

ORDINANCE NO. 2021-31

**AN ORDINANCE OF THE CITY OF VINELAND, IN THE COUNTY OF CUMBERLAND, NEW JERSEY APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE PURCHASE AGREEMENT WITH THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY RELATING TO THE ISSUANCE OF UP TO \$21,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE AUTHORITY'S CITY GENERAL OBLIGATION LEASE REVENUE BONDS (VINELAND PUBLIC FACILITIES PROJECTS) AND ANY NOTES ISSUED IN ANTICIPATION THEREOF BY THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY**

**WHEREAS**, the Cumberland County Improvement Authority (the "Authority"), a public body corporate and politic constituting an instrumentality of the State of New Jersey (the "State") established and created under the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State and the acts amendatory thereof and supplemental thereto (the "Act"), is authorized pursuant to the terms of the Act, to provide public facilities, as such term is defined therein, within the County of Cumberland, New Jersey, including financing for the acquisition of same; and

**WHEREAS**, the City of Vineland, New Jersey (the "City") desires to undertake a capital project consisting of the construction, furnishing and equipping of a new fire station and public works building, as described below, on property currently owned by the City (the "Project Sites"); and

**WHEREAS**, the City has requested financial assistance from the Authority for the purposes of providing funds to pay: (i) the costs for the development and construction of an approximately 35,000 square foot fire station on Northwest Boulevard (Block 2912, Lot 1) in the City ("Fire Station Project"); (ii) the costs of the development and construction of an approximately 5,000 square foot public works facility at the site of the current DPW building on Walnut Road (Block 5007, Lot 56) in the City ("Public Works Project"; together with the Fire Station Project, the "Facilities Projects"); (iii) all other costs and expenses necessary for or related to the development, construction and equipping of the Facilities Projects; (iv) capitalized interest on any bonds, notes or other debt obligations issued by the Authority to finance the costs thereof; and (v) the costs of issuance with respect to the proposed financing (collectively, the "2021 Project"); and

**WHEREAS**, the Facilities Projects each constitute a "public facility" as such term is defined in the Act; and

**WHEREAS**, in order to finance the 2021 Project the Authority will issue bonds, and possibly notes issued in anticipation thereof, in one or more series, including renewals, in an aggregate principal amount not to exceed \$21,000,000, to be designated as "City General Obligation Lease Revenue Bonds (Vineland Public Facilities Projects) (collectively, the "Bonds") with such further designation as may be determined by the Authority and in accordance with the terms of a resolution of the Authority entitled, "Bond Resolution of the Cumberland County

Improvement Authority Authorizing the Issuance and Sale of up to \$21,000,000 Aggregate Principal Amount of the Authority's City General Obligation Lease Revenue Bonds (Vineland Public Facilities Projects), Series 2021, In One or More Series, On a Tax-Exempt Basis; Making Certain Determinations and Approvals With Respect To Said Bonds; and Authorizing Certain Actions" (together with any amendments thereof or supplements thereto in accordance with the terms thereof, the "General Bond Resolution"); and

**WHEREAS**, the Authority will use proceeds from the sale and issuance of the Bonds to, among other things, finance the 2021 Project, and simultaneously therewith, enter into a lease purchase agreement with the City to be dated as of the first day of the month of issuance of the initial series of Bonds (together with any amendments thereof or supplements thereto in accordance with its terms, the "Lease Purchase Agreement"), pursuant to which the Authority will lease the Project Sites from the City, construct the Facilities Projects, and simultaneously lease the Project Sites and the Facilities Projects back to the City for its use (the transactions contemplated hereinabove shall be referred to as the "Financing") as set forth in the Lease Purchase Agreement a copy of which is attached hereto as Exhibit A, subject to such changes and revisions as the City and Authority may determine to be necessary; and

**WHEREAS**, pursuant to the Act, specifically Section 34 thereof (N.J.S.A. 40:37A-77) and Section 35 thereof (N.J.S.A. 40:37A-78), the Authority is authorized to enter into and perform any lease or other agreement, including the Lease Purchase Agreement, with the City for the lease from the City of the Project Sites and the lease to or use by the City of all or any part of any public facility, including the Project Sites and Facilities Projects, on any terms and conditions which may be agreed upon by the City and the Authority; and

**WHEREAS**, the Bonds shall be secured by valid and binding general obligation lease payments of the City under the Lease Purchase Agreement, in scheduled lease payment amounts sufficient to pay in a timely manner the principal and redemption premium, if any, of and interest on the Bonds; and

**WHEREAS**, in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), prior to the issuance of the initial series of Bonds, the Authority will have made a detailed report to the Board of County Commissioners, which report will include, without limitation, the General Bond Resolution, the Bonds and the Lease Purchase Agreement (collectively, the "Financing Documents"); and

**WHEREAS**, to the extent applicable, this ordinance is also intended to satisfy the provisions of N.J.S.A. 40A:12-1 et seq. concerning the acquisition of real property by a municipality;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VINELAND, IN THE COUNTY OF CUMBERLAND, NEW JERSEY, AS FOLLOWS:**

**Section 1.** The 2021 Project, as further described in the Lease Purchase Agreement (a form of which is attached hereto as Exhibit A), is hereby approved and the Mayor, Administrator and the Chief Financial Officer of the City (each, an “Authorized Officer”) are hereby each severally authorized and directed, upon the satisfaction of all the legal conditions precedent to the execution or acknowledgment and delivery by the City of the Lease Purchase Agreement for the Project Sites and Facilities Projects, and such other agreements, indentures, certificates or documents that may be necessary or useful and convenient in connection with the execution of the Lease Purchase Agreement and the issuance, from time to time, of the Bonds to be so executed or acknowledged by the City (collectively, the “Project Documents”), to execute or acknowledge and deliver such Project Documents in substantially the forms on file in the office of the Clerk of the City, with such changes thereto as such Authorized Officer, after consultation with counsel to the City, bond counsel to the City and other professional advisors to the County and the Authority (together, the “Consultants”), deems in their discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence such Authorized Officer’s approval of any changes to the forms thereof, including without limitation the amendment of debt service/lease payment schedules in the Lease Purchase Agreement for the issuance of additional series of Bonds (which includes bonds and notes issued in anticipation of bonds, or to refund prior series of bonds or notes), the insertion, from time to time, of the final financing terms in the Lease Purchase Agreement that will result from the sale of the Bonds, which financing terms shall be limited only by those financing term parameters set forth in the application of the Authority filed with the Local Finance Board, in the Division of Local Government Services, Department of Community Affairs, and the parameters set forth herein.

**Section 2.** The Clerk of the City is hereby authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 1 hereof in accordance with Section 1 hereof, to attest to each Authorized Officer’s execution or acknowledgment of such documents and is hereby further authorized and directed to thereupon affix the seal of the City to such documents.

**Section 3.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 1 and 2 hereof, each Authorized Officer is hereby authorized and directed to (i) deliver the fully executed or acknowledged, attested and sealed documents to the other parties thereto and (ii) perform such other actions as such Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 4.** The City hereby authorizes the preparation and the distribution of financial statements and demographic and other information concerning the City, the 2021 Project, the General Bond Resolution, the Bonds, the Lease Purchase Agreement and the Project Documents and the transactions contemplated thereby contained in any Preliminary Official Statements and final Official Statements to be issued by the Authority, from time to time, in connection with the

marketing and sale of the Bonds. In furtherance of such authorization, the City Council hereby directs each Authorized Officer to take such action and execute such certificates, documents or instruments as such Authorized Officer, after consultation with the Consultants, deems in his or her sole discretion to be necessary, desirable or convenient in connection with the preparation and distribution of the Preliminary Official Statement(s) and the final Official Statement(s) to market and sell the Bonds at the most efficient economical cost to the City.

**Section 5.** Each Authorized Officer is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the execution and delivery of the Lease Purchase Agreement, Project Documents, the leasing of the Project Sites and Facilities Projects, the undertaking of the 2021 Project and all related transactions contemplated by this ordinance and by the Project Documents and necessary or desirable in connection with the issuance of the Bonds, including all determinations with respect to the refunding of Bonds.

**Section 6.** Each Authorized Officer is hereby authorized to enter, from time to time, into the appropriate undertakings to provide secondary market disclosure on behalf of the City pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of the Bonds and to amend such undertakings from time to time in connection with any change in law, or interpretation thereof, provided each such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the City fails to comply with its undertakings, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

**Section 7.** The full faith and credit of the City are hereby pledged to the punctual payment of all payments due under the Lease Purchase Agreement. The obligation to make such payments shall be a general obligation of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the City for the payments due under the Lease Agreement without limitation of rate or amount.

**Section 8.** To the extent applicable, the City hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code") or the Authority, in order to preserve the exemption from taxation of interest on the Bonds, including the requirement to rebate all net investment earnings on the gross proceeds above the yield on the Bonds, if necessary.

**Section 9.** The provisions of this ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue to be in full force and effect.

**Section 10.** This ordinance shall take effect in accordance with applicable law.

Exhibit A

Form of Lease Purchase Agreement

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**LEASE AGREEMENT**

**BETWEEN**

**THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY**

**AND**

**CITY OF VINELAND  
COUNTY OF CUMBERLAND, NEW JERSEY**

**Dated as of August 1, 2021**

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THIS LEASE AGREEMENT, dated as of August 1, 2021 ("Lease Agreement"), between The Cumberland County Improvement Authority ("Authority"), a public body corporate and politic and a political subdivision of the State of New Jersey ("State"), and the City of Vineland, County of Cumberland, New Jersey ("City"), a body politic and corporate of the State.

**WITNESSETH:**

**WHEREAS**, the Authority, a public body corporate and politic and a political subdivision of the State of New Jersey ("State"), organized and existing under the Act (as hereinafter defined) and created pursuant to a resolution of the Board of Chosen Freeholders of the County of Cumberland ("County") adopted on December 30, 1980, and any successor to its duties and functions, is authorized by the County Improvement Authorities Law, constituting Chapter 183 of the Laws of 1960 of the State of New Jersey, as amended and supplemented (*N.J.S.A. 40:37A-44 et seq.*) ("Act"), to provide within the County, public facilities (as defined in the Act) for use by the State, the County or any beneficiary county, or any municipality in the County, or any two (2) or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes; and

**WHEREAS**, the Authority is authorized by the Act, specifically *N.J.S.A. 40:37A-78*, to enter into and perform any lease or other agreement with a county, municipality, governmental unit or Person for the lease to or use by such county, municipality, governmental unit or person of all or any part of any public facility or facilities; and

**WHEREAS**, the City has requested assistance from the Authority for purposes of providing funding to pay: (i) the costs for demolition of the existing structure, and subsequent development and construction of an approximately 35,000 square foot fire station on Northwest Boulevard (Block 2912, Lot 1) in the City ("Fire Station Project"); (ii) the costs of the development and construction of an approximately 5,000 square foot public works facility at the site of the current DPW building on Walnut Road (Block 5007, Lot 56) in the City ("Public Works Project"; together with the Fire Station Project, the "Facilities Projects"); (iii) all other costs and expenses necessary for or related to the development, construction and equipping of the Facilities Projects; (iv) capitalized interest on any bonds, notes or other debt obligations issued by the Authority to finance the costs thereof; (v) the costs of issuance with respect to the proposed financing; and (vi) the costs of issuance with respect to the proposed financing, all as further set forth in the information submitted to the Authority in connection therewith or as previously discussed among the parties (collectively, the "Project"); and

**WHEREAS**, the City has requested assistance from the Authority in the development and financing of the Project; and

**WHEREAS**, the Authority, in recognition of the importance of a new facility for the City, has offered to provide support and assistance to the City with respect to facilitating the financing of the Project; and

**WHEREAS**, the Authority has determined, pursuant to the Act, to finance the costs of the Project through the issuance of one or more series (which may include at least one series of tax-exempt bonds and one series of federally taxable bonds) of its "City General Obligation

Lease Revenue Bonds (Vineland Public Facilities Projects), Series 2021" in an aggregate principal amount not to exceed \$21,000,000 ("Series 2021 Bonds"); and

**WHEREAS**, the Series 2021 Bonds will be issued pursuant to the terms of the Authority's bond resolution, adopted June \_\_, 2021, entitled "BOND RESOLUTION OF THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$21,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE AUTHORITY'S CITY GENERAL OBLIGATION LEASE REVENUE BONDS (VINELAND PUBLIC FACILITIES PROJECTS), SERIES 2021, IN ONE OR MORE SERIES, ON A TAX-EXEMPT BASIS; MAKING CERTAIN DETERMINATIONS AND APPROVALS WITH RESPECT TO SAID BONDS; AND AUTHORIZING CERTAIN ACTIONS", as amended, modified and supplemented (the "Bond Resolution"), the Act, and an Indenture of Trust, dated as of August 1, 2021 ("Indenture"), by and between the Authority and the Trustee (as hereinafter defined), and other applicable law; and

**WHEREAS**, the City, shall pursuant to an ordinance authorize and approve, *inter alia*, the issuance of the Series 2021 Bonds and the execution and delivery of this Agreement and the Indenture; and

**WHEREAS**, the Authority has applied to the Local Finance Board of the State Department of Community Affairs, Division of Local Government Services ("Local Finance Board"), for review of the Project and the financing thereof with the proceeds of the Series 2021 Bonds and has received the requisite positive findings from the Local Finance Board on June 9, 2021; and

**WHEREAS**, the Authority will, pursuant to the Act: (i) provide for the financing of the Costs (as hereinafter defined) of the Project by the issuance of the Series 2021 Bonds; (ii) utilize the proceeds of the Series 2021 Bonds to construct the Construction Project; and (iii) lease the Construction Project to the City pursuant to the terms and conditions set forth herein and in the Indenture; and

**WHEREAS**, pursuant to the terms of this Agreement, the City is required to make certain Lease Payments (as hereinafter defined) to the Authority on each Lease Payment Date (as hereinafter defined) in an amount equal to the Debt Service (as defined in the Indenture) on the Series 2021 Bonds due on the immediately succeeding Interest Payment Date (as hereinafter defined) and/or Principal Installment Date (as hereinafter defined), as the case may be; and

**WHEREAS**, all actions necessary and required under the Act for the approval of the Project, including obtaining the consent of the County, pursuant to Section 13 of the Act (*N.J.S.A. 40:37A-56*), to undertake the financing and the review of and consent to such financing by the Local Finance Board of the Division of Local Government Services, State Department of Community Affairs, has been taken by the Authority and the City; and

**WHEREAS**, the Authority and the City agree that their mutual public purposes and their best interests will be promoted by the execution and delivery of this Agreement pursuant to the powers conferred by the Act.

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND GENERAL PROVISIONS

**SECTION 1.01. Definitions.** The terms set forth in this Section 1.01 shall have the meanings ascribed to them for all purposes of this Lease Agreement unless the context clearly indicates some other meaning. Terms used herein and not defined herein shall have the meanings ascribed thereto in the Indenture. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

**"Account"** or **"Accounts"** shall mean, as the case may be, each or all of the Accounts established and created under Article V of the Indenture.

**"Acquisition Fund"** shall mean the Fund so designated, created and established pursuant to Section 502(1) of the Indenture.

