

RECORDATION REQUESTED BY AND
AFTER RECORDATION RETURN TO:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Scott Ferguson, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX
PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE.
THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383
OF THE CALIFORNIA GOVERNMENT CODE.

SITE AND FACILITIES LEASE

Dated as of November 1, 2020

by and between

SUNRISE RECREATION AND PARK DISTRICT, as lessor

and

**SACRAMENTO COUNTY PUBLIC FACILITIES FINANCING CORPORATION, as
lessee**

SITE AND FACILITIES LEASE

This SITE AND FACILITIES LEASE (as amended or supplemented, this "Site and Facilities Lease"), dated for convenience as of November 1, 2020, is by and between the SACRAMENTO COUNTY PUBLIC FACILITIES FINANCING CORPORATION, a nonprofit public benefit corporation duly organized and existing under the Nonprofit Public Benefit Corporation Law of the State of California (the "Corporation"), and the SUNRISE RECREATION AND PARK DISTRICT, a recreation and park district duly organized and existing under the Constitution and laws of the State of California (the "District");

WITNESSETH:

WHEREAS, in 2007, in order to finance the acquisition and construction of recreation and park facilities jointly with the Roseville Joint Union High School District, consisting generally of a swimming pool complex, tennis courts, athletic fields, ancillary parking, and related publicly owned improvements (the "Project"), the District caused the execution and delivery of its \$7,435,000 Certificates of Participation (Joint Use Facilities Project) Series 2007 (the "Prior Certificates"); and

WHEREAS, the Corporation was formed for the purposes of, among other things, aiding in financing and refinancing the acquisition, construction and improvement of public capital facilities for the District; and

WHEREAS, in order to prepay, in full, the Prior Certificates, the District is entering into this Site and Facilities Lease with the Corporation, under which it will lease certain real property comprising the Project (the "Site and Facilities") to the Corporation, and the District is simultaneously entering into a Lease Agreement with the Corporation, recorded concurrently herewith (the "Lease Agreement"), under which the District will lease the Site and Facilities from the Corporation in return for semiannual lease payments (the "Lease Payments"); and

WHEREAS, under this Site and Facilities Lease, the Corporation will make an upfront rental payment to the District sufficient to prepay, in full, the Prior Certificates and pay transaction costs; and

WHEREAS, the Corporation will, through an assignment to First Foundation Bank (including its successors and assigns, the "Lender") pursuant to an Assignment Agreement, between the Corporation and the Lender, recorded concurrently herewith (the "Assignment Agreement"), obtain the necessary funds to make the upfront rental payment under this Site and Facilities Lease; and

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. *Site and Facilities Lease.* The District hereby leases the Site and Facilities, more particularly described in Exhibit A, to the Corporation, and the Corporation hereby leases the Site and Facilities from the District, on the terms and conditions hereinafter set forth.

SECTION 2. *Term; Possession.* The term of this Site and Facilities Lease shall commence on the date of recordation of this Site and Facilities Lease in the Office of the Sacramento County Recorder. This Site and Facilities Lease shall end, and the right of the Corporation hereunder to possession of the Site and Facilities shall thereupon cease, on September 1, 2037 or such earlier or later date on which the Lease Payments (as such term is defined in the Lease Agreement) are paid in full or provisions made for such payment, as provided in the Lease Agreement, but under any circumstances not later than September 1, 2047.

SECTION 3. *Rental.* The Corporation shall pay to the District, as and for rental of the Site and Facilities hereunder, the sum of \$_____ (the "Site Lease Payment"), which shall become due and payable upon the execution and delivery hereof and shall be paid from the proceeds received by the Corporation from the Lender under the Assignment Agreement. The District shall use such amount for the purposes set forth in the Lease Agreement. The Corporation and the District hereby find and determine that the amount of such rental does not exceed the fair market value of the leasehold interest in the Site and Facilities which is conveyed hereunder by the District to the Corporation. No other amounts of rental shall be due and payable by the Corporation for the use and occupancy of the Site and Facilities under this Site and Facilities Lease.

SECTION 4. *Purposes Hereof.* The Corporation shall use the Site and Facilities for the sole purpose of leasing the Site and Facilities back to the District pursuant to the Lease Agreement.

SECTION 5. *Assignments and Subleases.* Unless the District is in default under the Lease Agreement, the Corporation may not assign its rights under this Site and Facilities Lease or sublet all or any portion of the Site and Facilities, except as provided in the Lease Agreement, without the prior written consent of the District.

