

RECORDING REQUESTED BY:

Lake Elsinore Facilities Financing Authority

AND WHEN RECORDED RETURN TO:

Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attention: Brian Forbath, Esq.

[Space above for Recorder's use.]

This Transaction is Exempt from California Documentary Transfer Tax Pursuant to Section 11921 of the California Revenue and Taxation Code. This Document is Exempt from Recording Fees Pursuant to Section 27383 of the California Government Code. Lease term is less than 35 years.

GROUND LEASE

by and between

CITY OF LAKE ELSINORE

and

LAKE ELSINORE FACILITIES FINANCING AUTHORITY

Dated as of June 1, 2022

Relating to

\$_____

**LAKE ELSINORE FACILITIES FINANCING AUTHORITY
LEASE REVENUE BONDS, SERIES 2022A**

GROUND LEASE

THIS GROUND LEASE (this “Ground Lease”), executed and entered into as of June 1, 2022, is by and between the CITY OF LAKE ELSINORE (the “City”), a municipal corporation and general law city duly organized and existing under and by virtue of the Constitution and laws of the State of California, as lessor, and the LAKE ELSINORE FACILITIES FINANCING AUTHORITY (the “Authority”), a joint exercise of powers entity duly organized and existing under the laws of the State of California, as lessee.

WITNESSETH:

WHEREAS, the City and the Authority desire to finance a portion of the costs of the acquisition, construction and installation of various public improvements (the “Project”);

WHEREAS, in order to finance the Project the City will lease certain real property and the improvements located thereon (the “Property”) to the Authority pursuant to this Ground Lease, and the City will sublease the Property back from the Authority pursuant to a Lease Agreement, dated the date hereof;

WHEREAS, the Property is more particularly described in Exhibit A hereto;

WHEREAS, the City and the Authority have determined that it would be in the best interests of the City and the Authority to provide the funds necessary to finance the Project through the issuance by the Authority of bonds payable from the base rental payments (the “Base Rental Payments”) to be made by the City under the Lease Agreement;

WHEREAS, the City and the Authority have determined that it would be in the best interests of the City and the Authority to provide for the issuance of such bonds payable from the Base Rental Payments pursuant to an Indenture, dated as of the date hereof, by and among the Authority, the City and Wilmington Trust, National Association, as trustee (the “Trustee”);

WHEREAS, all rights to receive the Base Rental Payments have been assigned without recourse by the Authority to the Trustee pursuant to an Assignment Agreement, dated as of the date hereof (the “Assignment Agreement”);

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Ground Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Ground Lease;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Except as otherwise defined herein, or unless the context clearly otherwise requires, words and phrases defined in Article I of the Lease Agreement shall have the same meaning in this Ground Lease.

ARTICLE II

LEASE OF THE PROPERTY; RENTAL

Section 2.01 Lease of Property. The City hereby leases to the Authority, and the Authority hereby leases from the City, for the benefit of the Owners of the Bonds, the Property, and all rights appurtenant thereto, including, but not limited to, rights of access, subject only to Permitted Encumbrances, to have and to hold for the term of this Ground Lease.

Section 2.02 Rental. The Authority shall pay to the City as and for rental of the Property hereunder, the sum of \$1.00, the receipt of which is hereby acknowledged.

ARTICLE III

QUIET ENJOYMENT

Section 3.01 The parties intend that the Property will be leased back to the City pursuant to the Lease Agreement for the term thereof. It is further intended that, to the extent provided herein and in the Lease Agreement, if an event of default occurs under the Lease Agreement, the Authority, or its assignee, will have the right, for the then remaining term of this Ground Lease to (a) take possession of the Property, (b) if it deems it appropriate, cause an appraisal of the Property and a study of the then reasonable use thereof to be undertaken, and (c) relet the Property. Subject to any rights the City may have under the Lease Agreement (in the absence of an event of default) to possession and enjoyment of the Property, the City hereby covenants and agrees that it will not take any action to prevent the Authority from having quiet and peaceable possession and enjoyment of the Property during the term hereof and will, at the request of the Authority and at the City's cost, to the extent that it may lawfully do so, join in any legal action in which the Authority asserts its right to such possession and enjoyment.

ARTICLE IV

SPECIAL COVENANTS AND PROVISIONS

Section 4.01 Waste. The Authority agrees that at all times that it is in possession of the Property, it will not commit, suffer or permit any waste on the Property, and that it will not willfully or knowingly use or permit the use of the Property for any illegal purpose or act.

Section 4.02 Further Assurances and Corrective Instruments. The City and the Authority agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property hereby

leased or intended so to be or for carrying out the expressed intention of this Ground Lease, the Indenture and the Lease Agreement.

Section 4.03 Waiver of Personal Liability. All liabilities under this Ground Lease on the part of the Authority shall be solely liabilities of the Authority as a joint exercise of powers entity, and the City hereby releases each and every director, officer and employee of the Authority of and from any personal or individual liability under this Ground Lease. No director, officer or employee of the Authority shall at any time or under any circumstances be individually or personally liable under this Ground Lease to the City or to any other party whomsoever for anything done or omitted to be done by the Authority hereunder.

All liabilities under this Ground Lease on the part of the City shall be solely liabilities of the City as a public corporation, and the Authority hereby releases each and every member, officer and employee of the City of and from any personal or individual liability under this Ground Lease. No member, officer or employee of the City shall at any time or under any circumstances be individually or personally liable under this Ground Lease to the Authority or to any other party whomsoever for anything done or omitted to be done by the City hereunder.

Section 4.04 Taxes. The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Property or the Authority's interest under this Ground Lease.

