

**FIRST SUPPLEMENT TO
LEASE AGREEMENT**

By and between

CITY OF RIVERSIDE

and

RIVERSIDE PUBLIC FINANCING AUTHORITY,

Dated as of June 1, 2019

Relating to

**\$ _____
RIVERSIDE PUBLIC FINANCING AUTHORITY
LEASE REVENUE BONDS, SERIES 2019B (MAIN LIBRARY PROJECT)**

FIRST SUPPLEMENT TO LEASE AGREEMENT

THIS FIRST SUPPLEMENT TO LEASE AGREEMENT, dated as of June 1, 2019 (“First Supplement to Lease Agreement”), is entered into by and between the RIVERSIDE PUBLIC FINANCING AUTHORITY, a joint exercise of powers entity organized and existing under and by virtue of the laws of the State of California (the “Authority”), and the CITY OF RIVERSIDE, a municipal corporation and charter city duly organized and existing under and by virtue of the Constitution and laws of the State of California and the City’s Charter, as lessee (the “City”), supplements and amends, in part, that certain Lease Agreement between the City, as lessee, and the Authority, as lessor, dated as of August 1, 2012 (the “Original Lease” and, together with the First Supplement to Lease Agreement, the “Lease”) as evidenced by that certain Memorandum of Lease Agreement between the City and the Authority dated as of August 1, 2012 and recorded in the official records of the County of Riverside (the “County”) on August 14, 2012 as Document No. 2012-0386626;

WITNESSETH:

WHEREAS, pursuant to the Government Code of the State of California, the City may enter into leases and agreements relating to real property to be used by the City; and

WHEREAS, the Authority is authorized pursuant to the laws of the State of California to provide financial assistance to the City by acquiring, constructing and financing various public facilities, land and equipment and the leasing of facilities, land and equipment for the use, benefit and enjoyment of the public; and

WHEREAS, the Authority entered into the Original Lease with the City for the purpose of leasing the real property (including all existing and future improvements thereon) described in Exhibit A thereto to the City, as lessee thereunder; and

WHEREAS, the City and the Authority desire to enter into this First Supplement to Lease Agreement in order to facilitate the issuance of those certain \$ _____ Riverside Public Financing Authority Lease Revenue Bonds, Series 2019B (Main Library Project) (the “Series 2019B Bonds”), which shall be treated as Additional Bonds under the terms of the Lease, to finance the acquisition and construction of certain capital improvements as may be designated from time to time, including, but not limited to, a public library and related improvements, to be owned and operated by the City (collectively, the “Library Project”), and the City has agreed to lease the Property (described in Exhibit A hereto) from the Authority; and

WHEREAS, the Series 2019B Bonds are being issued as Additional Bonds under that certain Indenture, dated as of August 1, 2012 (the “Original Trust Agreement”) as supplemented by that First Supplemental Indenture, dated as of June 1, 2019 (the “First Supplemental Indenture” and, together with the Original Indenture, the “Indenture”), each by and among U.S. Bank National Association, as Trustee, the Authority and the City, and in accordance with the representations, covenants and warranties of the City and the Authority pursuant to Article VIII of the Original Lease; and

WHEREAS, pursuant to Section 10.07 of the Original Lease, the City and the Authority reserved the right to amend the Original Lease from time to time, including in connection with the issuance of Additional Bonds; and

WHEREAS, to facilitate the issuance of the Series 2019B Bonds, the City and the Authority desire to amend the Original Lease as described herein; and

WHEREAS, the parties have determined that the amendments contained herein do not adversely affect the interests of the Owners of the Bonds, the Series 2019B Bonds or any other Additional Bonds;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

SECTION 1. Definitions. Unless the context otherwise requires, the capitalized terms used herein shall have the meanings specified in the Lease and the Indenture. The following definitions set forth in Section 1.01 of the Original Lease are amended to mean the following, or added to Section 1.01 of the Original Lease, as applicable:

“**Bonds**” means the Prior Bonds, the Series 2019B Bonds, and all Additional Bonds.

“**Prior Bonds**” means the Series 2012A Bonds.

“**Completion Certificate**” means the certificate of the City filed with the Trustee and signed by an Authorized City Representative, as prescribed by Section 7 hereof.