**"Act"** shall mean the County Improvement Authorities Law, constituting Chapter 183 of the Laws of 1960 of the State (*N.J.S.A. 40:37A-44 et seq.*), as amended and supplemented from time to time.

**"Additional Lease Payments"** shall mean all amounts payable by the City to the Authority under this Lease Agreement including, but not limited to, the annual Trustee's fee and annual Authority Administrative Expenses, professional fees incurred for any arbitrage calculation, arbitrage rebate expenses, and all direct and indirect costs and expenses incurred by the Authority related to the enforcement of the Indenture and this Lease Agreement, including reasonable attorneys' fees related thereto.

**"Additional Project"** shall mean any additions to the Construction Project or any enlargements thereof undertaken pursuant to Section 7.03 hereof.

**"Agreement"** or **"Lease Agreement"** shall mean this Lease Agreement, dated as of August 1, 2021, by and between the Authority and the City, together with any supplements and amendments thereto relating to the Project to be financed with the proceeds of the Series 2021 Bonds issued by the Authority.

**"Annual Authority Administrative Fee"** shall mean an annual fee for the general administrative expenses of the Authority for each Series of Bonds, due on each anniversary of the Issue Date until such time as such Series of Bonds are no longer Outstanding in an amount equal to the amount of the actual fees which have been paid or incurred by the Authority for legal, auditing and rebate requirements, if any, in connection with such Series of Bonds and all other services or actions of the Authority in connection with this Lease Agreement; provided, however, that any such amount in excess of \$5,000 shall require the prior written approval of the City.

**"Article"** shall mean a specified Article hereof, unless otherwise indicated.

**"Authority"** shall mean The Cumberland County Improvement Authority.

**"Authority Administrative Expenses"** shall mean any and all expenses of the Authority and its agents, professionals and employees incurred or to be incurred by or on behalf of the Authority in the administration of its responsibilities under the Indenture and this Lease Agreement, as applicable, including, but not limited to: (i) the Initial Authority Financing Fee; (ii) the Annual Authority Administrative Fee; (iii) all fees and expenses including, but not limited to, indemnification expenses, if any, incurred in connection with the issuance of any Bonds, the financing of the Project or the compelling of the full and punctual performance of the Bond Resolution, the Indenture and this Lease Agreement in accordance with the terms thereof and hereof; (iv) all fees and expenses including, but not limited to, indemnification expenses, if any, of counsel, auditors, insurers, Fiduciaries and others; and (v) any fees and expenses including, but not limited to, indemnification expenses, if any, incurred by the Paying Agent, the Bond Registrar or the Trustee or any or all Fiduciaries in connection with the performance of their respective fiduciary responsibilities under the Indenture and this Lease Agreement, all to the extent not capitalized pursuant to the requirements of the Indenture, which Authority Administrative Expenses shall be paid as Additional Lease Payments by the City.

**"Authorized Authority Representative"** shall mean any Person or Persons authorized to act on behalf of the Authority by a written certificate signed on behalf of the Authority by the Chairman or Vice Chairman of the Authority containing the specimen signature of each such Person.

**"Authorized City Representative"** shall mean any Person or Persons authorized to act on behalf of the City as shall be set forth in a written certificate signed on behalf of the City by the Mayor or Deputy Mayor of the City, which form of certificate is set forth as Exhibit D annexed hereto and incorporated by this reference herein.

**"Bond Counsel"** shall mean the law firm of Parker McCay P.A., Mount Laurel, New Jersey, or any other lawyer or firm of lawyers with experience and nationally recognized expertise in the field of municipal finance selected by the Authority and acceptable to the Trustee.

**"Bond Resolution"** shall mean the resolution adopted by the Authority on June \_\_, 2021 entitled "BOND RESOLUTION OF THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$22,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE AUTHORITY'S CITY GENERAL OBLIGATION LEASE REVENUE BONDS (VINELAND PUBLIC FACILITIES PROJECTS), SERIES 2021, IN ONE OR MORE SERIES, ON A TAX-EXEMPT BASIS; MAKING CERTAIN DETERMINATIONS AND APPROVALS WITH RESPECT TO SAID BONDS; AND AUTHORIZING CERTAIN ACTIONS", as the same may be amended, modified or supplemented in accordance with the provisions thereof.

**"Bond Year"** shall mean, with respect to the Series 2021 Bonds, each one (1) year period that ends on the day that is selected by the Authority. The first and last Bond Years may be short periods. If no day is selected by the Authority before the earlier of the final maturity date of the Series 2021 Bonds or the date that is five (5) years after the Issue Date, Bond Years shall end on each anniversary of the Issue Date and on the final maturity date of the Series 2021 Bonds. For each Series of Refunding Bonds, Bond Year shall be designated in the Supplemental Indenture pursuant to which such Series of Bonds is issued.

**"Bonds"** shall mean the Series 2021 Bonds and any series of Refunding Bonds issued pursuant to a Supplemental Indenture.

**"Bondholder"**, **"Holder of Bonds"**, **"Holder"** or **"Owner"** shall mean any Person who shall be the Registered Owner of any Bond or Bonds.

**"Business Day"** shall mean any day that is not a Saturday, a Sunday or a legal holiday in the State or the State of New York or a day on which the Trustee, the Bond Registrar, any Paying Agent or the Authority is legally authorized to close.

**"City"** shall mean the City of Vineland, in the County of Cumberland, a municipal corporation of the State.

**"Code"** shall mean the Internal Revenue Code of 1986, as amended from time to time, and the applicable regulations promulgated thereunder.

**"Completion Certificate"** shall mean the certificate described in Section 4.05 hereof, executed by the City and the Authority, wherein, with respect to the Construction Project (including any Additional Project), the City certifies as to such matters as the Authority shall require.

**"Completion Date"** shall mean the date of completion of the Construction Project as stated in the Authority's Completion Certificate described in Section 4.05 hereof.

**"Construction Project"** shall mean: (i) the costs of the development and construction of the Facilities Projects on the Project Site; (iii) the costs of equipping of the Facilities Projects; and (iv) all other costs and expenses necessary for or related to the development, construction and equipping of the Facilities Project.

**"Continuing Disclosure Agreement"** shall have the meaning given to such term in Section 5.13 of this Lease Agreement.

**"Cost"** or **"Costs"** shall mean and shall be deemed to include, with respect to the Project or any portion thereof, together with any other proper and reasonable item of cost not specifically mentioned herein, whether incurred prior to or after the date of this Lease Agreement: (i) the costs of payment of, or reimbursement for, the acquisition, improvement, installation and financing of such Project including, but not limited to, environmental or remediation costs, advances or progress payments, appraisals, engineering, design, site work, surveys, title insurance, demolition, construction and equipment costs, installation costs, administrative costs and capital expenditures relating to the Project, capitalized interest, financing payments, sales taxes, excise taxes, property taxes, costs of feasibility, environmental and other reports, inspection costs, permit fees, filing and recordation costs, printing costs for all documents, reproduction and binding costs, fees and charges of the Trustee pursuant to the Indenture, financing documents, legal fees and charges, financial, accounting and other professional consultant fees, the Initial Authority Financing Fee for a particular Series of Bonds, all professional and consulting fees and charges of the Authority and the City, costs of rating agencies, bond insurance, bond insurers or credit ratings, fees for the printing, execution,

transportation and safekeeping of the Bonds, and any charges and fees in connection with any of the foregoing; (ii) all other costs which the City or the Authority shall be required to pay under the terms of any contract or contracts for the acquisition of the Construction Project including, but not limited to, the cost of insurance; (iii) any sums required to reimburse the City for advances made for any of the above items, or for any other costs incurred and for work done, which is properly chargeable to the Construction Project; (iv) deposits in any Fund or Account under the Indenture, all as shall be provided in the Indenture; and (e) such other expenses not specified herein or in the Indenture as may be necessary or incidental to the construction of the Construction Project, the financing thereof and the placing of the same in use and operation. Cost as defined herein shall be deemed to include the cost and expenses incurred by any agent of the Authority or the City for any of the above-mentioned items or in connection with the administration and enforcement of this Lease Agreement.

**"County"** shall mean the County of Cumberland, a body politic and corporate of the State.

**"Debt Retirement Fund"** shall mean the Fund so designated, created and established pursuant to Section 502(6) of the Indenture.

**"Debt Service"** for any period shall mean, as of any date of calculation, with respect to a particular Series of Bonds, including the Series 2021 Bonds, an amount equal to the sum of: (i) the interest accruing during such period on such Series of Bonds except to the extent such interest is to be paid from deposits made from Bond proceeds into the Debt Service Fund; and (ii) that portion of each Principal Installment which would accrue during such period if such Principal Installment were deemed to accrue daily in equal amounts from the immediately preceding Principal Installment due date or, if there should be no preceding Principal Installment due date, from a date one year (or such lesser period as shall be appropriate if Principal Installments shall become due more frequently than annually) preceding the due date of such Principal Installment or from the date of original issuance of a particular Series of Bonds, whichever is later. Such interest and Principal Installments for such Series of Bonds shall be calculated on the assumption that no Bonds Outstanding at the date of calculation shall cease to be Outstanding except by reason of the payment of each Principal Installment on the due date thereof. The calculations in the preceding sentence shall be made on the basis of a thirty (30) day month and a three hundred sixty (360) day year.

**"Debt Service Fund"** shall mean the Fund so designated, created and established pursuant to Section 502(5) of the Indenture.

**"Debt Service Requirement"** with respect to the next Interest Payment Date for any Series of Bonds shall mean: (i) in the case of an Interest Payment Date on which interest only shall be due, interest accrued and unpaid and to accrue to such date; and (ii) in the case of an Interest Payment Date on which both interest and a Principal Installment or Installments shall be due, interest accrued and unpaid and to accrue to such date plus the Principal Installment or Installments due on such date. The calculations in the preceding sentence shall be made on the basis of a thirty (30) day month and a three hundred sixty (360) day year.

**"Default Interest"** shall have the meaning given to such term in Section 308(2) of the Indenture.

**"Default Interest Payment Date"** shall have the meaning given to such term in Section 308(2) of the Indenture.

**"Event of Default"** shall mean a "default" or an "Event of Default" as defined in Section 8.01 hereof but not under the Indenture.

**"Favorable Opinion of Bond Counsel"** shall mean an opinion of Bond Counsel, addressed to the Authority, the City and the Trustee, to the effect that the action proposed to be taken is authorized or permitted by the Indenture, any Supplemental Indenture and the Act and will not adversely affect the exclusion of interest on such Series of Bonds from gross income for purposes of federal income taxation under Section 103 of the Code.

**"Facilities Projects"** shall mean, collectively, the Fire Station Project and the Public Works Project.

**"Fiduciary"** or **"Fiduciaries"** shall mean the Trustee, the Paying Agent, the Bond Registrar, the dissemination agent pursuant to the Continuing Disclosure Agreement (as defined in Section 5.13 hereof), if any, or any or all of them, as may be appropriate.

**"Fire Station Project"** shall mean demolition of the existing structure, and subsequent development and construction of an approximately 35,000 square foot fire station.

**"Fiscal Year"** shall mean the respective twelve (12) month fiscal periods of the City or the Authority, as applicable.

**"Fitch"** shall mean Fitch Ratings, Ltd., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, if any.

**"Fund"** or **"Funds"** shall mean, as the case may be, each or all of the Funds created and established in Section 502 of the Indenture; provided, however, that such Funds do not constitute "funds" in accordance with generally accepted accounting principles.

**"Indenture"** shall mean the Indenture of Trust, dated as of August 1, 2021, by and between the Authority and the Trustee, in connection with the issuance of the Series 2021 Bonds and any Series of Refunding Bonds.

**"Initial Authority Financing Fee"** shall mean, with respect to: (i) the Series 2021 Bonds, one-eighth of one percent of the aggregate principal amount of the bonds, and as set forth in the Indenture; and (ii) any Series of Refunding Bonds, the amount specified in the applicable Supplemental Indenture authorizing such Series of Bonds.

**"Interest Payment Date"** shall mean, with respect to the Series 2021 Bonds, each February 1 and August 1, commencing February 1, 2022, and such other dates as shall be established by a Supplemental Indenture authorizing a Series of Refunding Bonds. In the event an Interest Payment Date is not a Business Day, interest shall be paid on the next succeeding Business Day for interest accrued to the Interest Payment Date.

**"Issue Date"** shall mean, with respect to the Series 2021 Bonds, August \_\_, 2021, and any Series of Refunding Bonds, the date on which the Trustee authenticates the applicable Series of Bonds and on which such Bonds are delivered to the purchasers thereof upon original issuance.

**"Lease"** shall mean the lease by the Authority to the City of the Facilities Projects under the terms and conditions set forth herein.

**"Lease Documents"** shall mean this Lease Agreement, the Bond Resolution, the Indenture and all documents and instruments executed and delivered in connection herewith and therewith and all amendments and modifications thereto.

**"Lease Ordinance"** shall mean the ordinance adopted by the City on June \_\_, 2021, approving and authorizing the execution and delivery, among other things, of this Lease Agreement by the City and the performance of its obligations thereunder, including payment of Lease Payment obligations thereunder and Debt Service on any Bonds issued by the Authority, including the Series 2021 Bonds, entitled "AN ORDINANCE OF THE CITY OF VINELAND, IN THE COUNTY OF CUMBERLAND, NEW JERSEY APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE PURCHASE AGREEMENT WITH THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY RELATING TO THE ISSUANCE OF UP TO \$21,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE AUTHORITY'S CITY GENERAL OBLIGATION LEASE REVENUE BONDS (VINELAND PUBLIC FACILITIES PROJECTS) AND ANY NOTES ISSUED IN ANTICIPATION THEREOF BY THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY".

**"Lease Payment"** shall mean the sum of money representing principal and interest necessary to amortize Debt Service on the Series 2021 Bonds payable by the City on each Lease Payment Date, as set forth in Exhibit A annexed hereto and incorporated by this reference herein, as described in Section 5.02(A) hereof and redemption premium, if any, to the extent required to redeem the Series 2021 Bonds pursuant to Article IV of the Indenture and, as applicable, Additional Lease Payments payable by the City upon demand pursuant to Sections 5.02(A) and (B) hereof, respectively.

**"Lease Payment Date"** shall mean: (i) with respect to the Series 2021 Bonds, thirty (30) Business Days prior to the applicable Interest Payment Date, Principal Installment Date or Sinking Fund Installment due date, as the case may be; and (ii) such other dates determined in accordance with the Lease Agreement as may be set forth in a Supplemental Indenture authorizing any other Series of Refunding Bonds.

**"Lease Term"** shall mean the period during which this Lease Agreement is in effect as specified in Section 5.01 hereof.

**"Month"** shall mean a calendar month.

**"Moody's"** shall mean Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, if any.

**"Operating Fund"** shall mean the Fund so designated, created and established pursuant to Section 502(3) of the Indenture.

**"Outstanding"** when used with reference to Bonds, shall mean, as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Indenture except:

(i) Bonds canceled by the Trustee at or prior to such date;

(ii) Bonds (or portions of Bonds) for the payment of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, together with interest to accrue thereon to the date of maturity or redemption date, shall be held in an irrevocable trust under the Indenture and set aside for such payment or redemption (whether at or prior to the maturity date); provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given as specified in Article IV of the Indenture;

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III, Section 406 or after any action taken as provided in Articles XI and XII of the Indenture and as described in Section 1106 of the Indenture; and

(iv) Bonds deemed to have been paid as provided in Section 1201 of the Indenture.