Section 4.05 Right of Entry. The City reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time to inspect the same.

Section 4.06 Representations of the City. The City represents and warrants to the Authority and the Trustee as follows:

- (a) the City is the owner in fee of the Property;
- (b) the City has the full power and authority to enter into, to execute and to deliver this Ground Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Ground Lease;
- (c) except for Permitted Encumbrances, the Property is not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the use of the Property for governmental purposes as contemplated by the City;
- (d) all taxes, assessments or impositions of any kind with respect to the Property, except current taxes, have been paid in full; and
- (e) the Property is necessary to the City in order for the City to perform its governmental functions.

Section 4.07 Representations of the Authority. The Authority represents and warrants to the City and the Trustee that the Authority has the full power and authority to enter into, to execute and to deliver this Ground Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution and delivery of this Ground Lease.

Section 4.08 Eminent Domain. If the whole or any part of the Property, or any improvements thereon, are taken by eminent domain proceedings, the interest of the Authority will be 100% of the aggregate amount of the then unpaid principal components of all of the Base Rental Payments and any Additional Rental Payments payable under the Lease Agreement. The award of such eminent domain proceedings shall be applied in accordance with Section 7.01 of the Lease Agreement.

ARTICLE V

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 5.01 Assignment and Subleasing. This Ground Lease may be sold or assigned and the Property subleased, as a whole or in part, by the Authority without the necessity of obtaining the consent of the City, if an event of default occurs under the Lease Agreement. The Authority shall, within 30 days after such an assignment, sale or sublease, furnish or cause to be furnished to the City a true and correct copy of such assignment, sale or sublease, as the case may be.

Section 5.02 Restrictions on City. The City agrees that, except with respect to Permitted Encumbrances, it will not mortgage, sell, encumber, assign, transfer or convey the Property or any portion thereof during the term of this Ground Lease.

ARTICLE VI

TERM; TERMINATION

Section 6.01 Term. The term of this Ground Lease shall commence as of the date of commencement of the term of the Lease Agreement and shall remain in full force and effect from such date to and including [April 1, 2052], unless such term is extended or sooner terminated as hereinafter provided.

Section 6.02 Extension; Early Termination. If, on [April 1, 2052], the Bonds shall not be fully paid, or provision therefor made in accordance with Article X of the Indenture, or the Indenture shall not be discharged by its terms, or if the Rental Payments payable under the Lease Agreement shall have been abated at any time, [or amounts are owed to the Insurer pursuant to the terms of the Insurance Policy, the Reserve Surety Policy, the Lease Agreement or the Indenture], then the term of this Ground Lease shall be automatically extended until the date upon which all Bonds shall be fully paid, or provision therefor made in accordance with Article X of the Indenture, and the Indenture shall be discharged by its terms, except that the term of this Ground Lease shall in no event be extended more than ten years. If, prior to [April 1, 2052], all Bonds shall be fully paid, or provisions therefor made in accordance with Article X of the Indenture, and the Indenture shall be discharged by its terms, the term of this Ground Lease shall end simultaneously therewith.

Section 6.03 Action on Default. In each and every case upon the occurrence and during the continuance of a default by the Authority hereunder, the City shall have all rights and remedies permitted by law, except that no merger of this Ground Lease and the Lease Agreement shall be deemed to occur as a result thereof, and the City, to the extent permitted by law, waives any and all rights to terminate this Ground Lease by reason of any default on the part of the Authority if such termination would affect or impair any assignment of the Lease Agreement then in effect between the Authority and the Trustee.

ARTICLE VII

MISCELLANEOUS

Section 7.01 Binding Effect. This Ground Lease shall inure to the benefit of and shall be binding upon the City, the Authority and their respective successors and assigns.

Section 7.02 Severability. In the event any provision of this Ground Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.03 Amendments, Changes and Modifications. This Ground Lease may be amended, changed, modified, altered or terminated only in accordance with the provisions of the Lease Agreement.

Section 7.04 Assignment to Trustee. The Authority and City acknowledge that the Authority has assigned its right, title and interest in and to this Ground Lease (but none of its obligations and none of its rights to provide consents or approvals hereunder) to the Trustee pursuant to certain provisions of the Assignment Agreement. The City consents to such assignment.

Section 7.05 Execution In Counterparts. This Ground Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.06 Applicable Law. This Ground Lease shall be governed by and construed in accordance with the laws of the State of California.

Section 7.07 [Insurer as Third Party Beneficiary. The Insurer is intended as a third party beneficiary to this Ground Lease.]

Section 7.08 Captions. The captions or headings in this Ground Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ground Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Authority and the City have caused this Ground Lease to be executed by their respective officers hereunto duly authorized, all as of the day and year first above written.

CITY OF LAKE ELSINORE

By: _____
Jason Simpson
City Manager

ATTEST:

Candice Alvarez
City Clerk

LAKE ELSINORE FACILITIES FINANCING
AUTHORITY

By: _____
Jason Simpson
Executive Director

ATTEST:

Candice Alvarez
Secretary

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed under the foregoing to the Lake Elsinore Facilities Financing Authority (the “Authority”), a body corporate and politic, is hereby accepted by the undersigned officer or agent on behalf of the Board of Directors of the Authority (the “Board”), pursuant to authority conferred by resolutions of said Board adopted on May 10, 2022, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2022

LAKE ELSINORE FACILITIES FINANCING
AUTHORITY

By: _____
Jason Simpson
Executive Director

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

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

4854-9725-7757v3/022042-0044

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

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.

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EXHIBIT A
DESCRIPTION OF THE PROPERTY

[TO COME]