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Attention: Philip C. Morgan, Esq.

FOURTH AMENDMENT TO MASTER FACILITIES SUBLEASE

by and between

FRESNO JOINT POWERS FINANCING AUTHORITY

and the

CITY OF FRESNO

(Amending the Master Facilities Sublease dated as of April 1, 2008)

Dated as of October 1, 2020

TABLE OF CONTENTS

	Page
ARTICLE XX DEFINITIONS.....	3
Section 20.01 Additional Definitions	3
ARTICLE XXI LEASE OF SERIES 2020A FACILITY TERM	4
Section 21.01 Sublease of Series 2020A Facilit	4
Section 21.02 Effective Date	4
ARTICLE XXII RENTAL PAYMENTS FOR FACILITIES	6
Section 22.01 Amendment of Base Rental Payments for Facilities	6
Section 22.02 Amendment of Additional Payments for Facilities	6
ARTICLE XXIII MISCELLANEOUS PROVISIONS.....	6
Section 23.02 Tax Covenants	6
Section 23.03 Continuing Disclosure	6
Section 23.04 Validity and Severability	7
Section 23.05 Facilities Sublease in Full Force and Effect	7
Section 23.06 Execution in Counterparts.....	7
EXHIBIT A ADDITION TO FACILITIES	A-1
EXHIBIT B BASE RENTAL PAYMENT SCHEDULE FOR SERIES 2020A FACILITY	B-2

FOURTH AMENDMENT TO MASTER FACILITIES SUBLEASE

This Fourth Amendment to Master Facilities Sublease, dated as of October 1, 2020 (the “Fourth Amendment to Facilities Sublease”), by and between FRESNO JOINT POWERS FINANCING AUTHORITY (the “Authority”), a public entity and agency, duly organized and existing pursuant to an agreement entitled “Joint Exercise of Powers Agreement” by and between the City of Fresno and the Redevelopment Agency of the City of Fresno, as lessor, and the CITY OF FRESNO (the “City”), a charter city and municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, as lessee;

WITNESSETH:

WHEREAS, the City has entered into a Master Facilities Lease with the Authority, dated as of April 1, 2008, and recorded on April 29, 2008 in the Office of the County Recorder of the County (the “County Recorder”) under Recorder’s Serial No. 2008-0061752, as amended and supplemented by the First Amendment to Master Facilities Lease, dated as of May 1, 2008, and recorded on June 12, 2008 in the Office of the County Recorder under Recorder’s Serial No. 2008-0085028, the Second Amendment to Master Facilities Lease, dated as of August 1, 2008, and recorded on August 14, 2008 in the Office of the County Recorder under Recorder’s Serial No. 2008-0115786, and the Third Amendment to Master Facilities Lease, dated as of May 1, 2017 and recorded on May 10, 2017 in the Office of the County Recorder under Recorder’s Serial No. 2017- 0057676 (the “Facilities Lease”), pursuant to which certain facilities and the respective sites (collectively, the “Facilities”) were leased to the Authority;

WHEREAS, the City has entered into a Fourth Amendment to Master Facilities Lease with the Authority, dated as of October 1, 2020 (the “Fourth Amendment to Facilities Lease”), further amending and supplementing the Facilities Lease, pursuant to which certain additional real property was added to the Facilities and leased to the Authority;

WHEREAS, the City has entered into a Master Facilities Sublease with the Authority, dated as of April 1, 2008, and recorded on April 29, 2008 in the Office of the County Recorder under Recorder’s Serial No. 2008-0061753 (the “Original Sublease”), as amended and supplemented by a First Amendment to Master Facilities Sublease with the Authority, dated as of May 1, 2008, and recorded on June 12, 2008 in the Office of the County Recorder under Recorder’s Serial No. 2008-0085029 (the “First Amendment to Original Sublease”), a Second Amendment to Master Facilities Sublease with the Authority, dated as of August 1, 2008, and recorded on August 14, 2008 in the Office of the County Recorder under Recorder’s Serial No. 2008-0115787 (the “Second Amendment to Original Sublease”), and a Third Amendment to Master Facilities Sublease with the Authority, dated as of May 1, 2017 and recorded on May __, 2017 in the Office of the County Recorder under Recorder’s Serial No. 2017-_____ (the “Third Amendment to Original Sublease, and, collectively with the Original Sublease, First Amendment to Original Sublease and Second Amendment to Original Sublease, the “Facilities Sublease”) pursuant to which the Authority leased back the Facilities to the City;

WHEREAS, the City has requested the Authority to assist the City in the financing of the construction of an Animal Services Facility located in the City (the “Series 2020A Project”);