**"Person"** or **"Persons"** shall mean any individual, corporation, partnership, limited liability company, joint venture, trust or unincorporated organization or a governmental agency or any political subdivision thereof.

**"Prepayment"** shall mean any amounts received as prepayments of Lease Payments pursuant to Section 5.05 hereof and any other agreement with respect to any Additional Project.

**"Principal Installment"** shall mean, as of any date of calculation, and with respect to a particular Series of Bonds, so long as any Bonds thereof are Outstanding: (i) the principal amount of such Series of Bonds due on a certain future date for which no Sinking Fund Installments have been established plus any applicable redemption premium thereon, and (ii) any Sinking Fund Installments due on a certain future date for such Series of Bonds, if any, plus the amount of the sinking fund redemption premium, if any, which would be applicable upon redemption of such Series of Bonds on such future date in a principal amount equal to such Sinking Fund Installments.

**"Principal Installment Date"** shall mean: (i) with respect to the Series 2021 Bonds, each August 1, commencing August 1, 2024; or (ii) such other date as set forth in a Supplemental Indenture authorizing any other Series of Refunding Bonds. In the event a Principal Installment Date is not a Business Day, principal shall be paid on the next succeeding Business Day for the Principal Installment payable on the Principal Installment Date.

**"Proceeds"** shall mean any insurance, condemnation, performance bond, letter of credit, or any other financial guaranty proceeds paid with respect to the Project remaining after payment therefrom of all expenses incurred in the collection thereof and, with respect to insurance, if and at such time as the City elects to provide self-insurance under Section 7.05 of this Lease Agreement, any moneys payable from any self-insurance fund of the City which may lawfully be expended for the purposes for which such self-insurance is provided.

**"Proceeds Fund"** shall mean the Fund so designated, established and created pursuant to Section 502(4) of the Indenture.

**"Project"** shall mean the financing of the Costs associated with: (i) Construction Project; (ii) capitalized interest on any bonds, notes or other debt obligations issued by the Authority to finance the costs thereof; and (iii) the costs of issuance with respect to the proposed financing, all as further set forth in the information submitted to the Authority in connection therewith or as previously discussed among the parties.

**"Project Site"** shall mean: (i) with respect to the Fire Station Project, Northwest Boulevard (Block 2912, Lot 1) in the City; and (ii) with respect to the Public Works Project, Walnut Road (Block 5007, Lot 56) in the City.

**"Public Works Project"** shall mean the development and construction of an approximately 5,000 square foot public works facility at the site of the current DPW building.

**"Rebate Fund"** shall mean the Fund so designated, created and established pursuant to Section 502(7) of the Indenture.

**"Record Date"** shall mean: (i) with respect to the Series 2021 Bonds, January 15 and July 15 next preceding any Interest Payment Date, or such other date or dates as provided for in the Indenture; or (ii) such other dates as set forth in a Supplemental Indenture authorizing any other Series of Refunding Bonds.

**"Refunding Bonds"** shall mean any Bonds authenticated and delivered on original issuance pursuant to Section 205 of the Indenture, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III, Section 406 or after any action taken as provided in Articles XI and XII of the Indenture and as described in Section 1106 of the Indenture.

**"Registered Owner"** shall mean the Owner of any Bond which is issued in fully registered form, as determined on the Record Date, as reflected on the registration books of the Authority which shall be kept and maintained on behalf of the Authority at the principal corporate trust office of the Bond Registrar.

**"Series"** shall mean all of the Bonds authenticated and delivered upon original issuance and pursuant to the Indenture and any Supplemental Indenture authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III, Section 406 or after any action taken as provided in Articles XI and XII of the Indenture and as described in Section 1106 of the

Indenture, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

**"Series 2021 Bonds"** shall mean all of the Bonds so designated, authenticated and delivered upon original issuance pursuant to the Bond Resolution and the Indenture and which are designated City General Obligation Lease Revenue Bonds (Vineland Public Facilities Projects), Series 2021.

**"Standard & Poor's"** or **"S&P"** shall mean Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, a corporation organized and existing under the laws of the State of New York, and its successors and assigns, if any.

**"State"** shall mean the State of New Jersey or any successor to its duties and functions.

**"Supplemental Indenture"** shall mean any indenture of trust supplemental to or amendatory of the Indenture entered into by the Authority and the Trustee in accordance with Section 11 of the Indenture.

**"Trustee"** shall mean, with respect to the Series 2021 Bonds and any Series of Refunding Bonds issued under the Indenture, \_\_\_\_\_, New Jersey, and its successors and assigns or any other bank, trust company or national banking association that at any time may be substituted in its place pursuant to the Indenture or appointed trustee pursuant to a Supplemental Indenture.

**"Underwriter"** shall mean the underwriter named in the bond purchase contract between the Authority and the underwriter, dated the date of sale of the Series 2021 Bonds.

**"Yield"** shall mean that yield which when used in computing the present worth of all payments of principal and interest on an obligation produces an amount equal to its purchase price. The Yield for the Bonds is to be computed in accordance with Treasury Regulations Section 1.148-4. The Yield on an investment is to be computed in accordance with Treasury Regulations Section 1.148-5.

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## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**SECTION 2.01. City's Representations and Warranties.** The City represents and warrants that:

(A) It is a duly formed and validly existing political subdivision of the State governed by the Constitution and laws of the State, with full power and legal right to enter into this Lease Agreement and to perform its obligations hereunder and under any other Lease Documents to which it is a party.

(B) The entering into of this Lease Agreement by the City and the performance of its obligations hereunder have been duly authorized by all necessary action of its governing body and does not violate or constitute, on the part of the City, a violation of, breach of or default under any agreement, indenture, mortgage, deed of trust, instrument or other document by which the City or any of its properties are bound or with respect to any law, statute, rule or regulation or, to the knowledge of the City, order of any court or governmental agency.

(C) This Lease Agreement constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms, subject to bankruptcy, insolvency or other similar laws or equitable principles affecting generally the enforcement of creditors' rights.

(D) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body, pending or, to the knowledge of the City, threatened, or any basis therefor, wherein an unfavorable decision, ruling or finding would: (i) result in any material adverse change in the financial condition, properties or operations of the City that would materially adversely affect the ability of the City to make Lease Payments; (ii) materially adversely affect the ability of the City to perform its obligations under this Lease Agreement; (iii) materially impair the Project; (iv) materially adversely affect the transactions contemplated by this Lease Agreement; or (v) adversely affect the validity or enforceability of the Series 2021 Bonds, the Bond Resolution, the Indenture, this Lease Agreement or any other documents related to the Project.

(E) Neither the execution and delivery of this Lease Agreement nor the fulfillment of or compliance with the terms and conditions contained herein is prevented, limited by, conflicts with or results in a breach of, the terms, conditions or provisions of: (i) any law, rule, regulation or, to the knowledge of the City, order of any court or governmental agency; or (ii) any agreement, instrument or evidence of indebtedness to which the City is bound, or constitutes a default under any of the foregoing. All consents, approvals, authorizations and orders of governmental or regulatory authorities which are required for the undertaking of the Project and the transactions contemplated hereby and by the other Lease Documents either have been obtained or are reasonably expected to be obtained in due course.

(F) All statements, representations and warranties made by the City in connection with the financing of the Project, the issuance of the Series 2021 Bonds, or the Lease Documents or in any other document, agreement, certificate or instrument delivered or to be delivered by the City in connection with any of the foregoing shall be true, correct and complete

in all material respects at the time they were made and on and as of the date of issuance of the Series 2021 Bonds, and no information has been or will be omitted which would make any of the foregoing misleading or incomplete.

(G) There has been no material adverse change in the financial condition or operation of the City not reflected in any financial statement, certificate or any other document submitted by the City to the Authority.

(H) No legislation has been enacted which in any way adversely affects the execution and delivery of this Lease Agreement or the creation, organization or existence of the City or the titles to office of any officials thereof or the power of the City to carry out its obligations under this Lease Agreement.

(I) The City is not a party to any indenture, loan, any other agreement, resolution, contract, instrument, or subject to any restriction, which may reasonably be expected to have a material adverse effect on its properties, operations or conditions, financial or otherwise, or on its ability to carry out its obligations under this Lease Agreement.

(J) The City is not, as of the date hereof, in default or noncompliance in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which it is a party or by which it is bound or with respect to any law, statute, rule or regulation or, to the knowledge of the City, any judgment, writ, injunction or order of any court or governmental agency.

(K) The City has not taken and will not take any action and knows of no action that any other Person has taken or intends to take, which would cause this Lease Agreement to be invalid or unenforceable in whole or in part or which would cause the interest income on the Series 2021 Bonds to be includable in the gross income of the Holders thereof under the Code.

(L) The undertaking of the Project in the manner presently contemplated will not materially conflict with any current zoning, water, air pollution or other ordinances, orders, laws or regulations applicable thereto.

(M) The City shall annually levy the municipal tax rate on all property within the City in an amount sufficient and annually appropriate such amount for payment of its Lease Payment obligations hereunder (including, but not limited to, Debt Service on any Bonds issued by the Authority which are Outstanding under the Indenture, including the Series 2021 Bonds, and Additional Lease Payments).

(N) Any certificate signed by an Authorized City Representative and delivered to the Trustee or the Authority shall be deemed a representation and warranty by the City to the Trustee or Authority, as the case may be, as to the statements made therein.

**SECTION 2.02. Authority Representations and Findings.** The Authority hereby confirms its findings and represents that:

(A) It is a public body corporate and politic constituting an instrumentality of the State, duly organized and existing under the laws of the State, particularly the Act. The

Authority is authorized to issue the Series 2021 Bonds in accordance with the Act and to use the proceeds from the sale of the Series 2021 Bonds construct the Facilities Projects to make the Lease to the City.

(B) The Authority has complied with the provisions of the Act and has full power and authority pursuant to the Act to consummate all transactions contemplated by this Lease Agreement, the Series 2021 Bonds, the Bond Resolution, the Indenture and any and all other agreements relating thereto and to issue, sell and deliver the Series 2021 Bonds as provided herein and in the Bond Resolution and the Indenture.

(C) Pursuant to the Bond Resolution duly adopted by the Authority and still in full force and effect, the Authority has duly authorized the execution, delivery and due performance of this Lease Agreement and the Series 2021 Bonds and the taking of any and all actions as may be required on the date hereof on the part of the Authority to carry out, give effect to and consummate the transactions contemplated by the Bond Resolution, the Series 2021 Bonds, the Indenture and this Lease Agreement. All approvals of the Authority necessary in connection with the foregoing have been received.

(D) The Series 2021 Bonds have been duly authorized, executed, issued, sold and delivered and constitute valid and binding limited and special obligations of the Authority, the principal of, redemption premium, if any, and interest on which are payable solely from the revenues and other moneys derived pursuant to this Lease Agreement and pledged therefor by the Indenture. The Series 2021 Bonds shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the Authority (limited solely to the Pledged Property (as defined in the Indenture)) and, as applicable under and limited by this Lease Agreement, the City, and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof other than the Authority (limited solely to the Pledged Property) and, as applicable under and limited by this Lease Agreement, the City, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof other than, as applicable under and limited by this Lease Agreement, the City.

(E) The final adoption of the Bond Resolution and the execution and delivery of the Indenture, this Lease Agreement and the Series 2021 Bonds, and compliance with the provisions hereof and thereof, do not conflict with or constitute on the part of the Authority a violation of the Constitution of the State or a violation or breach of or default under its by-laws or any statute, indenture, mortgage, deed of trust, note agreement or other agreement or instrument to which the Authority is a party or by which the Authority is bound or, to the knowledge of the Authority, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Authority or any of its activities or properties. All consents, approvals, authorizations and orders of governmental or regulatory authorities which are required to be obtained by the Authority for the consummation of the transactions contemplated hereby and thereby have been obtained.

(F) The Authority shall cause the Construction Project to be acquired and constructed in accordance with all federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality. The Authority shall acquire and complete the Construction Project and lease the same to the City pursuant to this Lease Agreement.

(G) The Authority shall apply the proceeds from the sale of the Series 2021 Bonds and the revenues derived under this Lease Agreement for the purposes specified and in the manner provided in this Lease Agreement and the Indenture.

(H) To the best knowledge of the Authority, there is no action, suit, proceeding or investigation at law or in equity, or before or by any court, public board or body pending or threatened against or affecting the Authority, or any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby, or which in any way would materially adversely affect the validity of the Series 2021 Bonds, the Bond Resolution, the Indenture, this Lease Agreement, or any other agreement or instrument to which the Authority is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby or the exemption from taxation as set forth herein.

(I) Any certificate signed by an Authorized Authority Representative and delivered to the Trustee or the City shall be deemed a representation and warranty by the Authority to the Trustee or City, as the case may be, as to the statements made therein.

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## ARTICLE III

### **ISSUE OF SERIES 2021 BONDS; LEASE OF PROJECT**

**SECTION 3.01. Issue of the Series 2021 Bonds.** (A) The Authority shall issue, sell and deliver the Series 2021 Bonds in accordance with the terms of the Bond Resolution and the Indenture, subject to the execution of a bond purchase contract by and between the Authority and the Underwriter for the Series 2021 Bonds. The Authority, in its sole discretion, may, but shall not be required to, issue Refunding Bonds for any of the purposes as permitted by the Indenture.

(B) Upon original issuance of the Series 2021 Bonds, proceeds thereof, including accrued interest, if any, shall be paid to the Trustee and applied in accordance with an order of the Authority simultaneously with the delivery thereof as follows: (i) an amount equal to the accrued interest on the Series 2021 Bonds, if any, for deposit in the Debt Service Fund in an Account established for the Series 2021 Bonds; (ii) an amount representing costs of issuance on the Series 2021 Bonds, including the Initial Authority Financing Fee, for deposit in the Operating Fund and paid to the Authority in accordance with Section 505(2) of the Indenture; and (iii) the remaining Series 2021 Bond proceeds shall be deposited into the Acquisition Fund in an Account established for the Series 2021 Bonds and paid in accordance with Section 503 of the Indenture.

### **SECTION 3.02. Lease of the Project Site.**

(A) The City hereby agrees to lease the Project Site to the Authority, and the Authority hereby agrees to take and lease the Project Site from the City, upon the terms and conditions which are set forth in this Agreement for the purpose of constructing the Facilities Projects thereon for a period of time not longer than the Lease Term.

(B) Subject to the provisions of Section 9.07 hereof, the Lease Term shall commence on the date hereof and shall terminate at such time as all Bonds are no longer deemed to be Outstanding and all Lease Payments due and owing hereunder by the City shall have been paid in full, unless sooner terminated in accordance with the terms of this Lease Agreement for a reason other than the default of the City of any obligation hereunder, in which case, the Lease Term shall terminate on the date the Lease Agreement is so terminated.

(C) The City has obtained good and marketable title to the Project Site, free and clear of all liens, charges and encumbrances except for Permitted Encumbrances.