“**Permitted Encumbrances**” means, with respect to the Property, as of any particular time, (a) liens for general *ad valorem* taxes and assessments, if any, not then delinquent, or which the City may, pursuant to provisions of Article V of the Original Lease, permit to remain unpaid, (b) the Assignment Agreement, dated as of August 1, 2012, as supplemented by the First Supplement to Assignment Agreement, dated as of June 1, 2019, both by and between the Authority and the Trustee, (c) this Lease, (d) the Ground Lease, dated as of August 1, 2012, as supplemented by the First Supplement to Ground Lease, dated as of June 1, 2019, both by and between the Authority and the City, (e) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law as normally exist with respect to properties similar to the Property for the purposes for which it was , acquired or is held by the City, (f) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the Closing Date which the City certifies in writing will not affect the intended use of the Property or impair the security granted to the Trustee for the benefit of the Owners of the Bonds by the Indenture and the Assignment Agreement and to which the Authority and the City consent in writing, (g) that certain Schedule of Licensed Property effective April 25, 2006, between the City, as licensor, and Nextel of California, Inc., as licensee, and (h) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the Closing Date which the City certifies in writing do not affect the intended use of the Property or impair the security granted to the Trustee for the benefit of the Owners of the Bonds by the Indenture and the Assignment Agreement and to which the Authority and the City consent in writing.

“**Series 2019B Bonds**” means the \$_____ Riverside Public Financing Authority Lease Revenue Bonds, Series 2019B (Main Library Project).

“**Termination Date**” means November 1, ____, unless extended or sooner terminated as provided in Section 2.02 of the Lease.

SECTION 2. Title Insurance. Section 5.02 of the Original Lease is amended and restated to read, in its entirety, as follows:

“**Title Insurance.** The City shall provide, at its own expense, one or more CLTA or ALTA title insurance policies for the Property, in the aggregate amount of not less than the initial aggregate principal amount of the Bonds Outstanding from time to time under the Indenture, said policy or policies shall insure (a) the fee interest of the City in the Property, (b) the Authority’s ground leasehold estate in the Property under the Ground Lease, and (c) the City’s leasehold estate hereunder in the Property, subject only to Permitted Encumbrances. All Net Insurance Proceeds received under said policy or policies shall be deposited with the Trustee and applied as provided in Section 5.04 of the Indenture. So long as any of the Bonds remain Outstanding, each policy of title insurance obtained pursuant to the Indenture or this Lease Agreement or required thereby or hereby shall provide that all proceeds thereunder shall be payable to the Trustee for the benefit of the Bond Owners.”

SECTION 3. Base Rental Payment Schedule. The Base Rental Payment Schedule as shown in Exhibit B of the Original Lease is hereby amended and supplemented by deleting said Exhibit B in its entirety and substituting the attached Exhibit B therefor.

SECTION 4. Additional Property. The Property as shown in Exhibit A of the Original Lease is hereby amended and supplemented by deleting said Exhibit A in its entirety and substituting the attached Exhibit A therefor.

SECTION 5. No Other Amendments. Except as expressly set forth in Sections 1 through 4 above, all other provisions of the Lease remain in full force and effect.

SECTION 6. Prepayment.

(a) The City may prepay all or a portion of the Base Rental Payments attributable to the Series 2019B Bonds which are payable on or after November 1, 20__, from any source of available funds, on any date on or after November 1, 20__, by paying (i) all or a portion, as selected by the City, of the principal components of such Base Rental Payments, and (ii) the accrued but unpaid interest component of such Base Rental Payments to be prepaid to the date of such prepayment.

(b) The City may prepay, from any source of available funds, all or any portion of the Base Rental Payments attributable to the Series 2019B Bonds by depositing with the Trustee moneys or securities as provided, and subject to the terms and conditions set forth, in Article X of the Indenture sufficient to make such Base Rental Payments when due or to make such Base Rental Payments through a specified date on which the City has a right to prepay such Base Rental Payments pursuant to subsection (a) of this Section, and to prepay such Base Rental Payments on such prepayment date, at a prepayment price determined in accordance with subsection (a) of this Section.

(c) If less than all of the Base Rental Payments attributable to the Series 2019B Bonds are prepaid pursuant to this Section then, as of the date of such prepayment pursuant to subsection (a) of this Section, or the date of a deposit pursuant to subsection (b) of this Section, the principal and interest components of such Base Rental Payments shall be recalculated in order to take such prepayment into account. The City agrees that if, following a partial prepayment of such Base Rental Payments, the Property is damaged or destroyed or taken by eminent domain, or a defect in title to the Property is discovered, the City shall not be entitled to, and by such prepayment waives the right of, abatement of such prepaid Base Rental Payments and the City shall not be entitled to any reimbursement of such Base Rental Payments.

(d) If all of the Base Rental Payments are prepaid in accordance with the provisions of this Lease Agreement then, as of the date of such prepayment pursuant to subsection (a) of this Section and, if applicable, the corresponding provisions hereof relating to the prepayment of Base Rental Payments attributable to Additional Bonds, or deposit pursuant to subsection (b) of this Section and, if applicable, such corresponding provisions, and payment of all other amounts owed under this Lease Agreement, the term of this Lease Agreement shall be terminated.

(e) Prepayments of Base Rental Payments attributable to the Series 2019B Bonds made pursuant to this Section shall be applied to the redemption of Series 2019B Bonds as directed by the City and as provided in Section 4.01 of the Indenture.

