

Merced Center
LEASE AGREEMENT

THIS LEASE made this ____ day of _____ 2019, by and between the Parking Authority of the City of Merced, a public body corporate and politic of the State of California existing and operating pursuant to the Parking Law of 1949 ("Lessor"), and Westamerica Bank, a California Corporation, whose address of record is 4560 Mangels Blvd., Fairfield, California 94534 ("Lessee").

WHEREAS, The Lessor is the owner of the Merced Center Parking Structure located on the northwest corner of 18th Street and "M" Street, Merced, California (APN 031-054-027); and,

WHEREAS, Lessee owns/operates a banking business and desires to lease certain retail space at the Merced Center Parking Structure.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and agreed, the Lessor and Lessee do hereby agree as follows;

1. DEFINITIONS:

- A. Building. "Building" is defined as that certain building and surrounding improvements known as the Merced Center Parking Structure located at the northwest corner of 18th Street and "M" Street in Merced, California, and labeled Merced Center Parking Structure on Exhibit A, which is incorporated herein by this reference.
- B. Common Area. "Common Area" shall be defined as the interior hallway and labeled Common Area on the attached Exhibit A, which is incorporated herein by this reference.
- C. Leased Space/Premises. "Leased Space" or "Premises" is defined as the area in the Building actually leased and occupied by Lessee, consisting of 6,100 square feet identified on the attached Exhibit B, which is incorporated herein by this reference.

2. TERM. The term of this Lease shall be from June 1, 2019 to May 31, 2022. Subject to the prior written consent and agreement by Lessor, which may be withheld at Lessor's sole and absolute discretion, Lessee may have one (1) option to renew/extend the term of this Lease for three (3) years if the Leased Space is used exclusively for banking and/or professional offices. Should Lessee wish to exercise this option to renew, Lessee shall provide Lessor with Lessee's desire to renew no later than ninety (90) calendar days prior to the expiration of this Lease or any option duly exercised thereunder. Lessor will make its decision to allow or disallow the Lease renewal within sixty (60) calendar days following receipt of notice from Lessee.

3. RENT. Lessor agrees to offer the Leased Space for lease and Lessee agrees and accepts the offer of the lease for the monthly rent set forth in this Section and for all of the terms and conditions of this Lease. Rent shall be prorated for the first month and thereafter payable on the 1st of each month, in advance, commencing June 2019 and shall be in the following amounts:

June 1, 2019 – May 31, 2020	\$1.25 per square foot
June 1, 2020 – May 31, 2021	\$1.29 per square foot
June 1, 2021 – May 31, 2022	\$1.33 per square foot

All rents shall be paid to Lessor or its authorized Agent, at the following address: 678 West 18th Street, Merced, CA 95340 or at such other places as may be designated by Lessor from time to time. In the event rent is not paid within ten (10) day after due date, Lessee agrees to pay a late charge of One Hundred Dollars (\$100.00) plus interest at twelve (12%) percent per annum on the delinquent amount. Lessee further agrees to pay One Hundred Dollars (\$100.00) for each dishonored bank check. The late charge period is NOT a grace period, and Lessor is entitled to make written demand for any rent not paid when due.

In the event that the renewal option is exercised, the rent payment shall continue to increase on an annual basis by three percent (3%) or equal to the Western States Consumer Price Index, whichever is less.

4. USE. The Leased Space is to be used to conduct banking business, including without limitations, general office use, and any other legal uses relating thereto.

5. **OPERATING EXPENSES/REAL PROPERTY TAXES.** Lessee shall solely be responsible for any and all property/possessory taxes that should arise from Lessee's tenancy of said premises. Lessee shall be responsible for making Annual Landscaping Improvement District Levy, the annual rate is \$0.0589 per square foot. Lessee shall be responsible for the pro-rata portion of the Common Area Maintenance charge. This fee will be based on the actual cost for providing the cleaning services necessary for the common areas throughout the structure. Pro-rata share shall be computed by dividing Lessee's Leased Space by the entirety of the net leasable area.

6. **USES PROHIBITED.** Lessee shall not use any portion of the Premises for anything other than banking and professional office uses. Specifically, the following are excluded uses: pawn shops, tattoo parlors, skateboard shops, adult businesses, payday loan businesses, billiard or pool halls, dance halls, mobile food vendors, or bail bond businesses.