(D) The Authority shall pay to the City, in any coin or currency of the United States of America which at the time of payment constitutes legal tender for the payment of public and private debts, the sum of One Dollar (\$1.00) per year during the Lease Term in exchange for the leasehold interest conveyed by the City to the Authority pursuant to this Section 3.02.

(E) During the Lease Term, the Authority may enter upon, occupy and use the Project Site in order to construct the Construction Project thereon.

(F) During the Lease Term, the Authority shall have peaceful and quiet use and possession of the Project Site without any hindrance or interference on the part of the City, except as otherwise provided in Section 3.03 hereof.

**SECTION 3.03. Lease of the Facilities Projects.** The Authority hereby agrees to lease the Facilities Projects to the City and the City hereby agrees to take and lease the Facilities Projects from the Authority during the Lease Term, on the terms and conditions which are set forth in this Lease Agreement. Pursuant to the terms of Section 3.02 hereof, the Authority has obtained a leasehold interest in the Project Site for a period which is at least equal to the Lease Term.

**SECTION 3.04. Benefit of Bondholders.** This Lease Agreement is executed in part to induce the purchase by others of the Bonds and, accordingly, all covenants, agreements and representations on the part of the City and the Authority, as set forth in this Lease Agreement, are hereby declared to be for the benefit of the Holders from time to time of the Bonds. As such, any of the Funds created under the Indenture and any moneys held therein shall be assigned by the Authority to the Trustee to secure repayment of the Bonds. The City, by execution hereof, consents to such assignment for the benefit of the Bondholders to secure repayment of the Bonds.

**SECTION 3.05. Compliance with Indenture.** The City covenants and agrees to do all things within its power to comply with and to enable the Authority to comply with all requirements of the Indenture, this Lease Agreement and any other Lease Documents to which the Authority is a party and to fulfill and to enable the Authority to fulfill all covenants of the Indenture and the Lease Documents.

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## ARTICLE IV

### **ACQUISITION AND CONSTRUCTION OF THE CONSTRUCTION PROJECT**

#### **SECTION 4.01. Acquisition and Construction of Construction Project.** (a)

The Authority and the City have agreed that the Authority shall serve as project manager with respect to the construction of the Construction Project in accordance with all federal and State laws applicable thereto. The City and the Authority agree that they shall use their respective best efforts to cause such construction of the Construction Project to be completed as soon as may be practicable, delays incident to strikes, riots, acts of God, the public enemy or any delay beyond its reasonable control only excepted; but if for any reason such acquisition and construction is delayed there shall be no diminution in or postponement of the amounts payable to the Authority by the City under this Lease Agreement.

(b) The Authority shall be responsible for the letting of contracts and for conducting the due diligence on the Construction Project, including appraisals, title work, environmental surveys, etc., and obtaining all consents, approvals, permits and the like in connection with or relating to the construction of the Construction Project.

(c) The City acknowledges that the Authority makes no warranties or representations and accepts no liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of or defects in the Construction Project or any contracts or agreements with respect to the Construction Project. In no event shall the Authority be liable for any damages, incidental, direct, indirect, consequential or otherwise in connection with or arising out of the undertaking of the Project or this Lease Agreement.

**SECTION 4.02. Deposits to Acquisition Fund.** The net proceeds of the Series 2021 Bonds, less the proceeds deposited in the Debt Service Fund and the Operating Fund pursuant to the provisions of the Indenture and the written order of the Authority as to delivery of the Series 2021 Bonds pursuant to Section 202(1)(b) of the Indenture, will be deposited in the Acquisition Fund established under the Indenture and shall be used by the Authority for payment of Costs of the Construction Project or an Additional Project upon requisition by the Authority, which requisition shall be acknowledged and approved by the City (such approval not to be unreasonably withheld), as provided in Section 503 of the Indenture and Section 4.03 of this Lease Agreement. The Authority agrees that the sums so requisitioned from the Acquisition Fund will be used to pay the Costs of the Construction Project or an Additional Project. If for any reason the amount in the Acquisition Fund proves insufficient to pay all Costs of the Construction Project or an Additional Project, the City shall pay the remainder of such Costs in accordance with the provisions of Section 4.11 hereof. The Authority shall have the right to requisition payments from the Acquisition Fund upon compliance with the procedures set forth in this Section 4.02 and Section 4.03 hereof and Section 503 of the Indenture; provided that, during the continuance of an Event of Default (as defined in the Indenture), the Acquisition Fund shall be held for the benefit of Holders of the Series 2021 Bonds in accordance with the provisions of the Indenture and the Lease Documents.

**SECTION 4.03. Payments From Acquisition Fund.** The Authority has, in Section 503 of the Indenture, authorized and directed the Trustee to make payments from the Acquisition Fund to pay the Costs of the Construction Project or an Additional Project, or to

reimburse the Authority for any Cost of the Construction Project paid by it in accordance with a reimbursement resolution adopted by the Authority, upon receipt of a requisition signed by an Authorized Authority Representative and approved by an Authorized City Representative (which approval shall not be unreasonably withheld) stating with respect to each payment to be made: (i) the requisition number; (ii) that such payment is to be made from the Acquisition Fund; (iii) the name and address of the Person to whom payment is to be made by the Trustee, or if payment is to be made to the Authority for a reimbursable advance, the name and address of the Person to whom such advance was made together with proof of payment by the Authority; (iv) the amount to be paid, which amount represents the payment due to the Person referenced in clause (iii) above, or one hundred per centum (100%) of the payment previously made by the Authority; (v) the particular item of Cost to be paid to which the requisition relates; (vi) that each obligation, item of Cost or expense mentioned therein has been properly incurred, is an item of Cost of the Construction Project or an Additional Project, unpaid or unreimbursed, and is a proper charge against the Acquisition Fund and has not been the basis of any previously paid withdrawal or requisition; (vii) that the public contracts bidding and prevailing wage laws (including, but not limited to, those required pursuant to the Act), applicable to the contract pursuant to which payment is being requested have been complied with; (viii) if such payment is a reimbursement to the Authority for Costs or expenses incurred (a) by reason of work performed or supervised by officers or employees of the Authority and/or (b) as annual administrative costs associated with the implementation of the Construction Project, that the amount to be paid does not exceed the actual cost thereof to the Authority; (ix) that no uncured Event of Default has occurred under this Lease Agreement or the Indenture; (x) the Authority has not received notice of any lien, right to lien or attachment upon, or other claim affecting the right to receive payment of, any of the moneys payable under such requisition to any of the Persons named therein or, if any of the foregoing has been received, it has been released or discharged or will be released or discharged upon payment of the requisition; and (xi) in the event there are not sufficient funds available to pay such requisition from the maturity of any Investment Securities, instructions specifying the Investment Security or Securities which should be liquidated for the payment thereof. The Authority agrees with the City as a condition precedent to the disbursement of any portion of the Acquisition Fund to comply with the terms of this Lease Agreement and the Indenture and to furnish the Trustee with a requisition form substantially in the form set forth as Exhibit B annexed hereto and incorporated by this reference herein.

**SECTION 4.04. Cooperation in Furnishing Documents.** The City agrees to cooperate with the Authority in furnishing to the Trustee any documents that are required to effect payments out of the Acquisition Fund in accordance with Section 4.03 hereof and Section 503 of the Indenture. Such obligation is subject to any provisions of the Indenture requiring additional documentation with respect to such payments and shall not extend beyond the moneys in the applicable Account in the Acquisition Fund available for payment under the terms of the Indenture.

**SECTION 4.05. Completion Date.** Upon completion of the Construction Project or an Additional Project, the Authority shall deliver to the Trustee and the City the Authority's Completion Certificate, the form of which is annexed hereto as Exhibit C and incorporated by this reference herein, which completion certificate shall be acknowledged and approved by the City (such approval not to be unreasonably withheld) and which Completion Certificate shall evidence completion of the Construction Project or an Additional Project, and in compliance with the provisions of Section 503(4) of the Indenture shall state: (i) that such

Construction Project or Additional Project is complete or has been substantially completed; (ii) the date of such completion of the Construction Project or Additional Project; (iii) the Cost of all labor, services, materials and supplies used in the Construction Project or Additional Project have been paid or will be paid from amounts retained by the Trustee, at the Authority's direction, for any Cost of the Construction Project or an Additional Project and the amount, if any, required, in the opinion of the signer or signers, for the payment of any remaining part of the Cost of such Construction Project or Additional Project or any portion thereof, not then due and payable or, if due and payable, not yet paid; (iv) the Construction Project or Additional Project is an authorized "project" under the Act; and (v) all permits, including a Certificate of Occupancy, if required, necessary for the utilization of the Construction Project or Additional Project have been obtained and are in effect. Notwithstanding the foregoing, the Authority's Completion Certificate may state that it is given without prejudice to any rights against third parties which exist at the date of the Completion Certificate or which may subsequently come into being. Any amount remaining in the Acquisition Fund thereafter (except for amounts therein sufficient to cover Costs of the Construction Project or an Additional Project, not then due and payable or not then paid) shall be applied by the Trustee in the manner set forth in Section 503(4) of the Indenture. If for any reason the amount in the Acquisition Fund proves insufficient to pay all Costs of the Construction Project or an Additional Project, the City shall pay the remainder of such Costs in accordance with the provisions of Section 4.11 hereof.

**SECTION 4.06. Bonds Not to Become Arbitrage Bonds.** As provided in Article VI of the Indenture, the Trustee will invest moneys held by the Trustee as directed by the Authority, in writing, upon written request from the City. The City hereby covenants to the Authority and to the Holders of the Series 2021 Bonds that, notwithstanding any other provision of this Lease Agreement or any other instrument, it will neither make, instruct the Authority to make nor require the Trustee to make any investment or other use of the Acquisition Fund or other proceeds of the Series 2021 Bonds which would cause the Series 2021 Bonds to be arbitrage bonds under Section 148 of the Code, and that it will comply with the requirements of such Section throughout the term of the Series 2021 Bonds.

**SECTION 4.07. Restriction on Use of Acquisition Fund.** The Authority and the City shall not use or direct the use of moneys from the Acquisition Fund in any way, or take or omit to take any other action, so as to cause the interest on any Series 2021 Bonds to become subject to federal income tax.

**SECTION 4.08. Due Diligence Requirement.** Except to the extent otherwise approved by a Favorable Opinion of Bond Counsel, such opinion being paid for by the City and addressed to the Trustee, the Authority and the City, and being satisfactory to the City, the Authority shall reasonably expect to have completed the Project with due diligence and caused all of the proceeds of the Series 2021 Bonds to be expended for Costs of the Project or to be transferred from the Acquisition Fund and applied as described in Section 4.09 hereof and Section 503(4) of the Indenture within three (3) years of the date of issuance of the Series 2021 Bonds.

**SECTION 4.09. Completion of Construction Project or Additional Project; Excess Bond Proceeds.** When the Authority certifies to the Trustee and the City, in the manner provided in Section 4.05 hereof and in Section 503(4) of the Indenture, that the construction of the Construction Project or an Additional Project is complete, excess Bond proceeds remaining in the Acquisition Fund shall be applied by the Trustee, at the written direction of an Authorized

City Representative, in accordance with the provisions of Section 503(4) of the Indenture. If for any reason the amount in the Acquisition Fund proves insufficient to pay all Costs of the Construction Project or an Additional Project, the City shall pay the remainder of such Costs in accordance with the provisions of Section 4.11 hereof.

**SECTION 4.10. Default in Performance.** If there is an event of default by any contractor or any party under any contract made in connection with the Construction Project or an Additional Project, the Authority will promptly proceed, either separately or in conjunction with others, to exhaust the remedies against the party so in default and against each surety for the performance of such party. The Authority agrees to advise the City, in writing, of the steps it intends to take in connection with any such default. The Authority may, in good faith, with the approval of the City and at the cost and expense of the City, prosecute or defend any action or proceeding or take other action involving any such party which the Authority deems reasonably necessary and which may be required for the successful completion of the Construction Project or an Additional Project, and in such event, the City hereby agrees to cooperate fully with the Authority. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be deposited into the Acquisition Fund and shall be used to complete the Construction Project or an Additional Project or shall be deposited into the Proceeds Fund and shall be applied by the Trustee as a credit toward the City's Lease Payments in accordance with the provisions of Section 507 of the Indenture, as shall be determined in accordance with written instructions from the City.

**SECTION 4.11. Sufficiency of Bond Proceeds; Completion of the Project.**  
(A) The City agrees that the proceeds of sale of the Series 2021 Bonds will be sufficient to pay the estimated Costs of the Project. In the event the Costs of the Project shall exceed the amount available in the Acquisition Fund from such Series 2021 Bond proceeds, the City is obligated to pay, as additional payments under Section 5.02(B)(ii) hereof, such sums as may be required to pay the Costs of the Project in excess of the amount available from the proceeds of the sale of the Series 2021 Bonds out of funds legally available therefor. Payment of such additional amounts shall be made by the City at the time or times and in the amount or amounts required for the payment of such excess Costs as the same become due and payable. Such additional moneys shall be paid by the City to the Trustee for deposit in the Acquisition Fund and the Trustee shall pay the Costs thereof in accordance with the procedures outlined in Section 4.03 hereof.

(B) In the event the City pays to the Trustee sums needed to fund the balance of the Costs of the Project in accordance with the provisions of Section 4.11(A) hereof, the City shall complete Exhibit E attached hereto to reflect: (i) the amount of moneys to be withdrawn from the Acquisition Fund to pay the Costs of the Project; (ii) the amount of money forwarded to the Trustee by the City for deposit in the Acquisition Fund to make up the deficiency in such Costs of the Project; (iii) the total Cost of the item being requisitioned; and (iv) such other information required to be completed therefor as contained as Exhibit E, which certificate shall be completed by the City, approved by the Authority and filed with the Trustee.

## ARTICLE V

### TERM AND PAYMENTS

**SECTION 5.01. Lease Term.** This Lease Agreement shall remain in full force and effect from the date hereof until the date on which the principal or Redemption Price of and interest on the Bonds and any and all other Costs of the Authority with respect to the Project shall have been fully paid or provision for the payment thereof shall have been made as provided in the Indenture, and the City shall have satisfied and performed all other covenants, agreements and obligations made or undertaken by the City under this Lease Agreement, at which time the Authority shall release and cancel this Lease Agreement.

The payment obligations created under this Lease Agreement are direct, general, irrevocable and unconditional obligations of the City payable from any source legally available to the City, including, without limitation, the general tax revenues of the City, and the City shall, if necessary, levy *ad valorem* taxes upon all the taxable property within the jurisdiction of the City for the payment of such obligations, without limitation as to rate or amount.

**SECTION 5.02. Payments.** (A) Lease Payments. The City agrees to repay the Lease in an amount which is equal to that portion of the principal of, redemption premium, if any, and interest on the Bonds. The City agrees to pay to the Trustee, in immediately available funds, at the address shown on Exhibit F annexed hereto and incorporated by this reference herein or at such other address as the City may be notified, on each Lease Payment Date, an amount in accordance with the schedule of Lease Payments set forth in Exhibit A annexed hereto and incorporated by this reference herein, which will equal the City's Lease Payment obligation which is to be applied to the Debt Service payable on the Series 2021 Bonds on the immediately succeeding Interest Payment Date and/or Principal Installment Date, as applicable; provided, however, that with respect to the Lease Payments required to be paid pursuant to this Section 5.02, no Lease Payments shall be payable on any Lease Payment Date to the extent the Debt Service payable on such Lease Payment Date shall be paid or provided for under the Indenture from the proceeds of the Bonds designated therefor by the Authority or from the income derived from the investment of amounts in the Funds or other amounts available in the Debt Service Fund established by and maintained under the Indenture.