(f) Before making any prepayment pursuant to this Article, the City shall give written notice to the Authority and the Trustee specifying the date on which the prepayment will be made, which date shall be not less than 45 nor more than 60 days from the date such notice is given to the Authority.

SECTION 7. Compliance Certification. Section 3.07 is hereby added to the Original Lease as follows:

“3.07 Completion Certification. Upon the completion of acquisition, construction, delivery and installation of the Library Project, the City shall deliver to the Trustee a Completion Certificate certifying such completion. On the date of filing a Completion Certificate, all excess moneys remaining in the Project Fund for the Series 2019B Bonds shall be applied in accordance with the provisions of Section 3.01 of the First Supplemental Indenture.”

SECTION 8. Amendment to Section 9.03. Section 9.03 of the Original Lease shall be stricken in its entirety and the following substituted therefor:

“**Substitution or Release of, or Addition to, the Property.** The City shall have the right to substitute alternate real property for any portion of the Property or to release a portion of the Property from this Lease Agreement or to add additional property to the encumbrance of this Lease Agreement. All costs and expenses incurred in connection with such substitution, release or addition shall be borne by the City. Notwithstanding any substitution or release of, or addition to, Property pursuant to this subsection, there shall be no reduction in or abatement of the Base Rental Payments due from the City hereunder as a result of such substitution, release or addition. Any such substitution or release of any portion of the Property, or addition to the Property, shall be subject to the following specific conditions, which are hereby made conditions precedent to such substitution, release or addition:

(a) a Written Certificate of the City to the effect that the Property, as constituted after such substitution, release or addition, (i) has an annual fair rental value at least equal to the maximum Base Rental Payments payable by the City in any Rental Period, and (ii) has a useful life in excess of the final maturity of any Outstanding Bonds;

(b) with respect to any substituted or added property, the City shall have obtained or caused to be obtained a CLTA or ALTA title insurance policy or policies with respect to the Property (as such term will be defined after such substitution or addition) in the amount at least equal to the aggregate principal amount of any Outstanding Bonds of the type and with the endorsements described in Section 5.02 hereof;

(c) the City, the Authority and the Trustee shall have executed, and the City shall have caused to be recorded with the Riverside County Recorder, any document necessary to reconvey to the City the portion of the Property being released and to include any substituted or added real property in the description of the Property contained herein and in the Ground Lease; and

(d) the City shall have provided notice of such release, substitution or addition to each rating agency then rating the Bonds.

Notwithstanding the foregoing, upon the filing by the City of the Completion Certificate, the City may release the portion of the Property identified as Parcels ___ through ___ in Exhibit A hereto, or any additional property identified in the Written Certificate and/or notice delivered pursuant to subsections (a) or (d) hereof as being substituted for such property, without complying with subsection (b) hereof provided that the City certifies to the Trustee that at least 90% of the proceeds of the Series 2019B Bonds deposited into the Project Fund have been applied toward the construction of the Library Project or other eligible projects as permitted by the Tax Certificate executed in connection with the Series 2019B Bonds.”

SECTION 9. Representations, Covenants and Warranties. Except as expressly set forth in this First Supplement to Lease Agreement, the Representations, Covenants and Warranties of the City and the Authority contained in Article VIII of the Lease remain in full force and effect.

SECTION 10. Assignment. The City and the Authority hereby acknowledge the assignment of the Lease (except for the Authority’s obligations and its rights to give consents or approvals hereunder), and the Base Rental Payments payable hereunder, to the Trustee pursuant to the First Supplement to Assignment Agreement.

SECTION 11. Counterparts. This First Supplement to Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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IN WITNESS WHEREOF, the Authority has caused this First Supplement to Lease to be executed in its name by its duly authorized officers, and the City has caused this First Supplement to Lease to be executed in its name by its duly authorized officers, as of the date first above written.

CITY OF RIVERSIDE

By: _____
Chief Financial Officer

ATTEST:

City Clerk

RIVERSIDE PUBLIC FINANCING AUTHORITY

By: _____
Treasurer

ATTEST:

Secretary

Approved as to Form
By: _____
Rosemary Koo
Senior Deputy City Attorney

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed under the foregoing to the City of Riverside, a municipal corporation, is hereby accepted by the undersigned officer or agent on behalf of the City Council of the City of Riverside (the "City Council"), pursuant to authority conferred by resolution of the said City Council adopted on _____, 2019, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: June __, 2019

CITY OF RIVERSIDE

By: _____
Its: Chief Financial Officer

ATTEST:

By: _____
Its: City Clerk

EXHIBIT A

DESCRIPTION OF THE PROPERTY

[TO COME]

EXHIBIT B

BASE RENTAL PAYMENT SCHEDULE

[TO COME]