

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.

ASSIGNMENT AGREEMENT

by and between

CUPERTINO PUBLIC FACILITIES CORPORATION

and

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee**

Dated as of October 1, 2020

Relating to

\$ _____

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

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT (this “Assignment Agreement”), dated as of October 1, 2020, by 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”), and accepted by 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 under the Trust Agreement (defined below) (the “Trustee”);

WITNESSETH:

WHEREAS, the Corporation and the City of Cupertino, a municipal corporation and a general law city duly organized and existing under and by virtue of the Constitution and laws of the State of California (the “City”), have executed and entered into a Site Lease (the “Site Lease”) and a Lease Agreement (the “Lease”), each dated as of the date hereof and recorded concurrently herewith, whereby, respectively, the City has agreed to lease certain real property of the City described in Exhibit A to the Site Lease and in Exhibit A hereto, including the existing improvements thereon (the “Leased Premises”), to the Corporation and the Corporation has agreed to lease back such Leased Premises to the City, as provided therein; and

WHEREAS, under and pursuant to the Lease, the City is obligated to make Lease Payments, as defined therein, to the Corporation for the lease of the Leased Premises; and

WHEREAS, the Corporation desires to assign absolutely, without recourse, all of its rights to receive the Lease Payments scheduled to be paid by the City under and pursuant to the Lease to the Trustee and certain of its other rights, title and interest under the Lease as described herein; and

WHEREAS, the Corporation desires to assign absolutely, without recourse, all of its rights to, under and pursuant to the Site Lease to the Trustee; and

WHEREAS, in consideration of such absolute assignment and the execution and entering into of a Trust Agreement (the “Trust Agreement”) dated as of the date hereof, by and among the Trustee, the Corporation and the City, the Trustee has agreed to execute and deliver certificates of participation designated as the City of Cupertino 2020A Certificates of Participation (the “Certificates”) in an aggregate principal amount equal to the aggregate principal component of such Lease Payments; and

WHEREAS, each party has determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with its execution and entering into of this Assignment Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law and it is now duly authorized to execute and enter into the Assignment Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

Section 1. Assignment.

(a) Site Lease. The Corporation hereby transfers, assigns absolutely and sets over to the Trustee, for the benefit of the Owners (as defined in the Trust Agreement) of the Certificates and any Additional Certificates executed and delivered under the Trust Agreement, all of the Corporation's rights, title, and interest under the Site Lease.

(b) Lease. The Corporation hereby transfers, assigns absolutely and sets over to the Trustee, for the benefit of the owners of the Certificates and any Additional Certificates executed and delivered under the Trust Agreement, all of the Corporation's rights, title and interest under the Lease (excepting only the Corporation's rights to indemnity and the payment of its fees and expenses under Sections 2.1(e), 4.11, 7.9, 7.14 and 9.4 of the Lease), including, without limitation, (1) the right to receive and collect all of the Lease Payments, Prepayments and Additional Payments (except to the extent payable to the Corporation) (as such terms are defined in the Trust Agreement) from the City under the Lease or the Trust Agreement, as applicable, (2) the right to receive and collect any proceeds of any insurance maintained thereunder, or any condemnation award rendered with respect to the Leased Premises, or of any lease of the Leased Premises in the event of a default by the City under the Lease, (3) the right to take all actions and give all consents under the Lease, including without limitation, Section 8.2(b) (regarding subleases), Section 8.3 (regarding amendments of the Lease) and Section 9.2 (regarding defaults), (4) the right to exercise such rights and remedies conferred on the Corporation pursuant to the Lease as may be necessary or convenient (i) to enforce payment of the Lease Payments, Prepayments and Additional Payments and any other amounts required to be deposited in the Lease Payment Fund, the Prepayment Fund or the Net Proceeds Fund established under the Trust Agreement, or (ii) otherwise to protect the interests of the Corporation in the event of a default by the City under the Lease, and (5) the right of the Corporation to receive rental in excess of Lease Payments as compensation for re-leasing the Leased Premises upon events of default under the Lease, as provided in Section 9.2(a) and (b) of the Lease. Notwithstanding the foregoing, only owners of Certificates and Additional Certificates secured by Lease Payments (as set forth in a Supplemental Agreement) shall have any right, interest and security in the Lease Payments and Prepayments.

(c) Assignment for Owners of Certificates. All rights assigned by the Corporation shall be administered by the Trustee as assignee thereof according to the provisions of the Trust Agreement and for the equal and proportionate benefits of the Owners of the Certificates and any Additional Certificates.

Section 2. Acceptance. The Trustee hereby accepts the foregoing assignment for the benefit of the Owners of the Certificates and any Additional Certificates, subject to the conditions and terms of the Trust Agreement, and all such Lease Payments shall be applied and all such rights so assigned shall be exercised by the Trustee under and pursuant to the Trust Agreement.

Section 3. Conditions. The Assignment Agreement shall confer no rights and shall impose no obligations upon the Trustee beyond those expressly provided in the Trust Agreement. The Trustee does not warrant the accuracy of the recitals hereto. The Trustee shall not be responsible for any representations, covenants or warranties of the Corporation. The assignment hereunder is to the Trustee solely in its capacity as Trustee under the Trust Agreement and not in its individual or personal capacity. The Trustee is not responsible for any representations, warranties or covenants made by the assignor under the Lease or the Site Lease.

Section 4. No Other Claim. The Corporation hereby represents and warrants that there are no present and outstanding claims on Lease Payments or any other moneys assigned by the Corporation to the Trustee hereunder.

Section 5. Counterparts. This Assignment Agreement 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.

Section 6. Applicable Law. This Assignment Agreement shall be governed by and construed in accordance with the laws of the State of California.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have executed and entered into the Assignment Agreement by their officers thereunto duly authorized as of the day and year first above written.

CUPERTINO PUBLIC FACILITIES
CORPORATION

By: _____
Steven Scharf
President

ATTEST:

Kirsten Squarcia
Secretary

[SIGNATURES CONTINUED ON NEXT PAGE.]

[SIGNATURE PAGE CONTINUED.]

Accepted by:

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.,
as Trustee

By:

Eladia Burgos
Authorized Officer

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

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