(B) Additional Lease Payments. In addition to the Lease Payments required by paragraph (A) of this Section 5.02, the City agrees to pay the following additional amounts to the Trustee:

(i) The City shall pay to the Trustee, as the same shall become due and payable at any time during the Lease Term, on any Lease Payment Date or thirty (30) days after demand by the Trustee, such sums as represent Additional Lease Payments including, but not limited to, Authority Administrative Expenses and any other amounts due hereunder, as shall have been submitted by the Authority, in writing, to the Trustee, with a copy to the City. Specifically, but not by way of limitation, the City agrees to pay to, or upon the order of, the Authority (a) on or before the Issue Date, the Initial Authority Financing Fee with respect to the Series of Bonds being issued by the Authority; and (b) on each anniversary of the Issue Date with respect to each Series of Bonds until such time as such Series of Bonds are no longer Outstanding, the Annual Authority Administrative Fee;

(ii) The City shall pay to the Trustee amounts required to be paid by the City pursuant to Section 4.11 hereof; and

(iii) in the event the City fails to make any Lease Payment or Additional Lease Payment in accordance with the provisions of this Section 5.02 on its due date, the City shall pay interest (to the extent permitted by State law) on such overdue Lease Payment or Additional Lease Payment at the highest rate per annum borne by any of the Bonds until paid, which interest shall be paid directly to the Authority.

(C) Payment Credits. Pursuant to the provisions of the Indenture, the City shall be notified annually by the Trustee, in writing, of: (i) the amounts arising from investment earnings, not later than January 1 of each year; (ii) the amounts deposited in the Debt Service Fund from the Acquisition Fund representing excess Bond proceeds of the any series of Bonds pursuant to Section 4.09 hereof and Section 503(4) of the Indenture, not later than January 1 of each year; (iii) proceeds of any insurance award as a result of damage or condemnation of the Construction Project pursuant to Sections 7.06 and 7.07 hereof; and (iv) all other amounts deposited in the Debt Service Fund pursuant to the provisions of this Lease Agreement and the Indenture to be applied as a credit toward the City's Lease Payment obligations, not later than January 1 of each year. In the event a dispute arises between the Authority and the City with respect to the amount of the Lease Payments due and owing by the City or the amount of credits to be applied toward the Lease Payments of the City, such dispute shall be resolved by the Authority, exclusively in reliance upon information and statements provided by the Trustee to the Authority, and the Trustee shall have no obligation with respect thereto (except to the extent that the Trustee is obligated to provide statements showing such information). The City is obligated to pay all amounts which constitute Lease Payments as set forth in Exhibit A hereto and Additional Lease Payments which are due under this Lease Agreement, less any payment credits provided by the terms of this subsection (C).

**SECTION 5.03. Application/Assignment of Payments.** (A) The Lease Payments provided for in paragraph (A) of Section 5.02 hereof and any Additional Lease Payments provided for in clauses (i) and (ii) of paragraph (B) of Section 5.02 hereof shall be paid to and assigned to the Trustee for the account of the Authority and applied as provided in this Lease Agreement and the Indenture.

(B) The interest, if any, due thereon pursuant to clause (iii) of paragraph (B) of Section 5.02 hereof shall be paid directly to the Authority.

**SECTION 5.04. Obligations Unconditional.** The obligations of the City to make payments required under Section 5.02 hereof and all other payments required under this Lease Agreement, as well as to perform its other obligations under this Lease Agreement, shall be absolute and unconditional without counterclaim, recoupment, defense or set-off by reason of any default by any party under any contract for the Construction Project or by the Authority under this Lease Agreement or under any other agreement, if any, between the City and the Authority. Except as may be expressly provided herein or in the Indenture, such payments shall not be decreased, abated, postponed or delayed for any reason whatsoever including, without limiting the generality of the foregoing, failure to commence or complete the Construction Project, any acts or circumstances that may constitute failure of consideration, destruction of or

damage to the Construction Project, the taking of any part of the Construction Project, frustration of purpose, failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease Agreement, it being the intention of the parties that the payments required of the City hereunder will be paid in full when due without any delay or diminution whatsoever. Notwithstanding the above, any payment made under protest by the City to the Authority shall be made without prejudice to the right of the City to proceed against the Authority, or the defaulting party as a result of the foregoing.

Notwithstanding anything in this Lease Agreement to the contrary, the cost and expense of the performance by the City of its obligations under this Lease Agreement and the incurrence of any liabilities of the City under this Lease Agreement including, without limitation, the obligation for the payment of all Lease Payments and all other amounts required to be paid by the City under this Lease Agreement is a direct and general obligation for which the full faith and credit of the City is hereby pledged, which obligation is not subject to City appropriation and, unless the Lease Payments and such other amounts required to be paid by the City under this Lease Agreement are paid from other sources, the City shall be obligated to levy *ad valorem* taxes on all taxable property within the jurisdiction of the City without limitation as to rate or amount.

**SECTION 5.05. Prepayments.** To the extent the Bonds are subject to redemption under the Indenture, the City shall have the option to prepay in full or in part the unpaid balance of the Lease, together with the Redemption Price, if any, on the Bonds, and accrued interest to the redemption date, upon written notice to the Trustee and the Authority of its intention to prepay the Lease, which notice shall comply, in all respects, with the provisions of Sections 402 and 405 of the Indenture. The City shall pay to the Trustee the amount of the Prepayment on a date at least thirty (30) days prior to the redemption date identified in the notice referred to herein for deposit by the Trustee in the Debt Retirement Fund to be applied to the redemption of the applicable series of Bonds in accordance with Section 509 of the Indenture.

In addition, pursuant to Section 205 of the Indenture, the Authority shall have the right to effectuate a refunding of the Bonds through the issuance of Refunding Bonds, and the City shall consent, in a writing addressed to the Authority, to the issuance of such Refunding Bonds prior thereto.

**SECTION 5.06. Payment on Termination of Lease Agreement.** The Authority agrees that, upon termination of this Lease Agreement, after first deducting any moneys due to the Authority for the Authority Administrative Expenses incurred or accruing or for the Annual Authority Administrative Fee, or due to the Fiduciaries for fees and expenses of the same, and so long as no Series 2021 Bonds remain Outstanding and payment therefor has been provided for in full, the Authority shall direct the payment to the City of all moneys or securities held by the Trustee for the account of the Authority pursuant to the Indenture and this Lease Agreement. If such expenses are not fully met from such payment by the Trustee to the Authority, the City shall immediately reimburse the Authority therefor.

**SECTION 5.07. Indemnification of Authority.** Both during the Lease Term and thereafter, to the extent permitted by State law, the City shall indemnify and hold the Authority harmless against, and the City shall pay, any and all liability, loss, cost, damage,

claims, judgment or expense, of any and all kinds or nature and however arising: (i) other than as a result of the gross negligence or willful misconduct of the Authority, its members, professionals, officers, agents, servants or employees, which the Authority may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death, or damage to property, whether real, personal or mixed, or upon or arising out of contracts entered into by the Authority relating to the Construction Project, or arising out of the use, operation or maintenance of the Construction Project pursuant to this Lease Agreement; or (ii) other than as a result of the gross negligence or willful misconduct of the Authority, its members, professionals, officers, agents, servants or employees, out of or caused by any untrue or misleading statement of a material fact relating to the City in Appendix A of the Official Statement, dated July \_\_, 2021, prepared in connection with the issuance of the Series 2021 Bonds ("Official Statement") or any omission of any material fact relating to the City in Appendix A in the Official Statement. It is mutually agreed by the City and the Authority that neither the Authority nor its members, professionals, officers, agents, servants or employees shall be liable in any event for any action performed or omitted to be performed under this Lease Agreement and that the City shall save the Authority harmless from any claim or suit of whatsoever nature arising hereunder except for such claims or suits arising as a result of the Authority's active negligence or willful misconduct. This provision shall survive the end of the Lease Term and the final maturity of the Series 2021 Bonds.

The City, at its own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted against the Authority, its members, professionals, officers, agents, servants or employees relating to the performance of its obligations hereunder; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Lease Agreement from its obligation to defend the City, the Authority, the Trustee and any other insured named in such policy of insurance in connection with claims, suits or actions covered by such policy. The Authority and the City agrees that each shall give the opposing party and the Trustee prompt notice, in writing, of the its actual and/or constructive knowledge of the filing of each such claim and the institution of each such suit or action.

The Authority agrees that it:

(i) shall give the City prompt notice, in writing, of the Authority's actual and/or constructive knowledge of the filing of each such claim and the institution of each such suit or action;

(ii) shall not, without the prior written consent of the City, adjust, settle or compromise any such claim, suit or action; and

(iii) shall permit the City to assume full control of the adjustment, settlement, compromise or defense of each such claim, suit or action. Notwithstanding the foregoing, the City shall keep the Authority informed as to the progress of any suit, claim or action, and the City shall not reach a final settlement, adjustment or compromise without the Authority's prior approval, which approval shall not be unreasonably withheld.

Any cost for attorneys' fees in situations where it is necessary for the Authority to engage its own attorneys, experts' testimony costs and all costs to defend the Authority or any of its members, professionals, officers, agents, servants or employees with respect to matters arising hereunder shall be paid to the Authority by the City and shall constitute an Additional Lease Payment pursuant to Section 5.02(B)(i) hereof.

**SECTION 5.08. Nature of Obligations of the Authority.** The cost and expense of the performance by the Authority of any of its obligations under this Lease Agreement shall be limited to the availability of the proceeds of the Series 2021 Bonds of the Authority issued for such purposes or from other funds received by the Authority under this Lease Agreement and available for such purposes.

**SECTION 5.09. Financial Reports.** The City covenants to provide annually to the Authority and the Trustee within sixty (60) days after the same become available: (i) current financial statements; (ii) as evidence of appropriation, the adopted budget for the ensuing Fiscal Year; and (iii) such other financial information relating to the ability of the City to continue to meet its obligations under this Lease Agreement as may be reasonably requested by the Authority and/or the Trustee.

**SECTION 5.10. Performance Bonds and Other Financial Guaranty.** To the extent required in connection with the undertaking of the Construction Project, any performance bond or bonds, letter of credit or other form of financial guaranty shall be executed by a responsible surety company qualified to do business in the State and shall in each case be in an amount not less than one hundred percent (100%) of the contract price. Any performance bond, letter of credit or other form of financial guaranty provided pursuant to this Section 5.10 shall be made payable to the City, the Authority and the Trustee, as their respective interests may appear. The Proceeds from any performance bond provided pursuant to this Section 5.10 shall be paid over to the Trustee for deposit into the Proceeds Fund and may be applied toward the Costs of the Project or as a credit toward the Lease Payment obligations of the City hereunder in accordance with the provisions of Section 506(1) and (2) of the Indenture.

**SECTION 5.11. Net Lease Agreement.** This Lease Agreement shall be deemed and construed to be a "net Lease Agreement", and the City shall pay absolutely net during the Lease Term the Lease Payments and all other payments required under this Lease Agreement, free of all deductions, without abatement, diminution and set-off, except as otherwise specifically provided for hereunder.

**SECTION 5.12. City Notice; Appropriation for Lease Payments.** The City shall provide to the Authority and the Trustee, on an annual basis as long as any Debt Service payments on the Series 2021 Bonds remain unpaid, within five (5) Business Days after the adoption of a temporary appropriation and/or the filing of the annual budget, as introduced by the City, with the Division of Local Government Services, a certificate of the Chief Financial Officer of the City ("Budget Certificate") certifying that the temporary appropriation and/or the annual budget contains a line item which represents an amount due under this Lease Agreement for all Lease Payment obligations due from the City during the City's Fiscal Year (including, but not limited to, Debt Service on the Series 2021 Bonds and Additional Lease Payments) and evidencing the tax levy at least equal to that amount per \$100 of equalized assessed value of property within the City which shall be sufficient to pay all Lease Payment obligations due from

the City (including, but not limited to, Debt Service on the Series 2021 Bonds and Additional Lease Payments) and which shall be deposited in the general fund of the City. Such Budget Certificate shall have attached a copy of the page of the temporary appropriation and/or the annual budget on which the line item appears and evidencing the tax levy at least equal to that amount per \$100 of equalized assessed value of property within the City which shall be sufficient to pay all City Lease Payment obligations hereunder (including, but not limited to, Debt Service on the Series 2021 Bonds and Additional Lease Payments) and which shall be deposited in the general fund of the City. The City shall also provide to the Trustee and the Authority, within five (5) Business Days thereof, notice of any revisions to such line item. In the event such Budget Certificate is not received by the Trustee within sixty (60) days following the beginning of the City's Fiscal Year or the Trustee has actual knowledge that the City has revised its budget without submitting a Budget Certificate or that the tax levy is not sufficient to pay all City Lease Payment obligations hereunder (including, but not limited to, Debt Service on the Series 2021 Bonds and Additional Lease Payments), the Trustee shall promptly notify the Authority of such event(s) and the Authority may take immediate action to cause all Lease Payments to be timely paid by the City. For the purposes of this Section 5.12, the Trustee shall be deemed to have actual knowledge only if an officer of the corporate trust department of the Trustee has actual knowledge thereof.

**SECTION 5.13. Secondary Market Disclosure.** The City covenants that, as it is an Obligated Person pursuant to Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission in accordance with the Securities Exchange Act of 1934, as amended ("Rule"), with respect to any series of Bonds, it will execute and deliver a Continuing Disclosure Agreement to be entered into with Phoenix Advisors, LLC, Bordentown, New Jersey, acting as dissemination agent ("Continuing Disclosure Agreement"), which Continuing Disclosure Agreement will set forth the obligation of the City to file budgetary, financial and operating data on an annual basis and notices of certain enumerated material events as required to comply with and in accordance with the provisions of the Rule.

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## ARTICLE VI

### SPECIAL COVENANTS

**SECTION 6.01. Compliance with Laws and Regulations.** The City will, at its own cost and expense, promptly comply with, or cause to be complied with, all laws, rules, regulations and other governmental requirements, which may be applicable to the City, the Project or the use or manner of use of the Construction Project provided that the City shall not be required to so comply during the period when the need to so comply is being contested in good faith and by proper proceedings and will not result in a material, adverse detriment to the Construction Project and provided further that such contest will not result in a forfeiture or reversion of title. The City will also observe and comply with the requirements of all policies and arrangements of insurance at any time in force with respect to the Construction Project provided that the City shall not be required to so comply during the period when the need to so comply is being contested in good faith and by proper proceedings and provided further that it will not result in a material, adverse detriment to the Construction Project or result in a forfeiture or reversion of title.

**SECTION 6.02. Covenant Against Waste.** The City covenants not to do or suffer or permit to exist any waste, damage, disfigurement or injury to, or public or private nuisance upon, the Construction Project.