WHEREAS, this Fourth Amendment to Master Facilities Sublease is entered into in order to amend and supplement in certain respects the Facilities Sublease in order to add the Series 2020A Project to the real property leased back by the Authority to the City pursuant to the Facilities Sublease;

WHEREAS, the Authority has issued \$40,955,000 aggregate principal amount of its Lease Revenue Refunding Bonds (the “Series 2008 A/B Bonds”) pursuant to a Master Trust Agreement, dated as of April 1, 2008 (the “Master Trust Agreement”), between the Authority and The Bank of New York Mellon Trust Company, N.A. (the “Trustee”);

WHEREAS, the Authority has issued \$37,685,000 aggregate principal amount of its Lease Revenue Bonds (the “Series 2008 C/D Bonds”) pursuant to the Master Trust Agreement, as amended and supplemented by the First Supplemental Trust Agreement, dated as of May 1, 2008 (the “First Supplemental Trust Agreement”), between the Authority and the Trustee;

WHEREAS, the Authority has issued \$24,815,000 aggregate principal amount of its Lease Revenue Bonds (the “Series 2008 E/F Bonds”) pursuant to the Master Trust Agreement, as amended and supplemented by the Second Supplemental Trust Agreement, dated as of August 1, 2008 (the “Second Supplemental Trust Agreement”), between the Authority and the Trustee

WHEREAS, the Authority has issued \$146,280,000 aggregate principal amount of its Lease Revenue Bonds (the “Series 2017 A/B Bonds”) pursuant to the Master Trust Agreement, as amended and supplemented by the Third Supplemental Trust Agreement, dated as of May 1, 2017 (collectively with the Master Trust Agreement, the First Supplemental Trust Agreement and the Second Supplemental Trust Agreement, the “Trust Agreement”), between the Authority and the Trustee;

WHEREAS, the Authority has agreed to issue \$[PAR] aggregate principal amount of Fresno Joint Powers Financing Authority Lease Revenue Bonds (Master Lease Projects), (the “Series 2020A Bonds” and together with the Series 2008 A/B Bonds, the Series 2008 C/D Bonds, the Series 2008 E/F Bonds, the Series 2017 A/B Bonds and any Additional Bonds, the “Bonds”), pursuant to the Trust Agreement, as amended and supplemented by a Fourth Supplemental Trust Agreement, to be dated as of October 1, 2020 (the “Fourth Supplemental Trust Agreement”), between the Authority and the Trustee, for the purpose of financing the 2020 Project;

WHEREAS, the Authority will use the proceeds of the Series 2020A Bonds to pay the costs of the construction of the Series 2020A Project and related expenses; and

WHEREAS, under this Fourth Amendment to Master Facilities Sublease, the City will be obligated to make base rental payments to the Authority for the lease of the Series 2020A Project which will be used to pay a portion of the debt service on the Bonds;

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

ARTICLE XX

DEFINITIONS

Section 20.01 Additional Definitions. From and after the effective date of this instrument, the following new definitions and amended definitions shall be added to Section 1.01 of the Facilities Sublease, in alphabetical order, to read as follows:

Expiry Date

The term “Expiry Date” means, with respect to the Series 2020A Facility, ____ 1, ____.

Fourth Amendment to Facilities Lease

The term “Fourth Amendment to Facilities Lease” means the Fourth Amendment to Master Facilities Lease between the City and the Authority, dated as of October 1, 2020, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions thereof.

Fourth Amendment to Facilities Sublease

The term “Fourth Amendment to Facilities Sublease” means this Fourth Amendment to Master Facilities Sublease between the Authority and the City, dated as of October 1, 2020, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof.

Fourth Supplemental Trust Agreement

The term “Fourth Supplemental Trust Agreement” means the Fourth Supplemental Trust Agreement between the Authority and the Trustee, dated as of October 1, 2020, pursuant to which the Trustee will execute and deliver the Series 2020A Bonds, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions of the Trust Agreement.

Series 2020A Facility

The term “Series 2020A Facility” means that certain real property, together with the Series 2020A Project to be constructed thereon, situated in the City of Fresno, State of California, and leased from the Authority to the City pursuant to this Fourth Amendment to Facilities Sublease, described in Exhibit A attached hereto and made a part hereof, together with any additional real property added thereto by any supplement or amendment hereto or any real property substituted for all or any portion of such property in accordance with the Facilities Sublease and the Trust Agreement; subject, however, to any conditions, reservations, and easements of record or known to the City.

[Series 2020A Bond Insurer

The term “Series 2020A Bond Insurer” means Assured Guaranty Municipal Corp., a New York stock insurance company, or any successor thereto or assignee thereof.]

