

**DRAFT**  
**8/25/2020**

Recording requested by  
and return to:

CITY OF FRESNO  
c/o Orrick, Herrington & Sutcliffe LLP  
The Orrick Building  
405 Howard Street  
San Francisco, California 94105

Attention: Philip C. Morgan, Esq.

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**FOURTH AMENDMENT TO MASTER FACILITIES LEASE**

between the

**CITY OF FRESNO**

and

**FRESNO JOINT POWERS FINANCING AUTHORITY**

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

**DATED AS OF OCTOBER 1, 2020**

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## **FOURTH AMENDMENT TO MASTER FACILITIES LEASE**

This Fourth Amendment to Master Facilities Lease (the “Fourth Amendment to Facilities Lease”), dated as of October 1, 2020, by and between the CITY OF FRESNO, a charter city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the “City”), as lessor, and the FRESNO JOINT POWERS FINANCING 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” (the “Authority”), as lessee;

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

WHEREAS, this Fourth Amendment to Facilities Lease is entered into in order to amend and supplement in certain respects a lease between the City and the Authority entitled “Master Facilities Lease,” dated as of April 1, 2008, and recorded on April 29, 2008 in the Office of the County Recorder of the County of Fresno (the “County Recorder”), under Recorder’s Serial No. 2008-0061752 (the “Original Lease”), 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 “First Amendment to Original Lease”), and 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 (the “Second Amendment to Original Lease”), 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- 0057675 (the “Third Amendment to Original Lease” and, collectively with the Original Lease, the First Amendment to Original Lease and the Second Amendment to Original Lease, the “Facilities Lease”);

WHEREAS, the Authority has issued \$40,955,000 aggregate principal amount of its Lease Revenue 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 a 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 a 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 2017A/B Bonds”) pursuant to a Third Supplemental Trust Agreement, dated as of May 1, 2017 (the “Third Supplemental Trust Agreement” and, together 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 City has requested the Authority to assist the City in financing the construction of an Animal Services Facility located in the City (the “2020A Project”);

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

WHEREAS, the Authority will use the proceeds of the Series 2020A Bonds for the purpose of financing the construction of the 2020A Project;

WHEREAS, the Authority will lease back the Series 2020A Project to the City pursuant to the Master Facilities Sublease, dated as of April 1, 2008, as amended and supplemented by a First Amendment to Master Facilities Sublease, dated as of May 1, 2008, the Second Amendment to Master Facilities Sublease, dated as of August 1, 2008, and the Third Amendment to Master Facilities Sublease, dated as of May 1, 2017 (the “Facilities Sublease”), and as further amended and supplemented by the Fourth Amendment to Master Facilities Sublease, dated as of October 1, 2020 (the “Fourth Amendment to Facilities Sublease”), each between the Authority, as lessor, and the City, as lessee; and

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

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

**Section 45. Effective Date.**

This Fourth Amendment to Facilities Lease shall become effective on the date of recordation of this instrument in the Office of the County Recorder of the County of Fresno, State of California, or on November 1, 2020, whichever is earlier, and such date of commencement shall be hereinafter referred to as the “Effective Date.”

**Section 46. Addition to Facilities.**

From and after the Effective Date of this instrument, the City hereby leases to the Authority and the Authority hereby hires from the City, on the terms and conditions set forth herein, the real property and improvements to be constructed thereon as described in Exhibit A attached hereto and made a part hereof, as such real property descriptions may be amended or modified, including removal or substitution or addition of property in accordance with the Facilities Lease, as amended, the Facilities Sublease, as amended, and the Trust Agreement, as

supplemented (collectively, the “Series 2020A Facility”), which real property is hereby added to the “Facilities” leased pursuant to the Facilities Lease (the term “Facilities” is hereby amended to include the Series 2020A Facility, and capitalized terms used herein and not otherwise defined herein have the meanings assigned thereto by the Facilities Lease). The Authority agrees to lease the Series 2020A Facility back to the City pursuant to the Facilities Sublease. The Series 2020A Facility is subject to Permitted Encumbrances.

**Section 47. Amendment to Term of Facilities Lease.**

The following is hereby added to Section 2 of the Facilities Lease:

“The term of this Lease as to the Series 2020A Facility shall commence on the Effective Date and shall end on April 1, \_\_\_\_, unless such term is extended or sooner terminated as hereinafter provided. If on April 1, \_\_\_\_, the Base Rental Payments payable by the City attributable to the Series 2020A Facility and all other amounts due under the Trust Agreement and under the Facilities Sublease attributable to the Series 2020A Facility shall not be fully paid, or if the Base Rental Payments or other amounts payable under the Facilities Sublease with respect to the Series 2020A Facility shall have been abated at any time and for any reason, or shall not have been fully paid, then the term of this Lease with respect to the Series 2020A Facility shall be extended until ten (10) days after the Base Rental Payments attributable to the Series 2020A Facility and all other amounts due under the Trust Agreement and the Facilities Sublease with respect to the Series 2020A Facility shall be fully paid, except that the term of this Lease as to the Series 2020A Facility shall in no event be extended beyond April 1, \_\_\_\_. If, prior to April 1, \_\_\_\_, the Base Rental Payments attributable to the Series 2020A Facility and all other amounts then due under the Facilities Sublease with respect to the Series 2020A Facility shall be fully paid, the term of this Lease shall end ten (10) days thereafter or after written notice by the City to the Authority, whichever is earlier.”

**Section 48. Rental.**

The Authority shall pay to the City as and for rental hereunder the sum of \$1.00.

**Section 49. Effect of this Amendment.**

On and after the Effective Date, each reference in the Facilities Lease to the Facilities shall mean the Facilities as amended hereby to include the Series 2020A Facility. Except as is in this Fourth Amendment to Facilities Lease expressly provided, the Facilities Lease shall continue in full force and effect in accordance with the terms and provisions thereof, as amended and supplemented hereby.

**Section 50. Partial Invalidity.**

If a court of competent jurisdiction declares any one or more of the terms, provisions, covenants or conditions of this Fourth Amendment to Facilities Lease invalid, unenforceable, void or voidable for any reason whatsoever, the finding or order or decree of

which becomes final, none of the remaining terms, provisions, covenants and conditions of this Fourth Amendment to Facilities Lease shall be affected thereby, and each provision of this Fourth Amendment to Facilities Lease shall be valid and enforceable to the fullest extent permitted by law.

**Section 51. Section Headings.**

All section headings contained herein are for reference only and are not intended to define or limit the scope of any provision of this lease.

**Section 52. Execution.**

This Fourth Amendment to Facilities Lease 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 Lease. It is also agreed that the Authority and the City may separately execute counterparts of this Fourth Amendment to Facilities Lease with the same force and effect as though the City and the Authority had both executed each counterpart.

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

CITY OF FRESNO, Lessor

By \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

FRESNO JOINT POWERS FINANCING  
AUTHORITY, Lessee

By \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary

**EXHIBIT A**

**ADDITION TO FACILITIES**

**DESCRIPTION OF SERIES 2020A FACILITY**