**SECTION 6.03. Right of Inspection.** The City covenants and agrees to permit the Authority and the authorized agents and representatives of the Authority to inspect the Construction Project at all reasonable times during regular business hours for the purpose of inspecting same, upon not less than twenty-four (24) hours prior notice from the Authority, except that entry may be made at any time without notice in the event of an emergency.

**SECTION 6.04. Condition of the Construction Project.** The Authority makes no representations whatsoever in connection with the condition of the Construction Project, and the Authority shall not be liable for any defects therein.

**SECTION 6.05. Assignment of Lease Agreement by the City.** This Lease Agreement may not be assigned in whole or in part by the City without the prior written consent of the Authority and upon receipt by the Authority of a Favorable Opinion of Bond Counsel to the effect that any such assignment shall not adversely affect the exclusion from federal income taxation of interest on the Outstanding Bonds. No such disposition or assignment shall relieve the City from primary liability for any of its obligations hereunder, and in the event of any such disposition or assignment the City shall continue to remain solely liable for the payments specified in this Lease Agreement and for performance and observance of the other agreements on its part herein provided.

**SECTION 6.06. Sale, Lease or Sublease.** (A) The City shall not sell, exchange, transfer, lease or sublease the Construction Project, or any portion thereof or interest therein, without: (i) the prior written consent of the Authority, which request by the City for such consent by the Authority to any such conveyance shall include written documentation that the procedures outlined in paragraph (B) below have been complied with; and (ii) the receipt by the Authority of a Favorable Opinion of Bond Counsel to the effect that such sale, exchange, transfer, lease or

sublease will not adversely affect the exclusion from federal income taxation of interest on the Outstanding Bonds. No sale, exchange, transfer, lease or sublease shall have any adverse effect upon this Lease Agreement or affect or reduce the City's obligations hereunder or thereunder.

(B) In the event of a conveyance, through sale, exchange, transfer or other disposition, of title to or a lesser interest in any lands acquired by the City with the proceeds of the Bonds, the City shall evidence compliance with the provisions of *N.J.S.A. 40:12-15.4*, and any amendments thereto, or any successor statute, including: (i) the conduct by the City of at least one public hearing on such conveyance; (ii) a finding contained in a resolution adopted by the governing body of the City that any land previously acquired by the City is required for another public use; (iii) any land conveyed or exchanged must be replaced by land of at least equal fair market value and of reasonably equivalent usefulness, size, quality and location to the land being conveyed or exchanged; and (iv) that any such conveyance or exchange must be made in accordance with the provisions of the Local Lands and Buildings Law (*N.J.S.A. 40A:12-1 et seq.*), as amended, or any applicable successor statute.

(C) Any moneys received by the City from the conveyance or exchange of any such lands undertaken in accordance with the provisions hereof shall be deposited in the Debt Service Fund held by the Trustee and shall be applied as a credit toward the City's Lease Payment obligations in accordance with the provisions of Sections 508 of the Indenture and used to pay Debt Service on the Bonds.

**SECTION 6.07. Cooperation by the City.** The City, by notice in writing signed by an Authorized City Representative, shall keep the Authority informed of anticipated needs for money to pay the Cost of the Project and the City shall give the Authority its full cooperation and assistance in all matters relating to financing of the Cost of the Project.

The City agrees that it shall provide and certify, or cause to be provided and certified, in form satisfactory to the Authority, such information concerning the City and the Project, the operations and finances of the City and such other matters necessary to enable the Authority to complete and publish an Official Statement relating to the sale of a series of Bonds, if any, or to enable the Authority to make any reports required by law or governmental regulations.

**SECTION 6.08. Full Faith and Credit Pledge.** The City unconditionally and irrevocably pledges its full faith and credit and covenants to exercise its unlimited taxing powers for the punctual payment of the principal and redemption premium, if any, of the Lease, the interest on the Lease and all other amounts due under this Lease Agreement according to the terms hereof.

**SECTION 6.09. Compliance With Laws.** The parties to this Lease Agreement agree to comply with all laws of the State or other governmental bodies or entities having jurisdiction over the City, the Project or this Lease Agreement and applicable to the performance of this Lease Agreement.

**SECTION 6.10. Covenant not to Affect the Tax-Exempt Status of the Bonds.** The City hereby covenants not to take or omit to take any action so as to cause interest on the Bonds to be no longer excluded from gross income for the purposes of federal income taxation

and to otherwise comply with the requirements of Section 103 and 141 through 150 of the Code, and all applicable regulations promulgated with respect thereto, throughout the term of the Bonds. The City further covenants that it will make no investment or other use of the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" (as defined in Section 148 of the Code). The City further covenants to comply with the rebate requirements (including the prohibited payment provisions) contained in Section 148(f) of the Code and any regulations promulgated thereunder, to the extent applicable, and to pay any interest or penalty imposed by the United States for failure to comply with said rebate requirements, to the extent applicable. The City further covenants not to cause the Bonds to become "private activity bonds" (within the meaning of Section 141 of the Code).

**SECTION 6.11. Affirmative Covenants.** So long as the Bonds remain Outstanding, the City shall, unless the Authority shall otherwise consent in writing:

- (a) Preserve and maintain its legal existence, rights, franchises and privileges.
- (b) Comply with the requirements of all applicable laws, rules, regulations, ordinances and orders of any governmental authority, the non-compliance with which would reasonably be expected to materially and adversely affect its operations or financial condition, provided that the City shall not be required to so comply during the period when the need to so comply is being contested in good faith and by proper proceedings.
- (c) Maintain and preserve, or cause to be maintained and preserved, in good working order and condition (the latter to the extent applicable) the Construction Project or any portion thereof necessary or useful in the proper conduct of its operation.
- (d) Maintain and keep in effect or cause to be maintained and kept in effect any approvals, licenses, permits and similar documents necessary in the proper conduct of its operations at or related to the Construction Project.
- (e) Acquire, operate, use and maintain the Construction Project in accordance with all applicable federal, State and municipal laws, ordinances, rules and regulations now in force or that may be enacted hereafter including, but not limited to, the Americans With Disabilities Act, workers' compensation, sanitary, safety, non-discrimination and zoning laws, ordinances, rules and regulations as shall be binding upon the City and which might adversely affect its activities or its financial condition.
- (f) Furnish to the Authority and the Trustee the following:
  - (i) no later than sixty (60) days after the receipt and acceptance thereof by the City, a detailed audit report for the preceding Fiscal Year, certified by certified independent public accountants selected by the City, presenting the City's revenues and expenses at the close of the preceding Fiscal Year and the results of its operations during said Fiscal Year; and
  - (ii) as soon as possible, and in any event within five (5) days, after the occurrence of each Event of Default (as such term is defined herein pursuant to Section 8.01 hereof) hereunder within the knowledge of the City, or each event within the knowledge of the

City which, with the giving of notice or lapse of time, or both, would constitute an Event of Default hereunder, a statement of an Authorized City Representative setting forth details of such Event of Default or event(s) and the action which the City proposes to take with respect thereto.

(g) Raise moneys in the annual tax levy to be applied to and deposited in the general fund of the City, as shall be sufficient to make the Lease Payments hereunder to enable the Authority to amortize Debt Service on the Bonds as long as the same are Outstanding.

**SECTION 6.12. Delivery of Documents.** Concurrently with the delivery of this Lease Agreement and the issuance of a series of Bonds, the City shall cause to be delivered to the Authority each of the following items:

- (i) opinions of City Solicitor and City Bond Counsel in form and substance satisfactory to the Authority;
- (ii) counterparts of this Lease Agreement as previously executed by the parties hereto;
- (iii) copy of the Lease Ordinance of the governing body of the City authorizing the execution and delivery of this Lease Agreement and related applicable matters, certified by an Authorized City Representative, together with the record of proceedings thereof;
- (iv) the Lease Documents duly executed by the respective parties thereto;
- (v) copy of the Continuing Disclosure Agreement, if applicable; and
- (vi) such other certificates, documents, opinions and information as the Authority may reasonably require in connection with the execution, delivery and implementation of this Lease Agreement, the financing of the Project and the issuance of the Bonds.

**SECTION 6.13. Information.** The City agrees, whenever reasonably requested by the Authority or the Trustee, to provide and certify or cause to be provided and certified such information concerning the Project, the City and its financial condition, and other topics as the Authority may reasonably request and, further, the City assures that the records and accounts of the City shall at all reasonable times be subject to inspection and use of the Authority and the Trustee and their respective agents and attorneys.

**SECTION 6.14. Rebate Covenant.** (A) Within forty-five (45) days of the end of each fifth anniversary date of the issuance of the Bonds, the Authority shall retain or cause the City to retain a firm of certified public accountants or a financial consulting firm which is experienced in the calculation of the amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code or the penalty amount in lieu of rebate elected by the Authority under Section 148(f)(4)(C)(vii) of the Code ("Financial Consultant"), to compute the amount rebatable or payable as a penalty to the United States of America, if any, and will cause to be delivered to the Trustee an opinion of such Financial Consultant concerning its conclusions with respect to the amount rebatable or payable as a penalty to the United States of

America, together with a written summary of the calculations thereof. The City shall pay to the Trustee at such times as required under the Code an amount equal to the amount rebatable or payable as a penalty to the United States of America for deposit by the Trustee into the Rebate Fund. To the extent the amounts on deposit in the Rebate Fund as of any date of computation are less than the amount rebatable or payable as a penalty to the United States of America, the City shall immediately pay the amounts necessary to the Trustee for deposit in the Rebate Fund.

(B) The amounts in the Rebate Fund shall be applied at the times and in the amounts required under the Code solely for the purpose of paying the United States of America in accordance with Section 148(f) of the Code.

(C) With respect to the Bonds, the City covenants and agrees that it will comply with the requirements of the Code relating to the investment restrictions on the proceeds of the Bonds and the calculation of the amount rebatable or payable as a penalty to the United States of America and payment thereof under the Code.

(D) The Authority shall have the right at any time and from time to time, in its sole and absolute discretion, to obtain from the City and the Trustee the information necessary to determine the amount to be paid to the United States. Additionally, the Authority may: (i) review or cause to be reviewed any determination of the amount to be paid to the United States made by or on behalf of the City; and (ii) make or retain a Financial Consultant to make the determination of the amount to be paid to the United States of America. The City hereby agrees to be bound by any such review or determination, to pay the costs of such review including, without limitation, the reasonable fees and expenses of any professional including, but not limited to, counsel or Financial Consultants retained by the Authority, and to pay to the Trustee any additional amounts for deposit in the Rebate Fund required as the result of any such review or determination.

(E) Notwithstanding any provision of this Section 6.14 to the contrary, the City shall be liable, and shall indemnify and hold the Authority harmless against any liability, for payments due to the United States pursuant to Section 148(f) of the Code. Further, the City specifically agrees that the Authority shall not be held liable, or in any way responsible, for any mistake or error in the filing of the payment or the determination of the amount due to the United States of America or for any consequences resulting from any such mistake or error.

(F) The Authority and the City recognize that the provisions of this Section 6.14 are intended to comply with Section 148 of the Code and if, as a result of a change in such Section of the Code or in the interpretation thereof, a change in this Section 6.14 shall be permitted or necessary to assure continued compliance with Section 148 of the Code, then with written notice to the Trustee, the Authority and the City shall be empowered to amend this Section 6.14 and the Authority may require, by written notice to the City and the Trustee, the City to amend, and the City hereby agrees to consent to, comply with and be bound by any such amendment to this Section 6.14 to the extent necessary or desirable to assure compliance with the provisions of Section 148 of the Code; provided that either the Authority or the Trustee shall require, prior to any such amendment becoming effective, at the sole cost and expense of the City, a Favorable Opinion of Bond Counsel satisfactory to the Authority to the effect that either (i) such amendment is required to maintain the exclusion from gross income under Section 103 of the Code of interest paid and payable on the Bonds or (ii) such amendment shall not adversely

affect the exclusion from gross income under Section 103 of the Code of interest paid or payable on the Bonds.

(G) Notwithstanding anything herein or in the Indenture to the contrary, the obligations of the City under the provisions of this Section 6.14 shall survive the payment, redemption or defeasance of the Bonds until the expiration of all statutes of limitations applicable to the Authority with respect to the Bonds and Section 148 of the Code.

**SECTION 6.15. Negative Covenants.** So long as the Bonds remain Outstanding, the City shall not, without the written consent of the Authority:

(a) Amend, modify, terminate or supplement, or permit the amendment, modification, termination or supplementation of, this Lease Agreement.

(b) With respect to any part of the Construction Project, enter into any management or operating contract with a term greater than twelve (12) months with any entity or Person, without the prior written consent of the Authority.

(c) Permit any action to occur which would be in direct violation of any and all applicable federal, State and municipal laws, ordinances, rules and regulations now in force or hereinafter enacted, including the Act and regulations of the Authority promulgated thereunder and the regulations of the State Department of Environmental Protection.

**SECTION 6.16. Third Party Beneficiaries.** The City agrees that the covenants, representations and warranties set forth herein are for the benefit of the Authority, Bondholders and the Trustee.

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## ARTICLE VII

### **INSURANCE; DAMAGE, DESTRUCTION AND CONDEMNATION**

**SECTION 7.01. Operation, Maintenance and Repair.** During the Lease Term, the Authority shall be responsible for maintaining, preserving and keeping the Construction Project in good repair, working order and condition and protect the same from deterioration and for making all necessary repairs and replacements thereto in compliance with the requirements of applicable laws, ordinances and regulations and the requirements of any insurance or self-insurance program required under Section 7.05 hereof. During the Lease Term, the City shall be responsible for reimbursing the Authority for any and all reasonable costs it incurs for its obligations contained in this Section 7.01, which reimbursements shall be treated as Additional Lease Payments. Neither the Authority nor the Trustee shall have any obligation in any of these matters, or for the making of improvements or additions to the Construction Project.

**SECTION 7.02. Utilities, Taxes and Governmental Charges.** The City will pay or cause to be paid any and all charges for the operation and maintenance of the Construction Project including, but not limited to, as applicable, water, electricity, light, heat or power, sewage, utility service, rendered or supplied upon or in connection with the Construction Project during the Lease Term.

In addition, the City shall: (i) pay, or make provision for payment of, all lawful taxes and assessments, including income, profits, property or excise taxes, if any, or other municipal or governmental charges, levied or assessed by any federal, State or any municipal government upon the Authority or the City with respect to or upon the Construction Project, or any part thereof, or upon any payments hereunder when the same shall become due; (ii) duly observe and comply with all valid requirements of any governmental authority relative to the Construction Project; (iii) not create or suffer to be created any lien or charge upon the Construction Project, or any part thereof, or upon the payments in respect thereof pursuant to this Lease Agreement; and (iv) pay or cause to be discharged or make adequate provision to satisfy and discharge, within sixty (60) days after the same shall come into force, any lien or charge upon the Construction Project, or any part thereof, or upon any payments hereunder and all lawful claims or demands for labor, materials, supplies or other charges which, if unpaid, might be or become a lien upon any payments hereunder. The City shall, to the extent permitted by law, undertake all reasonable action necessary to obtain and preserve the legal exemption of the Construction Project from the levy of taxes and assessments.

**SECTION 7.03. Additions, Enlargements and Improvements.** (A) The City shall, with the prior written approval of the Authority, have the right at any time and from time to time during the Lease Term, at its own cost and expense, to make such enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, the Construction Project as the City shall deem necessary or desirable in connection with the use of the Construction Project; provided, however, that prior to making any such enlargements, improvements and expansions to, or repairs, reconstruction or restorations of, the Construction Project, the City shall obtain all necessary permits and approvals relating to the same. All such additions, enlargements, improvements, expansions, repairs, reconstruction and restorations when completed shall be of such character as not to reduce or otherwise adversely affect the operation, maintenance or value of the Construction Project. The cost of any such additions,

enlargements, improvements, expansions, repairs, reconstruction or restorations shall be promptly paid or discharged so the Construction Project shall at all times be free of liens for labor and materials supplied thereto.

**SECTION 7.04. Additional Rights of the City.** The Authority agrees that the City shall have the right, option and privilege of erecting, installing and maintaining at its own cost and expense such equipment and personalty in or upon the Construction Project as may, in the City's judgment, be necessary and advisable for its purposes. It is further understood and agreed that anything erected or installed under the provisions of this Section 7.04 shall be and remain the personal property of the City and shall not become part of the Construction Project, and may be removed, altered or otherwise changed as long as such removal does not cause substantial damage to the Construction Project, upon or before the termination of this Lease Agreement.

**SECTION 7.05. Insurance.** With respect to the Construction Project, or any portion thereof, as the case may be, the City hereby assumes the entire risk of loss thereof from any and every cause whatsoever including, but not limited to, damage to or the destruction of the Construction Project, or any portion thereof, by fire or any other casualty or the taking of title to or the temporary use of the Construction Project, or a portion thereof, as the case may be, or the interest of the City therein under the exercise of the power of eminent domain by any governmental body *de jure* or *de facto* or by any Person, firm or corporation acting under governmental authority. At its own expense, the City shall cause casualty, public liability and all-risk property damage insurance to be carried and continuously maintained, or shall demonstrate (upon request) to the satisfaction of the Authority that adequate self-insurance is provided with respect to the Construction Project sufficient in the aggregate to cover the full replacement cost of the Construction Project or to pay the applicable value thereof, and to protect the Authority and the Trustee from liability in all events. Any casualty or property damage insurance policies shall include a standard non-contribution mortgagee clause in favor of and satisfactory to the Trustee and any liability insurance shall be for the benefit of the Trustee and the Authority as named insureds, as their interests may appear. All policies shall require that not less than thirty (30) days' written notice of cancellation or material change will be given to the Trustee. The Authority and the Trustee agree to accept allocated value blanket insurance policies, provided however, that any casualty or property damage insurance policies maintained pursuant to this Section 7.05 shall be so written or endorsed as to make losses, if any, with respect to the Construction Project payable to the Trustee and applied as provided in Sections 7.06 or 7.07 hereof, as applicable. The City will provide a copy of a blanket insurance policy or policies to the Authority as evidence of such coverage. If the City maintains a program of self-insurance for similar properties, the City may insure the Construction Project in its self-insurance program and provide an adequate insurance fund to pay losses.

The City agrees to deliver annually to the Authority and the Trustee not later than December 15 of each year a certificate dated as of December 1 of such year setting forth not less than the following: (i) a schedule of all insurance policies then in effect, including the names of the insurance companies, the risks covered, the periods for which such policies are in effect and the amounts of any coverage and the deductibles, if any; (ii) if certain risks are covered by self-insurance programs of the City, a schedule identifying what risks are so covered; and (iii) a statement that all such insurance policies or self-insurance programs comply with the provisions of this Section 7.05 and are in full force and effect.

The Trustee shall promptly notify the Authority if such certificate is not received by December 31 of each year. All insurance policies shall be held by the City and shall be open to the inspection of the Trustee and its representatives at all reasonable times, although absent contrary directions from the Authority, no such inspection shall be required of the Trustee. The net proceeds of the insurance required in this Section 7.05 shall be applied as provided in Sections 7.06 and 7.07 hereof.

**SECTION 7.06. Damage or Destruction.** The City agrees to immediately notify the Authority and the Trustee in the case of damage to or destruction of the Construction Project (or any portion thereof) resulting from fire or other casualty during the Lease Term. So long as no Event of Default has occurred and is continuing hereunder, the City may, with the prior consent of the Authority (which consent shall not be unreasonably withheld), either: (i) repair, reconstruct and restore the Construction Project (or any portion thereof) or request the Authority to repair, reconstruct and restore the Construction Project (or any portion thereof) at the City's cost and expense; or (ii) undertake an Additional Project, subject to the conditions set forth in Section 7.03 of this Lease Agreement and Section 503 of the Indenture. In such event, the City shall proceed forthwith to either repair, reconstruct and restore the Construction Project (or any portion thereof), or request the Authority to repair, reconstruct and restore the Construction Project (or any portion thereof) at the City's cost and expense, to substantially the same condition as existed prior to the event causing such damage or destruction or undertake an Additional Project in accordance with the provisions of this Section 7.06. As long as no Event of Default has occurred and is continuing hereunder, any such net proceeds of insurance relating to such damage or destruction shall be deposited in the Acquisition Fund and applied by the Trustee, and used as directed by the City, for the payment of the Cost of such repair, reconstruction and restoration or such Additional Project, in the same manner and upon the same conditions as set forth in the Indenture for the payment of the Cost of the Construction Project. Any proceeds of insurance remaining following the repair and restoration of the Construction Project or the undertaking of any Additional Project shall be transferred by the Trustee upon written direction of an Authorized City Representative, as approved by an Authorized Authority Representative, and applied as a credit toward Lease Payments of the City in accordance with the provisions of Section 503(2) of the Indenture. The City shall complete the repair, reconstruction and restoration of the Construction Project (or any portion thereof) or the undertaking of any Additional Project, whether or not the proceeds of the insurance proceeds received by the City are sufficient to pay for the same.

In the event the Authority does not consent to the repair, reconstruction and restoration of the Construction Project (or portion thereof) or the undertaking of any Additional Project pursuant to the terms of this Section 7.06 then, in such event, the City shall be under no obligation to repair, reconstruct and restore the Construction Project (or portion thereof) or to undertake such Additional Project and the net proceeds of insurance relating to such damage or destruction shall be deposited in the Debt Service Fund and applied by the Trustee in accordance with the provisions of the Indenture with respect thereto.

If an Event of Default has occurred and is continuing hereunder, any such proceeds of insurance shall be deposited with the Trustee in the Debt Service Fund and shall be applied by the Trustee in accordance with the provisions of Section 903 of the Indenture.

**SECTION 7.07. Condemnation.** This Lease Agreement and the interest of the City in the Construction Project (or any portion thereof) which is condemned or taken for any public or quasi-public use shall be terminated when title thereto vests in the party condemning or taking the same (hereinafter referred to as the "termination date"). The City hereby irrevocably assigns to the Authority, all right, title and interest of the City in and to the net proceeds of any award, compensation or taking during the Lease Term. Such award shall be initially paid to the Authority for disbursement as hereinafter provided.

So long as no Event of Default has occurred and is continuing hereunder, the City shall use the net proceeds of the award made in connection with such condemnation or taking for replacement of the Construction Project (or such portion thereof) or undertaking an Additional Project and the City shall proceed forthwith to replace the Construction Project (or such portion thereof) or undertake such Additional Project. In such event, any such net proceeds shall be deposited in the Acquisition Fund for application by the Trustee to pay the Cost of such replacement or the undertaking of such Additional Project, in the same manner and upon the same conditions set forth in the Indenture for the payment of the Cost of the Construction Project (or such portion thereof). Any proceeds of an award remaining following replacement of the Construction Project (or such portion thereof) or undertaking any Additional Project as provided herein shall be transferred by the Trustee upon written direction of an Authorized City Representative, as approved by an Authorized Authority Representative, and applied as a credit toward Lease Payments of the City in accordance with the provisions of Section 503(2) of the Indenture. The City shall complete the replacement of the Construction Project (or such portion thereof) or the undertaking of any Additional Project, whether or not the net proceeds of the condemnation award which are received by the City are sufficient to pay for same.

If an Event of Default has occurred and is continuing hereunder, any such condemnation award shall be deposited with the Trustee in the Debt Service Fund and shall be applied by the Trustee in accordance with Section 903 of the Indenture.

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## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

**SECTION 8.01. Events of Default.** An "Event of Default" or a "default" shall mean, whenever such word or words are used in this Lease Agreement, any one or more of the following events:

(a) Failure by the City to pay or cause to be paid when due the payments required to be paid under Section 5.02(A) hereof;

(b) Failure by the City to pay when due any payments (other than payments under Section 5.02(A) hereof) to be made under this Lease Agreement, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the City by the Authority or the Trustee;

(c) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed (other than as referred to in subsections (a) and (b) of this Section 8.01), which failure shall continue for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, is given to the City by the Authority or the Trustee, unless the notifying party shall agree, in writing, to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the notifying party will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is remedied; and provided further that the failure of the City to comply with the provisions of Section 5.13 hereof or the Continuing Disclosure Agreement shall not constitute an event of default hereunder;

(d) The entering of an order or decree appointing a receiver with the consent or acquiescence of the City or the entering of such order or decree without the acquiescence or consent of the City if it shall not be vacated, discharged or stayed within sixty (60) days after its entry; or

(e) A petition is filed by or against the City under any federal or State bankruptcy or insolvency law or other similar law in effect on the date of this Lease Agreement or thereafter enacted, unless in the case of any such petition filed against the City such petition shall be dismissed within thirty (30) days after filing and such dismissal shall be final and not subject to appeal; or the City shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee) of the City or any of its property shall be appointed by court order or take possession of the City's property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

The foregoing provisions of subsection (c) of this Section 8.01 are subject to the following limitations: if by reason of acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of the government of the United States or of the State or any department, agency, political subdivision or official of either of them, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, blizzards, or other storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, partial or entire failure of utilities, or any cause or event not reasonably within the control of the City, the City is unable, in whole or in part, to carry out its agreements herein contained, the City shall not be deemed in default during the continuance of such inability. The City agrees, however, to use its best efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements, provided that the settlement of strikes, lockouts and other disturbances shall be entirely within the discretion of the City, and the City shall not be required to make settlement of strikes, lockouts and other disturbances by acceding to the demands of an opposing party or parties when such course is, in the judgment of the City, unfavorable to the City.

If any Event of Default described in this Section 8.01 shall have occurred, and if no acceleration of the amounts payable hereunder shall have been declared pursuant to Section 8.02 hereof, and all amounts then due and payable hereunder are paid by the City and the City also performs all other things in respect of which it may have been in default hereunder and pays any reasonable charges of the Authority and the Trustee, including reasonable attorneys' fees (or, in the case of a failure by the City to make a payment of the Annual Authority Administrative Fee, if the Authority shall extend the time for making such payment), then, and in every such case, such Event of Default shall be deemed to have been cured and the parties hereto shall be restored to their former respective positions; but no such curing of an Event of Default shall extend to or affect or constitute a waiver of any subsequent Event of Default or impair any right or remedy consequent thereon.

Notwithstanding the above, an Event of Default under this Article VIII shall not be construed as an Event of Default under the Indenture.

**SECTION 8.02. Acceleration and Annulment Thereof; Opportunity to Cure Default.**

(A) If any Event of Default occurs hereunder, the Authority and the Trustee may, with the prior consent and direction of the 51% or more of the Holders of the Series 2021 Bonds, declare all amounts payable during the Lease Term in respect of the unpaid principal balance of the Loan made hereby, together with all interest accrued and all other amounts then payable to the Authority or the Trustee, to be immediately due and payable; and upon such declaration the said principal amount shall become due and payable immediately, anything in the Indenture, the Bonds or this Lease Agreement to the contrary notwithstanding.

(B) If, after such declaration, all amounts due, which were due and payable prior to such declaration, are paid by the City and the City also performs all other things in respect of which it may have been in default hereunder and pays the reasonable charges of the Authority and the Trustee, including reasonable attorneys' fees, then, and in every such case, the Authority, by notice to the City and the Trustee, and subject to the provisions of the Indenture, may annul such declaration and its consequence and the City, the Authority and the Trustee shall

be restored to their respective former positions and rights under the Indenture; but no such annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon. Upon such payment and annulment, this Lease Agreement shall be fully reinstated as if it had never been accelerated.

**SECTION 8.03. Payments by the City.** (A) If an Event of Default referred to in Section 8.01(a) hereof shall have happened and be continuing and there remains outstanding Lease Payments which have not been paid by the City to the Trustee pursuant to the terms of this Lease Agreement (which determination shall be made by the Trustee as at the close of business on any Lease Payment Date), the Trustee, on behalf of the Authority, shall notify the Chief Financial Officer of the City or its designee, an Authorized City Representative and the Authority, in writing, not later than 4:00 p.m. of the first Business Day after such Lease Payment Date, of the failure of the City to pay its Lease Payment on the Lease Payment Date, which notice shall state the amount of any such deficiency as at the close of business on the Lease Payment Date and that such deficiency must be cured no later than the next ensuing Interest Payment Date and Principal Installment Date, as applicable. The Authority and the Trustee shall undertake all diligent efforts to pursue the City and cause it to pay all amounts due and owing to the Authority under this Lease Agreement prior or subsequent to an Interest Payment Date and Principal Installment Date, as applicable.

(B) When written notice has been provided to the City by the Trustee as described above, the City shall take all actions necessary and permitted by law to make payment of an amount equal to the deficiency owed, which amount, when added to available amounts on deposit in the Debt Service Fund, shall be sufficient to pay the principal of and interest on the Bonds due on the next ensuing Interest Payment Date and Principal Installment Date, as applicable.

**SECTION 8.04. Remedies.** Upon the occurrence of an Event of Default hereunder, the Authority may exercise any one or more of the remedies available to it under the terms of this Lease Agreement, any other agreement, or now or hereafter existing at law or in equity or by statute separately or concurrently and as often as required to enforce the City's obligations hereunder. In addition to the other remedies provided in this Lease Agreement, the Authority shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, by the City of any of the covenants, conditions or provisions of this Lease Agreement, and to a decree compelling specific performance of any such covenants, conditions or provisions.

In case of any proceeding of the Authority wherein appointment of a receiver may be permissible, the Authority, as a matter of right and immediately upon institution of each proceeding, upon written notice to the City, shall be entitled to appointment of a receiver, with such powers as the court making such appointment can confer. Upon demand, the City shall pay to the Authority all expenses, including receiver's fees, costs and agent's compensation, incurred pursuant to the provisions of this Section 8.04 and all such expenses shall be secured by this Lease Agreement.

**SECTION 8.05. Cumulative Rights; No Implied Waiver.** No remedy conferred upon or reserved to the Authority or the Trustee by this Lease Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall

be cumulative and shall be in addition to every other remedy given under this Lease Agreement, any other agreement, or now or hereafter existing at law or in equity or by statute. No delay, omission or waiver by the Authority or the Trustee of any breach by the City of any of its obligations, agreements or covenants hereunder, shall be deemed a waiver of any subsequent breach, and no delay or omission to exercise any right or power shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**SECTION 8.06. No Duty to Mitigate Damages.** The Authority and the Trustee shall not be required to do any act whatsoever or exercise any diligence whatsoever to mitigate damages if an Event of Default shall occur hereunder.

**SECTION 8.07. Employment of Attorneys.** If the Authority and the Trustee, in accordance with the terms of the Indenture or this Lease Agreement, or as reasonably determined by such party, shall require and employ attorneys or incur other expenses for the collection of payments due or to become due or the enforcement or performance or observance of any obligation or agreement on the part of the City herein contained, the City shall, on demand thereof, pay to the Authority or the Trustee, as applicable, the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Authority or the Trustee, or any of them.

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## ARTICLE IX

### MISCELLANEOUS

**SECTION 9.01. Successors and Assigns.** This Lease Agreement shall inure to the benefit of the City, the Authority and the Trustee and their respective successors and assigns and shall be binding upon the City, the Authority and the Trustee and their respective successors and assigns; provided, however, that the City may only assign this Lease Agreement in accordance with Section 6.05 hereof.

**SECTION 9.02. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease Agreement and the Indenture, subsequent to the issuance of the Series 2021 Bonds and prior to payment or provision for the payment of all Bonds in full and any other obligations incurred by the Authority to pay the Cost of the Project, including interest, premiums and other charges, if any, thereon, and payment or provision for the payment of Authority Administrative Expenses, this Lease Agreement may not be amended, changed, modified, altered or terminated so as to adversely affect the interests of the Holders of the Series 2021 Bonds without the prior written consent of the Holders of at least fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding; provided, further, that no such amendment, change, modification, alteration or termination will reduce the percentage of the aggregate principal amount of the Outstanding Bonds, the consent of the Holders of which is required for any such amendment, change, modification, alteration or termination or to decrease the amount of any payment required to be made under this Lease Agreement or extend the time of payment thereof. This Lease Agreement may be amended, changed, modified and altered without the prior written consent of the Holders of the Bonds to provide necessary changes only to cure any ambiguity, correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions contained herein, in connection with the issuance of Refunding Bonds pursuant to the Indenture and applicable Supplemental Indenture or to provide other changes which will not adversely affect the interests of such Holders. No other amendment, change, modification, alteration or termination of this Lease Agreement shall be made other than pursuant to a written instrument signed by the Authority and the City and in accordance with the Indenture and this Lease Agreement. Copies of any amendments to this Lease Agreement shall be filed with the Trustee.

For all purposes of this Section 9.02, the Trustee shall be entitled to rely upon a Favorable Opinion of Bond Counsel with respect to the extent, if any, as to which any action adversely affects the interests of any Holders of Bonds then Outstanding.

**SECTION 9.03. Amounts Remaining Under Indenture.** Upon expiration of the Lease Term, it is agreed by the parties hereto that any amounts remaining in any Fund or Account created under the Indenture, after payment in full of the Bonds (or provisions for payment thereof having been made in accordance with the provisions of the Indenture) and the fees, charges and expenses of the Trustee, the Paying Agent and the Authority in accordance with the Indenture and this Lease Agreement, shall belong to and be paid to the City pursuant to Section 512 of the Indenture. Notwithstanding the above, if the Bonds shall have been defeased in accordance with Section 1201 of the Indenture, unclaimed funds remaining under the Indenture pursuant to Section 1202 thereof shall be released to the Authority free and clear of the lien and pledge of the Indenture.

**SECTION 9.04. Counterparts.** This Lease Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 9.05. Headings.** The Article and Section headings in this Lease Agreement are inserted for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease Agreement.

**SECTION 9.06. Non-Waiver.** It is understood and agreed that nothing contained in this Lease Agreement shall be construed as a waiver on the part of the parties, or any of them, of any right not explicitly waived in this Lease Agreement.

**SECTION 9.07. Survival of Lease Agreement.** Notwithstanding anything else to the contrary herein, the provisions of Sections 2.01(N), 4.08, 5.08, 6.10 and 6.14 hereof shall survive the expiration of the Lease Term and the final maturity of the Series 2021 Bonds.

**SECTION 9.08. Assignment.** This Lease Agreement may not be assigned by the City except as provided in Section 6.05 hereof.

**SECTION 9.09. Severability.** Any provision of this Lease Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any such jurisdiction.

**SECTION 9.10. Applicable Law.** This Lease Agreement shall be deemed to be a contract made in the State and governed by the laws of the State.

**SECTION 9.11. Notices.** All notices, consents, approvals and statements (including statements of amounts due hereunder) required to be given or authorized to be given by either party pursuant to this Lease Agreement shall be in writing, and shall be sent by facsimile transmission (with written confirmation of receipt and hard copy to follow in a manner described below) or shall be sent by personal delivery, registered or certified mail or recognized overnight delivery to the main office of the other party, at the following address:

If to the Authority:

The Cumberland County Improvement Authority  
2 North High Street  
Millville, New Jersey 08332  
Attention: President/Chief Executive Officer

With Copy to Bond Counsel:

Parker McCay P.A.  
9000 Midlantic Drive, Suite 300  
Mount Laurel, New Jersey 08054  
Attention: Craig A. Gargano, Esquire

If to the City:

City of Vineland  
640 East Wood Street  
P.O. Box 1508  
Vineland, New Jersey 08362  
Attention: Chief Financial Officer

If to the Trustee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

or to such other representatives or addresses as the Authority, the City or the Trustee may designate, in writing.

Any such notice shall be effective on the third Business Day following the mailing thereof, or upon the date of receipt, whichever is earlier.

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IN WITNESS WHEREOF, the Authority has caused this instrument to be signed by its Chairman as its duly authorized officer and its official seal to be hereunto affixed and the City has caused this instrument to be executed in its name by its Chief Financial Officer and its official seal to be hereunto affixed, all as of the day and year first above written.

**THE CUMBERLAND COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_  
**GERARD VELAZQUEZ, III**  
President/CEO

**ATTEST**

\_\_\_\_\_  
**DALE K. JONES, Secretary**

(SEAL)

**CITY OF VINELAND, NEW JERSEY**

By: \_\_\_\_\_  
**SUSAN BALDOSARO,**  
Chief Financial Officer

**ATTEST**

\_\_\_\_\_  
**KEITH PETROSKY, City Clerk**

(SEAL)

**EXHIBIT A**

**LEASE PAYMENT SCHEDULE**

**EXHIBIT B**

**FORM OF REQUISITION FOR PAYMENT**

**THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY  
CITY GENERAL OBLIGATION LEASE REVENUE BONDS  
(VINELAND PUBLIC FACILITIES PROJECTS), SERIES 2021**

**REQUISITION REF. NO. \_\_\_\_\_**

I, the undersigned \_\_\_\_\_ [insert title] of The Cumberland County Improvement Authority ("Authority") DO HEREBY CERTIFY that I am an Authorized Authority Representative duly designated by the Authority to execute and deliver this certificate on behalf of the Authority. I DO HEREBY FURTHER CERTIFY pursuant to and in accordance with the terms of a Lease Agreement by and between The Authority and the City of Vineland, County of Cumberland, New Jersey, dated as of August 1, 2021 ("Lease Agreement") as follows:

1. This requisition is Requisition No. \_\_\_\_\_ and is to be paid in connection with the portion of the Construction Project described below:

Construction Project Description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Payment is to be made from the Acquisition Fund.

3. The name and address of the Person, firm or corporation to whom payment is due is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[If such payment is to be made to the Authority for a reimbursable advance, insert the name and address of the Person, firm or corporation to whom such advance was made together with proof of payment by the Authority.]

4. The amount to be paid to such Person, firm or corporation named in Paragraph 3 above is \$\_\_\_\_\_.

[Attach description and invoice or billing reference.]

5. Each obligation, item of Cost or expense mentioned herein has been properly incurred, is a proper charge against the Acquisition Fund, is an item of Cost of the Construction Project, is unpaid or unreimbursed, and has not been the basis of any previously paid withdrawal or requisition.

6. The applicable public contracts bidding laws, prevailing wage laws (including, but not limited to, the Act) and affirmative action requirements applicable to the contract pursuant to which payment is being requested have been complied with.

7. If such payment is a reimbursement to the Authority for Costs or expenses incurred (A) by reason of work performed or supervised by officers or employees of the Authority and/or (B) as annual administrative costs incurred by the Authority, such amount mentioned herein to be paid does not exceed the actual cost thereof to the Authority.

8. No uncured Event of Default has occurred under the Lease Agreement or the Indenture (as defined in the Lease Agreement) and everything required to be performed by the Authority has been performed.

9. The Authority has received no written notice of any lien, right to lien or attachment upon, or other claim affecting the right to receive payment of, any of the moneys payable under this requisition to any of the Persons, firms or corporations named herein, or if any of the foregoing has been received, it has been released or discharged or will be released or discharged upon payment of this requisition.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Lease Agreement.

**DATED:** \_\_\_\_\_

**THE CUMBERLAND COUNTY  
IMPROVEMENT AUTHORITY**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

The undersigned, on behalf of City of Vineland, County of Cumberland, New Jersey, hereby approves the above requisition.

**DATED:** \_\_\_\_\_

**CITY OF VINELAND,  
NEW JERSEY**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**EXHIBIT C**

**FORM OF COMPLETION CERTIFICATE**

City of Vineland  
640 East Wood Street  
P.O. Box 1508  
Vineland, New Jersey

\_\_\_\_\_  
as Trustee  
\_\_\_\_\_  
\_\_\_\_\_

Pursuant to Section 4.05 of the Lease Agreement by and between The Cumberland County Improvement Authority ("Authority") and the City of Vineland, County of Cumberland, New Jersey, dated as of August 1, 2021 ("Lease Agreement"), the undersigned, an Authorized Authority Representative (all undefined terms used herein shall have the same meaning ascribed to them in the Lease Agreement), as of the date hereof, certifies that:

- (i) the portion of the Construction Project described below was completed as of \_\_\_\_\_, 20\_\_;

Construction Project Description:

\_\_\_\_\_  
\_\_\_\_\_

- (ii) as of such date referenced in clause (i) above, except for amounts retained by the Trustee, at the Authority's direction, for any Cost of the Construction Project not now due and payable or, if due and payable, not presently paid, the Cost of all labor, services, materials and supplies used in the Construction Project have been paid, or will be paid from amounts retained by the Trustee, at the Authority's direction, for any Cost of the Construction Project not then due or payable, or if due and payable, not then paid;
- (iii) the Authority has paid the amount of \$\_\_\_\_\_ toward the Costs of the Construction Project;
- (iv) the Construction Project is being operated and maintained as an authorized "public facility" under the Act; and
- (v) all permits, including a Certificate of Occupancy, if required or necessary for the utilization of the Construction Project, have been obtained and are in effect.

Any amount hereafter remaining in the Acquisition Fund (except amounts therein sufficient to cover Costs of the Construction Project not now due and payable or not presently paid and except for interest or other income earned from the investment of the moneys held in the Acquisition Fund, if any) shall be transferred by the Trustee and shall be applied by the

Trustee in accordance with Sections 4.05 and 4.09 of the Lease Agreement and Section 503(4) of the Indenture and shall not be invested at a yield materially higher than the yield on the Series 2021 Bonds as provided in the Indenture.

This certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

**DATED:** \_\_\_\_\_

**THE CUMBERLAND COUNTY  
IMPROVEMENT AUTHORITY**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**EXHIBIT D**

**CERTIFICATE OF INCUMBENCY AND SIGNATURES  
OF OFFICERS OF THE AUTHORITY**

The undersigned, Secretary of The Cumberland County Improvement Authority ("Authority"), hereby certifies that the individuals named below are, on the date hereof, the duly appointed, qualified and acting incumbents of the offices of the Authority set out to the left of their name, and that the signatures set out to the right of their names are the genuine signatures of said officers:

<b><u>Title</u></b>	<b><u>Name</u></b>	<b><u>Signature</u></b>
<b>Chairman</b>	<b>George Olivio</b>	_____
<b>President/ Chief Executive Officer</b>	<b>Gerard Velazquez, III</b>	_____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official corporate seal of the Authority this \_\_th day of August, 2021.

**THE CUMBERLAND COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_  
**ALBERT B. KELLY, Secretary**

[SEAL]

**EXHIBIT E**

**CERTIFICATE TO BE USED WHEN CONSTRUCTION PROJECT COSTS  
EXCEED AMOUNTS IN ACQUISITION FUND**

**REQUISITION REF. NO. 2021-\_\_\_\_\_**

I, the undersigned \_\_\_\_\_  
[insert title] of The Cumberland County Improvement Authority ("Authority") DO HEREBY CERTIFY that I am an Authorized Authority Representative duly designated by the Authority to execute and deliver this certificate on behalf of the Authority. I DO HEREBY FURTHER CERTIFY pursuant to and in accordance with the terms of the Lease Agreement between the Authority and the City of Vineland, County of Cumberland, New Jersey, dated as of August 1, 2021 ("Lease Agreement") as follows:

1. This requisition is Requisition No. 2021-\_\_\_\_\_.
2. The name and address of the Person, firm or corporation to whom payment is due

is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The amount to be paid to such Person, firm or corporation named in Paragraph 2 above is \$\_\_\_\_\_.

[Add description and include invoice or billing reference]

4. The Item(s) of Cost of the Construction Project to which this requisition relates is

\_\_\_\_\_  
\_\_\_\_\_.

5. \$\_\_\_\_\_ is the amount necessary to pay the Cost related to the Construction Project.

6. \$\_\_\_\_\_ is the amount of money the Authority has forwarded to the Trustee on behalf of the Authority for deposit in the Acquisition Fund to fund the balance of the Cost related to the Construction Project. [Attach check for Trustee, copy of the check for the Authority]

7. Each item of Cost or expense mentioned in Paragraph 5 hereof has been properly incurred, is an item of Cost and is a proper charge against the Acquisition Fund and has not been the basis of any previous withdrawal.

8. The public contracts bidding laws, prevailing wage laws (including, but not limited to, the Act) and affirmative action requirements applicable to the contract pursuant to which payment is being requested have been complied with.

9. No uncured Event of Default has occurred under the Lease Agreement or the Indenture.

10. The Authority has received no written notice of any lien, right to lien or attachment upon, or other claim affecting the right to receive payment of, any of the moneys payable under this requisition to any of the Persons, firms or corporations named herein, or if any of the foregoing has been received, it has been released or discharged or will be released or discharged upon payment of this requisition.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Lease Agreement.

**DATED:** \_\_\_\_\_

**THE CUMBERLAND COUNTY  
IMPROVEMENT AUTHORITY**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

The undersigned, on behalf of City of Vineland, County of Cumberland, New Jersey, hereby approves the above requisition.

**DATED:** \_\_\_\_\_

**CITY OF VINELAND,  
NEW JERSEY**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**EXHIBIT F**

**TRUSTEE INFORMATION**

The name/address/phone number of the Trustee is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Phone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

## **EXHIBIT G**

### **PROJECT DESCRIPTION**

- (i) The costs for demolition of the existing structure, and subsequent development and construction of an approximately 35,000 square foot fire station on Northwest Boulevard (Block 2912, Lot 1) in the City;
- (ii) The costs of the development and construction of an approximately 5,000 square foot public works facility at the site of the current DPW building on Walnut Road (Block 5007, Lot 56) in the City; and
- (iii) All other costs and expenses necessary for or related to the development, construction and equipping of the facilities described in items (i) and (ii) above.

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