Series 2020A Bonds

The term “Series 2020A Bonds” means the bonds issued by the Authority under and pursuant to the Trust Agreement and the Fourth Supplemental Trust Agreement, the proceeds of which will be applied to the financing of the Series 2020A Project and to the payment of costs related thereto.

Series 2020A Lease Term

The term “Series 2020A Lease Term” means the period from the commencement of this Fourth Amendment to Facilities Sublease until the date of termination of this Fourth Amendment to Facilities Sublease as provided for in Section 20.02, unless such term is extended or sooner terminated as hereinafter provided.

Series 2020A Project

The term “Series 2020A Project” means the animal services facility to be located at [address].

ARTICLE XXI

LEASE OF SERIES 2020A FACILITY TERM

Section 21.01 Sublease of Series 2020A Facility. Authority hereby subleases to the City and the City hereby subleases from the Authority the Series 2020A Facility, subject to Permitted Encumbrances. The Series 2020A Facility shall be included in the term "Facilities" as used in the Facilities Sublease. The City hereby agrees and covenants during the term of this Fourth Amendment to Facilities Sublease that, except as hereinafter provided, it will use the Series 2020A Facility for public and City purposes so as to afford the public the benefits contemplated by the Facilities Sublease.

The Facilities Lease between the City and the Authority shall not effect or result in a merger of the City's leasehold estate pursuant to the Facilities Sublease and the City's fee estate as lessor under the Facilities Lease, and the Authority shall continue to have and hold a leasehold estate in said Facilities pursuant to the Facilities Lease throughout the term thereof and the term of the Facilities Sublease.

Section 21.02 Effective Date. This Fourth Amendment to Facilities Sublease shall become effective on the date of recordation of this instrument in the Office of the County Recorder or on November 1, 2020, whichever is earlier, and such date of commencement shall be hereinafter referred to as the "effective date," and on the effective date the additional real property, and the Series 2020A Project to be constructed thereon, as more fully set forth in Exhibit A to this Fourth Amendment to Facilities Sublease, is hereby added to the Facilities

Sublease and shall be encumbered by the Facilities Sublease, and references to the Facilities in the Facilities Sublease shall hereafter include the Series 2020A Facility.

It is contemplated that the City will take possession of the Series 2020A Project and each and every part thereof on or before ____ 1, ____ and the obligation to pay Base Rental Payments shall commence on such date. If the Series 2020A Project or any part thereof shall be substantially completed before ____ 1, __ the City may take possession of the Series 2020A Project or such part thereof upon such substantial completion. The City covenants that it will cause the Series 2020A Project to be acquired, designed, constructed, and equipped with all practicable dispatch, but solely through the Authority's appointment of the City as the Authority's agent for such purposes. The City acknowledges and agrees that as the Authority's agent it will be solely responsible for the acquisition, design, construction, and equipping of the Series 2020A Project, and all other tasks or activities necessary or desirable to construct a fully functional Series 2020A Project usable by the City for its intended purpose.

If the Authority, through its appointment of the City as the Authority's agent, for any reason whatsoever cannot deliver possession of the Series 2020A Project or any part thereof to the City on ____ 1, ____, this Lease shall not be void or voidable, nor shall the Authority be liable to the City for any loss or damages resulting therefrom; but in that event the Base Rental Payments payable hereunder shall be abated proportionately in the proportion on which the acquisition, design, construction, and equipping costs of the part or parts of the Series 2020A Project not yet delivered to the City bears to the acquisition, design, construction, and equipping costs of the entire Series 2020A Project with respect to the period between ____ 1, ____, and the time when the Authority delivers possession of such part.

The term of this Fourth Amendment to Facilities Sublease as to the Series 2020A Facility shall end on the Expiry Date, unless such term is extended or sooner terminated as hereinafter provided. If on the Expiry Date, the Series 2020A Bonds and all other amounts then due hereunder with respect to the Series 2020A Facility shall not be fully paid, or if the Base Rental Payments hereunder with respect to the Series 2020A Facility shall have been abated at any time and for any reason, then the term of this Fourth Amendment to Facilities Sublease with respect to the Series 2020A Facility shall be extended until the Series 2020A Bonds and all other amounts then due hereunder with respect to the Series 2020A Facility shall be fully paid, except that the term of this Fourth Amendment to Facilities Sublease as to the Series 2020A Facility shall in no event be extended beyond ten (10) years after the Expiry Date. If prior to such Expiry Date, all Series 2020A Bonds and all other amounts then due hereunder with respect to the Series 2020A Facility shall be fully paid, or provision therefor made, the term of this Fourth Amendment to Facilities Sublease as to the Series 2020A Facility shall end ten (10) days thereafter or upon written notice by the City to the Authority, whichever is earlier.

