

RECORDING REQUESTED BY:

City of Cupertino

AND WHEN RECORDED MAIL TO:

Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attn: Vanessa S. Legbandt, Esq.

[Space above for Recorder's use.]

THIS DOCUMENT IS RECORDED FOR THE BENEFIT OF THE CITY OF CUPERTINO AND RECORDING IS FEE EXEMPT UNDER §27383 OF THE GOVERNMENT CODE AND REVENUE AND TAX CODE §11929. THE GRANTOR AND THE GRANTEE ARE GOVERNMENTAL AGENCIES. LEASE TERM LESS THAN 35 YEARS.

MEMORANDUM OF LEASE AGREEMENT

by and between

**CUPERTINO PUBLIC FACILITIES CORPORATION,
as Lessor**

and

**CITY OF CUPERTINO,
as Lessee**

Dated as of October 1, 2020

Relating to

\$ _____

**CITY OF CUPERTINO
2020A CERTIFICATES OF PARTICIPATION**

MEMORANDUM OF LEASE AGREEMENT

THIS MEMORANDUM OF LEASE AGREEMENT (the “Memorandum”) made and entered into as of the 1st day of October, 2020, by and between the CITY OF CUPERTINO, a municipal corporation and general law city duly organized and existing under and by virtue of the laws of the State of California (the “City”) and the CUPERTINO PUBLIC FACILITIES CORPORATION, a nonprofit public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the “Corporation”), is to give notice of the Lease, defined in Section 3 below and the rights and obligations of the parties with respect to the Lease as follows:

1. The City is the owner of certain real property legally described in Exhibit A attached hereto and made a part hereof, including any improvements thereon (the “Leased Premises”).

2. The City has pursuant to a Site Lease, dated as of October 1, 2020 (the “Site Lease”), by and between the City and the Corporation, being recorded currently herewith, leased all of the Leased Premises to the Corporation.

3. The Corporation has pursuant to that certain unrecorded Lease Agreement, dated as of October 1, 2020 (the “Lease”), between the Corporation and the City, leased to the City the Leased Premises. All capitalized terms in this Memorandum not otherwise defined herein shall have the same meaning as set forth in the Lease.

4. Certain of the Corporation’s rights under the Lease, including the right to receive and enforce payment of the Lease Payments and Additional Payments to be made by the City under the Lease, have been assigned absolutely to The Bank of New York Mellon Trust Company, N.A., a national banking association organized under the laws of the United States of America, as Trustee, subject to certain exceptions, without recourse for the benefit of the Owners of the Certificates, pursuant to the Assignment Agreement being recorded concurrently herewith, to which assignment the City hereby consents.

5. The Term of the Lease shall commence on the date of execution and delivery of the Certificates and shall end on June 1, 2030, unless extended or earlier terminated as provided therein. If on the final maturity date of the Certificates or any Additional Certificates all Interest Components and Principal Components represented thereby shall not be fully paid by the City as a result of a default in the payment of Lease Payments, or because the Lease Payments shall have been abated at any time as permitted by the terms of the Lease, then the Term shall be extended until all Certificates and Additional Certificates shall be fully paid, except that the Term shall in no event be extended beyond the tenth (10th) anniversary of the final scheduled maturity of any Certificate or Additional Certificate. Pursuant to the terms and conditions set forth in the Lease, the City may substitute alternate real property for any portion of the Leased Premises or release a portion of the Leased Premises from the lien of the Lease.

6. This Memorandum does not modify, alter, or amend the Lease in any way. If any conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease will govern and determine for all purposes the relationship between City and Corporation, and their respective rights and duties.

7. This Memorandum may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, each of the parties hereto has executed this Memorandum of Lease as of the day and year first hereinabove written.

CITY OF CUPERTINO

By: _____
Steven Scharf
Mayor

ATTEST:

Kirsten Squarcia
City Clerk

CUPERTINO PUBLIC FACILITIES
CORPORATION

By: _____
Steven Scharf
President

ATTEST:

Kirsten Squarcia
Secretary

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the Leased Premises conveyed under the foregoing to the City of Cupertino (the “City”), a municipal corporation and a general city duly organized under and by virtue of the laws of the State of California, is hereby accepted by the undersigned officer or agent on behalf of the City, pursuant to authority conferred by resolution of the said City Council adopted on September 15, 2020, and the City consents to recordation thereof by its duly authorized officer.

Dated: October __, 2020

CITY OF CUPERTINO

By: _____
Steven Scharf
Mayor

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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On _____ before me, _____, Notary Public,

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CLARA)

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF THE LEASED PREMISES

Real property in the City of Cupertino, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

LOT 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED TRACT NO. 3743 CUPERTINO TOWN CENTER, WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON OCTOBER 16, 1964, IN BOOK 186 OF MAPS, PAGE(S) 36 AND 37

PARCEL TWO:

PARCELS A, B, C & D, AS SHOWN ON THAT CERTAIN PARCEL MAP ENTITLED, "PARCEL MAP, BEING ALL OF LOT 4, TRACT NO. 3743, CITY OF CUPERTINO", WHICH PARCEL MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON MARCH 07, 1974 IN BOOK 337 OF MAPS, PAGE 11.

APN 369-31-033