAN FRANCISCO

By: _____
London Breed
Mayor

[SEAL]

ATTEST:

By: _____
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

[Signature page to [Fifth] Supplement to Project Lease – City and County of San Francisco]

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public,
personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public,
personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

CERTIFICATE OF ACCEPTANCE BY CITY AND COUNTY OF SAN FRANCISCO

This is to certify that the interest in real property conveyed by the [Fifth] Supplement to Project Lease, dated as of [DATED DATE], from U.S. Bank National Association to the City and County of San Francisco, a charter city and county and municipal corporation, is hereby accepted by the undersigned on behalf of the Board of Supervisors pursuant to authority conferred by ordinance of the Board of Supervisors adopted by the Board of Supervisors on [____], 2019, and signed by the Mayor on [____], 2019, and the grantee consents to recordation thereof.

Dated: ____, 2020

CITY AND COUNTY OF SAN FRANCISCO

By: _____
London Breed
Mayor

[SEAL]

ATTEST:

By: _____
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

DENNIS J. HERRERA
CITY ATTORNEY

By: _____
Deputy City Attorney

EXHIBIT A
BASE RENTAL SCHEDULE*

<i>Payment Date</i>	<i>Principal</i>	<i>Interest</i>	<i>Semi-Annual Base Rental</i>	<i>Annual Base Rental</i>
---------------------	------------------	-----------------	------------------------------------	-------------------------------

**[Breakdown of [___] and [___] Base Rental Payments
to be included on following pages or in a closing certificate]**

* Base Rental is payable on each September 25th and March 25th prior to the Payment Date as provided under the Project Lease.