Section 21.03 [Reserved]

ARTICLE XXII

RENTAL PAYMENTS FOR FACILITIES

Section 22.01 Amendment of Base Rental Payments for Facilities. The City agrees to pay to the Trustee, as assignee of the Authority, as Base Rental Payments for the use and occupancy of the Series 2020A Facility (subject to the provisions of Sections 3.06 of the Facilities Sublease), annual rental payments, in accordance with the Rental Payment Schedule attached to this Fourth Amendment to Facilities Sublease as Exhibit B and made a part hereof. Base Rental Payments with respect to the Series 2020A Facility shall be calculated on an annual basis. Each Base Rental Payment installment shall be payable ten (10) days in advance of its due date.

If the term of this Fourth Amendment to Facilities Sublease shall have been extended pursuant to Section 21.02 hereof, Base Rental Payment installments shall continue to be due on April 1 and October 1 in each year, continuing to and including the date of termination of this Fourth Amendment to Facilities Sublease, and payable as hereinabove described, in an amount equal to the amount of Base Rental payable for the twelve-month period commencing on the April 2 preceding the Expiry Date.

Section 22.02 Amendment of Additional Payments for Facilities. The City shall obtain a leasehold owner's policy or policies or a commitment for such policy or policies or an amendment or endorsement to an existing policy or policies resulting in title insurance with respect to the Series 2020A Facility in an amount at least equal to the principal amount of the Series 2020A Bonds. Such insurance instrument, when issued, shall name the Trustee as the insured, and shall insure the leasehold estate of the Authority subject only to such exceptions as do not substantially interfere with the City's right to use and occupy the property and as such will not result in an abatement of Base Rental Payments payable by the City under this Fourth Amendment to Facilities Sublease.

ARTICLE XXIII

MISCELLANEOUS PROVISIONS

Section 23.01 [Reserved]

Section 23.02 Tax Covenants. The City and the Authority shall at all times do and perform all acts and things permitted by law which are necessary or desirable in order to assure that the interest on the Series 2020A Bonds will not be included in the gross income of the owner thereof for federal income tax purposes and shall take no action that would result in such interest being so included. To that end, the City shall comply with the provisions of the Tax Certificate, which is incorporated herein by reference as if set forth at this place.

Section 23.03 Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Fourth Amendment to Facilities Sublease, failure of the City to comply with the Continuing Disclosure Certificate shall not be

considered a default; however, the Trustee may (and, at the request of any Participating Underwriter (as defined in the Continuing Disclosure Certificate) or the Holders of at least 25% aggregate principal amount in Outstanding Series 2020A Bonds, upon payment of its fees and expenses, including counsel fees and receipt of indemnification satisfactory to it, shall, or any Holder or Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section. For purposes of this Section, “Beneficial Owner” means any person which has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2020A Bonds (including persons holding Series 2020A Bonds through nominees, depositories or other intermediaries).

Section 23.04 Validity and Severability. If for any reason this Fourth Amendment to Facilities Sublease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Authority or by the City, or if for any reason it is held by such a court that any of the covenants and conditions of the City hereunder, including the covenant to pay rentals under this Fourth Amendment to Facilities Sublease, is unenforceable for the full term hereof, then and in such event this Fourth Amendment to Facilities Sublease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the City annually in consideration of the right of the City to possess, occupy and use the Facilities, and all of the rental and other terms, provisions and conditions of this Fourth Amendment to Facilities Sublease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

Section 23.05 Facilities Sublease in Full Force and Effect. Except as is in this Fourth Amendment to Facilities Sublease expressly provided, the Facilities Sublease shall continue in full force and effect in accordance with the terms and provisions thereof, as amended and supplemented hereby.

Section 23.06 Execution in Counterparts. This Fourth Amendment to Facilities Sublease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Fourth Amendment to Facilities Sublease. It is also agreed that the Authority and City may each execute separate counterparts of this Fourth Amendment to Facilities Sublease, all with the same force and effect as though both had executed the same counterpart.

IN WITNESS WHEREOF, the Authority and the City have caused this Fourth Amendment to Facilities Sublease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

FRESNO JOINT POWERS FINANCING
AUTHORITY, as Lessor

By _____

Attest:

Secretary

CITY OF FRESNO, as Lessee

By _____

Attest:

City Clerk

EXHIBIT A

ADDITION TO FACILITIES

DESCRIPTION OF SERIES 2020A FACILITY

EXHIBIT B

BASE RENTAL PAYMENT SCHEDULE FOR SERIES 2020A FACILITY

Base Rental Payment Date	Principal	Interest	Aggregate Base Rental Payment	Annual Base Rental Payment
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