SECTION 6. *Right of Entry.* The District reserves the right for any of its duly authorized representatives to enter upon the Site and Facilities, or any portion thereof, at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 7. *Termination.* The Corporation agrees, upon the termination of this Site and Facilities Lease, to quit and surrender the Site and Facilities in the same good order and condition as the Site and Facilities was in at the time of commencement of the term hereof, reasonable wear and tear excepted, and agrees that all buildings, improvements and structures then existing upon the Site and Facilities shall remain thereon and title thereto shall vest thereupon in the District for no additional consideration. The District shall have no right to terminate this Site Lease as a remedy for default by the Corporation of any obligation of the Corporation hereunder.

SECTION 8. *Default.* In the event the Corporation is in default in the performance of any obligation on its part to be performed under the terms of this Site and Facilities Lease, which continues for 30 days following notice and demand for correction thereof to the Corporation, the District may exercise any and all remedies granted by law, except that no merger of this Site and Facilities Lease and of the Lease Agreement shall be deemed to occur as a result thereof; *provided, however,* that so long as the Lease Agreement, as amended and supplemented, remains in effect, the lease payments payable by the District under the Lease Agreement shall continue to be paid to the Lender.

SECTION 9. *Quiet Enjoyment.* The Corporation at all times during the term of this Site and Facilities Lease shall peaceably and quietly have, hold and enjoy all of the Site and Facilities, subject to the provisions of the Lease Agreement and subject only to Permitted Encumbrances (as such term is defined in the Lease Agreement).

SECTION 10. *Waiver of Personal Liability.* All liabilities under this Site and Facilities Lease on the part of the Corporation are solely corporate liabilities of the Corporation, and the District hereby releases each and every member and officer of the Corporation of and from any personal or individual liability under this Site and Facilities Lease. No member or officer of the Corporation or its governing board shall at any time or under any circumstances be individually or personally liable under this Site and Facilities Lease for anything done or omitted to be done by the Corporation hereunder.

SECTION 11. *Taxes.* The District 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 Site and Facilities and any improvements thereon.

SECTION 12. *Eminent Domain.* If the whole or any part of the Site and Facilities or any improvements thereon are taken by eminent domain proceedings, the interest of the Corporation shall be recognized and is hereby determined to be the amount of the then unpaid principal components of the lease payments payable under the Lease Agreement and the balance of the award, if any, shall be paid to the District.

SECTION 13. *Partial Invalidity.* If any one or more of the terms, provisions, covenants or conditions of this Site and Facilities Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site and Facilities Lease shall be affected thereby, and each provision of this Site and Facilities Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 14. *Notices.* Any notice, request, complaint, demand or other communication under this Site and Facilities Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address or facsimile number set forth in the Lease Agreement. Notice shall be effective either (a) upon transmission by facsimile or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt.

SECTION 15. *Governing Law.* This Site and Facilities Lease shall be construed in accordance with and governed by the Constitution and laws of the State of California.

SECTION 16. *Binding Effect.* This Site and Facilities Lease shall inure to the benefit of and shall be binding upon the Corporation, the District and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 17. *Severability of Invalid Provisions.* If any one or more of the provisions contained in this Site and Facilities Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Site and Facilities Lease and such invalidity, illegality or unenforceability shall not affect any other provision of this Site and Facilities Lease, and this Site and Facilities Lease shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Corporation and the District each hereby declares that it

would have entered into this Site and Facilities Lease and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Site and Facilities Lease may be held illegal, invalid or unenforceable.

SECTION 18. *Section Headings.* All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site and Facilities Lease.

SECTION 19. *Execution in Counterparts.* This Site and Facilities Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same lease. It is also agreed that separate counterparts of this Site and Facilities Lease may be separately executed by the Corporation and the District, all with the same force and effect as though the same counterpart had been executed by both the Corporation and the District.

SECTION 20. *Amendment of Site and Facilities Lease.* The Corporation and the District may at any time amend or modify any of the provisions of this Site and Facilities Lease, but only with the prior written consent of the Lender.

SECTION 21. *Third Party Beneficiary.* The Lender shall be and is hereby made a third-party beneficiary hereunder with all rights of a third-party beneficiary.

* * * * *

IN WITNESS WHEREOF, the District and the Corporation have caused this Site and Facilities Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

SUNRISE RECREATION AND PARK DISTRICT, as lessor

By _____
Dave Mitchell
District Administrator

Attest:

Clerk of the Board

SACRAMENTO COUNTY PUBLIC FACILITIES FINANCING CORPORATION, as lessee

By _____

Attest:

Secretary

EXHIBIT A

DESCRIPTION OF THE SITE AND FACILITIES

The real property referred to herein is situated in the State of California, County of Sacramento, and described as follows: