

PLEASE RECORD, AND  
AFTER RECORDATION RETURN TO:

Jones Hall,  
A Professional Law Corporation  
475 Sansome Street, Suite 1700  
San Francisco, CA 94111  
Attn: Scott R. Ferguson, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

**THIRD AMENDMENT TO FACILITY LEASE**

THIS THIRD AMENDMENT TO FACILITY LEASE (this "Third Amendment"), dated for convenience as of \_\_\_\_\_ 1, 2018, is by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE, a public entity and agency duly organized and existing under and by virtue of the laws of the State of California (the "Agency"), and the CITY OF SUNNYVALE, a municipal corporation duly organized and existing under the laws of the State of California (the "City");

*WITNESSETH:*

WHEREAS, the City and the Agency have previously entered into a Facility Lease dated as of March 1, 1998, which was recorded as Instrument No. 14120789 in Official Records of the Office of the Santa Clara County Recorder on April 1, 1998 (the "Facility Lease"); and

WHEREAS, the City and the Agency have previously entered into a First Amendment to Facility Lease dated as of April 1, 2000, which was recorded as Instrument No. 15261168 in Official Records of the Office of the Santa Clara County Recorder on May 25, 2000 (the "First Amendment to Facility Lease"); and

WHEREAS, the City and the Agency have previously entered into a Second Amendment to Facility Lease dated as of July 1, 2005, which was recorded as Instrument No. 18491888 in Official Records of the Office of the Santa Clara County Recorder on July 26, 2005 (the "Second Amendment to Facility Lease"); and

WHEREAS, pursuant to Section 2.06 of the Facility Lease, the City wishes to exercise its option at this time to remove a portion of the land which was previously leased by the Agency to the City pursuant to the Facility Lease, as amended by the First Amendment to Facility Lease and

the Second Amendment to Facility Lease, commonly known as Lot 1 of Block 6 (the Macy's parking lot), leaving the parcel commonly known as Lot 2 of Block 5 (the Penney's parking garage) as the property subject to the Facility Lease (the "Remaining Property"); and

WHEREAS, such amendment is permitted to be made pursuant to Section 11.05(3) of the Facility Lease and Section 9.01(b) of the Trust Agreement dated as of March 1, 1998 (the "Trust Agreement"), by and among U.S. Bank Trust National Association, as successor trustee (the "Trustee"), the Agency and the City;

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

SECTION 1. *Amendment of Facility Lease.* Pursuant to Section 2.06 of the Facility Lease, the Facility Lease, as amended by the First Amendment to Facility Lease and the Second Amendment to Facility Lease, is hereby further amended by deleting in its entirety Exhibit A attached thereto and inserting in its place a new Exhibit A reading in its entirety as attached hereto. All other provisions of the Facility Lease shall remain in full force and effect.

SECTION 2. *Amendment Permitted.* The amendment made pursuant to this Third Amendment to Facility Lease is authorized to be made pursuant to and in accordance with the provisions of Section 11.05(3) of the Facility Lease and Section 9.01(b) of the Trust Agreement.

SECTION 3. *Effect of Amendment.* Upon the execution, delivery and recordation of this Third Amendment to Facility Lease, the term of the Facility Lease shall cease with respect to the Former Property and shall continue with respect to the portion of the property remaining subject to the Facility Lease, as amended.

SECTION 4. *Governing Law.* This Third Amendment shall be construed in accordance with and governed by the Constitution and laws of the State of California.

SECTION 5. *Binding Effect.* This Third Amendment shall inure to the benefit of and shall be binding upon the City and the Agency, and their respective successors and assigns. This Third Amendment shall become effective upon execution and delivery by each of the City and the Agency, and the recordation hereof in the Office of the Santa Clara County Recorder.

SECTION 6. *Severability of Invalid Provisions.* If any one or more of the provisions contained in this Third Amendment is for any reason held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Third Amendment and such invalidity, illegality or unenforceability shall not affect any other provision of this Third Amendment, and this Third Amendment shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The City and the Agency each hereby declares that it would have entered into this Third Amendment and each and every other section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Third Amendment may be held illegal, invalid or unenforceable.

SECTION 7. *Execution of Counterparts.* This Third Amendment may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Agency and the City have caused this Third Amendment to be executed in their respective names by their duly authorized officers, all as of the date first above written.

CITY OF SUNNYVALE, as Lessee

SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF THE CITY  
OF SUNNYVALE, as Lessor

\_\_\_\_\_  
TIM KIRBY  
Director of Finance

\_\_\_\_\_  
KENT STEFFENS  
Executive Director

Attest:

Attest:

\_\_\_\_\_  
KATHLEEN FRANCO SIMMONS  
City Clerk

\_\_\_\_\_  
KATHLEEN FRANCO SIMMONS  
Secretary

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
JOHN A. NAGEL  
City Attorney

\_\_\_\_\_  
JOHN A. NAGEL  
Counsel to the Agency

The undersigned hereby acknowledges receipt of this Third Amendment and of the items described in Section 2.06(b) of the Facility Lease.

U.S. BANK TRUST NATIONAL  
ASSOCIATION, as Trustee

\_\_\_\_\_  
Authorized Officer

## NOTARY FORMS

## **EXHIBIT A**

### **DESCRIPTION OF THE REMAINING PROPERTY**

All that certain real property in the City of Sunnyvale, County of Santa Clara, State of California, described as follows:

All of Lot 2 of Block 5 of Tract No. 9925, entitled "Sunnyvale Town Center", filed October 1, 2007 in Book 818 of Maps at Page 45 through 55 inclusive, Records of Santa Clara County.