7. **COVENANTS AND AGREEMENTS.** There shall be no visible bars or grates over or behind any window visible from a public street or right-of-way. Any permanent signage must comply with City of Merced ordinances, must be of high quality materials, and shall not use tempera paint. Lights that illuminate the Leased Space shall be left on until 11:00 p.m. nightly. The retail space shall be open to the public at least five (5) days a week excluding national holidays. Lessee shall sweep weekly and otherwise keep clean the public right-of-way between the street curb and the retail frontage. Lessee shall have access to building services and entry to their Premises twenty-four (24) hours a day, seven (7) days a week.

8. **LANDLORD RESPONSIBILITIES.** Lessor shall keep in good condition/repair the structural parts of the Building including structural walls, the roof, roof membrane, foundation, electrical, parking structure and sewer and water mains.

Lessor shall be responsible for managing the Building in a manner consistent with first class office buildings in Merced, including providing landscaping, maintenance and utilities.

9. **ASSIGNMENT AND SUBLETTING.** Lessor shall have the right to assign said Lease to City of Merced or the City of Merced Public Financing and Economic Development Authority at its sole discretion without prior approval by Lessee. Lessee shall have the right to sublease or assign any portion of the entire

space to any related entity, parent company, subsidiary, or affiliate without Lessor's consent. Lessee shall have the right to sublease or assign any portion of the space to any other subtenant who complies with Section 6 of this Lease with Lessor's written consent, which shall not be unreasonable withheld, conditioned, or delayed.

10. **ORDINANCES AND STATUTES.** In regards to the Leased Premises, Lessee shall comply with all statutes, ordinances, and requirements of all municipal, state, and federal authorities now in force, or which may later be in force.

11. **MAINTENANCE, REPAIRS, ALTERATIONS.** Unless otherwise indicated, Lessee acknowledges that the Premises are in good order and repair. Lessee shall, at its own expense, maintain the Leased Space in a good and safe condition, including plate glass, electrical wiring, plumbing and heating installations, and any other system or equipment. The Leased Space shall be surrendered, at termination of the Lease, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for all repairs required, except the roof, exterior walls and structural foundations which shall be maintained by Lessor.

12. **ATM/NIGHT DROP.** Lessee shall have the exclusive ability to install an automatic teller machine (ATM) and night drop in a mutually acceptable location on the exterior façade of the Building. These facilities shall not intrude upon the public right-of-way.

13. **EXCLUSIVE.** Lessor shall not lease or allow a space in the Merced Center Parking Structure to be subleased to any other bank, credit union or a business in direct competition to Lessor's stated intended use.

14. **RESERVED.**

15. **BUILDING WARRANTY.** Lessor warrants that the Building, restrooms and common areas are in compliance with the Americans with Disabilities Act of 1990 and all other applicable building codes as of the Initial Commencement Date of the Lease. Lessor shall remedy any violation of the Warranty at its sole cost, promptly following receipt of notice and verification through the City of Merced Building Department.

16. **PARKING.** Lessee shall have the right to reserve up to fifteen (15) spaces for its sole use. Such spaces may be signed at the Lessee's discretion with written approval from Lessor; such approval shall not unreasonably be withheld. A monthly fee of \$36 per space shall be assessed for each said reserved space. This fee shall be adjusted annually based upon the Western States Consumer Price Index. Throughout the term of the lease, the current "free parking" designation may change in accordance with future amendments to the Merced Municipal Code.

17. **ENTRY AND INSPECTION.** Lessee shall permit Lessor or Lessor's agents to enter the Premises at reasonable times and upon reasonable notice for the purpose of inspecting the Premises, and shall permit Lessor, at any time within sixty (60) days prior to the expiration of this Lease to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to Lease the Premises to inspect the Premises at reasonable times.

18. **INDEMNIFICATION OF LESSOR.** Lessee agrees to hold Lessor harmless from any claims for damages arising out of Lessee's use of the Premises, and to indemnify Lessor for any expense incurred by Lessor in defending any such claims.

19. **NON-DISTURBANCE AGREEMENT.** Lessee shall receive non-disturbance protection, in form and substance reasonably acceptable to Lessee, from all existing encumbrances. Lessee's obligation to subordinate to future encumbrances shall be contingent upon Lessee's receipt of reasonable, acceptable non-disturbance protections.

20. **LESSEE'S INSURANCE.** Lessee, at its expense, shall maintain plate glass and public liability insurance, including bodily injury and property damage, insuring Lessee and Lessor with minimum coverage as follows: \$1 million combined personal injury and property damage.

Lessee shall provide Lessor with a Certificate of Insurance showing Lessor and the City of Merced as additional insured. The policy shall require thirty (30) DAYS' WRITTEN NOTICE TO LESSOR PRIOR TO CANCELLATION OR MATERIAL CHANGE OF COVERAGE.

Lessee at its cost shall maintain on all its personal property, Lessee improvements, and alterations, in, on, or about the Leased Space, a policy of standard fire and extended coverage insurance with vandalism and malicious

mischieff endorsements, to the extent of at least 100% of their full replacement value. The proceeds from any such policy shall be used by Lessee first for the restoration of Lessee's improvements or alterations and any remaining amount for the replacement of personal property.

Lessor shall maintain on the building in which the Premises are located a policy of standard fire and extended coverage insurance which shall name Lessee as an additional insured, but shall provide that any proceeds shall be payable to Lessor.

21. HAZARDOUS MATERIALS. Lessor shall warrant, to the best of Lessor's knowledge that the Building is not in violation of any federal, state or local law, ordinance or regulation relating to the presence of hazardous materials. Lessee acknowledges the presence of and agrees to maintain the present protective soil vapor system during the construction of its tenant improvements and occupancy of the said Premises. Lessor shall indemnify and hold Lessee harmless with regard to any hazardous substances that are now or later discovered in or on the property or Premises, unless Lessee is found to be the cause of such hazardous substances.

Lessee shall not use, store, or dispose of any hazardous substances upon the Premises, except the use and storage of such substances that are customarily used in Lessee's business, and are in compliance with all environmental laws. Hazardous substances means any hazardous waste, substance or toxic materials regulated under any environmental law or regulations applicable to the Premises.

22. UTILITIES. Lessee agrees that it shall be responsible for the payment of all utilities, including water, gas, electricity, heat, and other services delivered to the Premises. Garbage costs shall be prorated.

23. BUSINESS LICENSE AND BUSINESS IMPROVEMENT DISTRICT. Lessee shall maintain a valid, non-delinquent City of Merced Business License throughout the term of this Lease and shall file all required quarterly business license statements and pay all fees thereunder to the City's Finance Department. Lessee understands and acknowledges that the Building, which includes the Leased Space, is located within a Business Improvement District and subject to all District requirements.

24. **SIGNS.** Lessor reserves the exclusive right to the roof, side, and rear walls of the Premises, except that signs may be erected by Lessee, if in compliance with the City's Sign Ordinance and which shall be subject to review as tenant improvements. In the event Lessee or Lessee's agents attaches any sign to the exterior of the Premises, Lessee agrees upon relinquishing the tenancy to cause the same to be removed, the exterior repaired, and the area under the former sign to be re-painted to match the color of the surrounding exterior.

25. **ABANDONMENT OF PREMISES.** Lessee shall not vacate or abandon the Premises at any time during the term of this Lease. If Lessee abandons or vacates the Premises, or is dispossessed by process of law, or otherwise, any personal property belonging to Lessee left on the Premises shall be deemed to be abandoned, at the option of Lessor.

26. **CONDEMNATION.** If any part of the Premises is condemned for public use, and a part remains which is susceptible of occupation by Lessee, this Lease shall, as to the part taken, terminate as of the date the condemnor acquires possession. Lessee shall be required to pay such proportion of the rent for the remaining term as the value of the Leased Space remaining bears to the total value of the Premises at the date of condemnation; provided, however, that Lessor may at its option, terminate this Lease as of the date the condemnor acquires possession. In the event that the Premises are condemned in whole, or the remainder is not susceptible for use by the Lessee, this Lease shall terminate upon the date which the condemnor acquires possession. All sums which may be payable on account of any condemnation shall belong solely to the Lessor; except that Lessee shall be entitled to retain any amount awarded to it for its goodwill, trade fixtures, or moving expenses.

27. **TRADE FIXTURES.** Any and all improvements made to the Premises during the term of this Lease shall convert to the Lessor at the expiration of this Lease, except trade fixtures of the Lessee. Lessee may, upon termination, remove all its trade fixtures, but shall pay for all costs necessary to repair any damage to the Premises occasioned by the removal.

28. **DESTRUCTION OF PREMISES.** In the event of a partial destruction of the Premises during the term, from any cause, Lessor shall promptly repair the Premises, provided that such repairs can be reasonably made **WITHIN SIXTY (60) DAYS**. Such partial destruction shall not terminate this Lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being

made, based upon the extent to which the making of such repairs interferes with the business of Lessee on the Premises. If the repairs cannot be made WITHIN SIXTY (60) DAYS, this Lease may be terminated at the option of either party by giving written notice to the other party WITHIN THE SIXTY (60) DAY PERIOD.

29. **INSOLVENCY.** The appointment of a receiver, an assignment for the benefits of creditors, or the filing of a petition in bankruptcy by or against Lessee, shall constitute a breach of this Lease by Lessee.

30. **DEFAULT.** In the event of any breach of this Lease, Lessor may, at its option, terminate the Lease and recover from Lessee:

- A. The worth at the time of award of the unpaid rent, which had been earned at the time of termination;
- B. The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided;
- C. The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and,
- D. Any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result there from.

Lessor may, in the alternative, continue this Lease in effect, as long as Lessor does not terminate Lessee's right to possession, and Lessor may enforce all of Lessor's rights and remedies under the Lease, including the right to recover the rent as it becomes due under the Lease. If said breach of Lease continues, Lessor may, at any time thereafter, elect to terminate the Lease.

Nothing contained herein shall be deemed to limit any other rights or remedies which Lessor may have.

31. RESERVED.

32. RESERVED.

33. ATTORNEY'S FEES AND COSTS. In any action or proceeding involving a dispute between Lessor and Lessee arising out of this Lease, the prevailing party shall be entitled to reasonable attorney's fees.

34. WAIVER. No failure of Lessor to enforce any term of this Lease shall be deemed to be a waiver.

35. NOTICES. Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Lessee at the Leased Space, or to Lessor at the address shown in Item 3, or at such other places as may be designated by the parties from time to time. Notice shall be effective FIVE (5) DAYS AFTER MAILING, or immediately upon personal delivery.

36. HOLDING OVER.

A. Any holding over after the expiration of this Lease, with the consent of Lessor, shall become month-to-month tenancy at a monthly rent of Eight Thousand One Hundred Thirteen Dollars (\$8,113.00), payable in advance and otherwise subject to the terms of this Lease, as applicable, until either party shall terminate the same by giving the other party THIRTY (30) DAYS WRITTEN NOTICE.

B. Any holding over after the expiration of this Lease, without the prior written consent of Lessor, shall become a month-to-month tenancy at a monthly rent equal to One Hundred Fifty percent (150%) of the previously monthly rental. Payment shall be payable in advance and otherwise subject to the terms of this Lease, as applicable, until either party shall terminate the same by giving the other party thirty (30) days written notice. In the event it becomes necessary for Lessor to evict Lessee from the Premises, Lessee agrees to reimburse Lessor for any and all costs and expenses, including attorney fees, and to be liable to Lessor for any and all damages, including damages Lessor

incurs as to third parties under subsequent Lease Agreements for the Premises.

37. TIME. Time is of the essence of this Lease.

38. HEIRS, ASSIGNS, SUCCESSORS. This Lease is binding upon and inures to the benefit of the heirs, assigns, and successors of the parties.

39. LESSOR'S LIABILITY. In the event of a transfer of Lessor's title or interest to the Premises during the term of this Lease, Lessee agrees that the grantee of such title or interest shall be substituted as the Lessor under this Lease, and the original Lessor shall be released of all further liability; provided, that all deposits shall be transferred to the grantee.

40. IMPROVEMENTS SUPPLIED BY LESSEE. The Premises are supplied as is by Lessor. All improvements are to be supplied by Lessee, including but not limited to, HVAC, demising walls, lighting, floor and wall finishes, ceilings, and lighting. All improvements, other than trade fixtures, shall remain in place and become property of the Lessor upon termination of the Lease. Lessee shall obtain all necessary permits and complete all building modifications utilizing current building codes. All improvements are subject to Lessor's written consent. Lessee shall not construct any improvement without Lessor's prior written approval.

41. IMPROVEMENT DESIGN. Tenant improvement design shall be approved by Lessor prior to start of construction. Consent shall not be unreasonably withheld. Lessor shall have right to modify, complete, or extend common walls installed by Lessee, into Premises occupied by other tenants.

42. TRIPLE NET. This Lease is net of taxes, utilities, and insurance. Lessee's occupancy of Leased Space may give rise to a possessory interest tax, and Lessee agrees to pay such tax or other property taxes as may be levied.

43. RESERVED.

44. LESSOR'S WARRANTY OF TITLE. Lessor represents and warrants that:

- A. Lessor is or will be the sole owner in fee simple of the Premises and the Building thereon and has full right and power to grant the estate demised and to execute and perform this Lease;
- B. The Premises Building will remain free and clear of all encumbrances that could adversely affect Lessee's leasehold estate; and
- C. The intended user of the Premises for purposes stated herein is permitted by all applicable zoning laws and regulations.

45. QUIET ENJOYMENT. Lessor covenants and agrees that so long as Lessee observes and performs all the agreements and covenants required of it hereunder, Lessee shall peaceably and quietly have, hold and enjoy the Leased Space for the Term without any encumbrance or hindrance by Lessor.

46. DISCRIMINATION. The parties further agree that no person or groups of persons on the grounds of race, creed, religion, disability, sex, marital status, color or national origin or ancestry shall be discriminated against in the use of the tenant space.

47. INDEMNIFICATION. Lessee shall save, protect, defend, and hold Lessor and City of Merced harmless from and indemnify Lessor against any and all claims, demands, suits, judgments, costs, and expenses asserted by any person or persons, including agents or employees of Lessee or Lessor, by reasons of death or injury to persons, or loss or damage to property, including but not limited to claims for dangerous conditions of Lessor's property, resulting from Lessor's activities upon the Premises, or as a result of the Lessee's use of the Premises.

48. DAMAGE. Lessee shall be responsible for any damage to Lessor's property which may result from Lessee's activities conducted on the Premises.

49. EXHIBITS. The Exhibits and Attachments which are attached hereto are incorporated herein by this reference as if set forth in full.

50. COVENANTS. The Lessee herein covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through him, and this Lease is made and accepted upon and subject to the following conditions.

That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, disability, religion, sex, marital status, ancestry, or national origin in the Lease, sublease, transfer, assignment, use, occupancy, tenure, or enjoyment of the Leased Space herein leased nor shall the Lessee himself, or nay person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the Leased Space herein leased.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the date first above written.

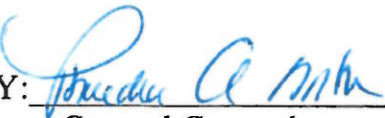
LESSOR:
PARKING AUTHORITY OF THE
CITY OF MERCED
A Public Body, Politic and Corporate of
the State of California

BY: _____
Executive Director

ATTEST:
STEVE CARRIGAN, AUTHORITY SECRETARY

BY: _____
Assistant/Deputy Secretary

APPROVED AS TO FORM:

BY:  6-7-19
General Counsel Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

LESSEE:
WESTAMERICA BANK,
A California Corporation

BY: Robert A. M
(Signature)

ROBERT A. THORSON
(Typed Name)

Its: SVP/CFO
(Title)

BY: Audrey King
(Signature)

AUDREY J. KING
(Typed Name)

Its: AVP/FACILITIES MGR
(Title)

Taxpayer I.D. No. 94-0475470

ADDRESS: 4560 Mangels Blvd.
Fairfield, CA 94534

TELEPHONE: (707) 863-6047

FAX: (707) 863-6526

E-MAIL: AUDREY.KING@
WESTAMERICA.COM



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EXHIBIT B