

FIRST AMENDMENT TO SITE LEASE

This First Amendment to Site Lease dated as of [_____] 1, 2017 (this “First Amendment”) is made and entered into by and between the CITY OF FRESNO, a charter city and municipal corporation organized and existing under the Constitution and the 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, to amend that certain Site Lease, dated as of May 15, 2001 (the “Site Lease”), by and between the City and the Authority, recorded in the Official Records of the County of Fresno, California, on [____], 2001 as Document No. [_____].

W I T N E S S E T H

WHEREAS, pursuant to the Site Lease, the Authority agreed to lease from the City certain real property located in the City, together with improvements, if any, from time to time located thereon (as more particularly described in the Site Lease, the “Demised Premises”);

WHEREAS, pursuant to that certain Facility Lease, dated as of May 15, 2001 (the “Facility Lease”), the City agreed to lease the Demised Premises back from the Authority for the purposes and in the manner described therein;

WHEREAS, pursuant to Section 1 of the Site Lease and Section 2.03 of the Facility Lease, the City has the right at any time to, among other things, substitute properties as the Demised Premises, subject to and in compliance with the terms of the Site Lease and Facility Lease;

WHEREAS, the City desires to withdraw certain real property and the improvements thereon, if any, from the Demised Premises (as described in Exhibit A, the “Withdrawn Property”) and to substitute certain real property and the improvements thereon, if any, as described in Exhibit B hereto (the “Substituted Property”) and has in all respects duly authorized such withdrawal and substitution and the execution and delivery of this First Amendment; and

WHEREAS, the Substituted Property is the Project financed with the Site Lease and Facility Lease;

NOW, THEREFORE, THIS FIRST AMENDMENT TO SITE LEASE expressly declares that in consideration of mutual covenants and agreements herein and in the Site Lease contained, the City and the Authority do hereby agree and covenant as follows:

SECTION 1. Termination of Withdrawn Property. The Site Lease is hereby terminated with respect to the Withdrawn Property, as described in Exhibit A, and the Withdrawn Property is hereby withdrawn as part of the Demised Premises.

SECTION 2. Addition of Substituted Property. The Substituted Property, as described in Exhibit B hereto, is hereby added to the Site Lease and shall hereafter constitute the “Demised Premises” for purposes of the Site Lease.

SECTION 3. Amendment of Property Description. The property description of the Demised Premises as set forth in Exhibit A to the Site Lease is hereby amended and replaced in its entirety by the property description set forth in Exhibit B hereto.

SECTION 4. California Law. This First Amendment shall be construed and governed in accordance with the laws of the State of California.

SECTION 5. Effective Upon Execution; Counterparts. This First Amendment shall become effective upon the date of recordation hereof in the office of the Fresno County Recorder. This First Amendment may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the City and the Authority shall preserve undestroyed, shall together constitute but one and the same instrument.

SECTION 6. Effect of Amendment. From and after the date of recordation hereof in the office of the Fresno County Recorder, the Site Lease shall be deemed to be modified and amended in accordance with this First Amendment, and the respective rights, duties and obligations under the Site Lease of the City and the Authority shall thereafter be determined, exercised and enforced as specified in the Site Lease subject in all respects to the modification and amendment contained herein and the terms and conditions of this First Amendment shall be deemed to be a part of the terms and conditions of the Site Lease for any and all purposes.

SECTION 7. Definitions. Capitalized terms used in this First Amendment and not otherwise defined shall have the meanings given such terms in the Site Lease.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the parties hereto have executed and attested this First Amendment to Site Lease by their officers thereunto duly authorized as of the day and year first written above.

CITY OF FRESNO, as Lessor

By _____
Controller

FRESNO JOINT POWERS FINANCING
AUTHORITY, as Lessee

By _____
Treasurer and Controller

CONSENT OF THE TRUSTEE

The undersigned, as Trustee pursuant to that certain Trust Agreement dated as of May 15, 2001 by and between Fresno Joint Powers Financing Authority and Wells Fargo Bank, National Association, as trustee, relating to Fresno Joint Powers Financing Authority Lease Revenue Bonds (Multi-Purpose Stadium) Series 2001B (Federally Taxable), hereby consents to the execution and delivery of this First Amendment to Site Lease for the purposes set forth herein.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, N.A., as Trustee

By _____
Authorized Officer

[NOTARY ACKNOWLEDGEMENTS TO BE INCLUDED HERE]

EXHIBIT A
DESCRIPTION OF WITHDRAWN PROPERTY
(MULTI-PURPOSE STADIUM)

[to be added]

EXHIBIT B

(THIS EXHIBIT AMENDS EXHIBIT A TO THE SITE LEASE)

**DESCRIPTION OF SUBSTITUTED PROPERTY
(SAROYAN THEATRE AND FIRE STATION NO. 19)**

All that certain real property, together with all buildings and other improvements, if any, from time to time located thereon, situated in the City of Fresno, State of California, described as follows:

[to be added]

Recording Requested By:

City of Fresno, California

After Recording Mail To:

Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105
Attn: Philip C. Morgan, Esq.

(Recording Fee Exempt under Section 6103 of the California Government Code)

FIRST AMENDMENT TO SITE LEASE

by and between

the

CITY OF FRESNO

and the

FRESNO JOINT POWERS FINANCING AUTHORITY

Dated as of [____], 2017

(Relating to the Site Lease dated as of May 15, 2001 and recorded on [____], 2001.)

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