

RECORDING REQUESTED BY:)
City of Costa Mesa)

AND WHEN RECORDED MAIL TO:)
Stradling Yocca Carlson & Rauth)
660 Newport Center Drive, Suite 1600)
Newport Beach, California 92660)
Attn: Vanessa Locklin, Esq.)

[Space above for Recorder's use.]

TERMINATION OF FIRST AMENDMENT TO SITE LEASE

by and between

CITY OF COSTA MESA

and

COSTA MESA PUBLIC FINANCING AUTHORITY

Dated as of October 1, 2017

TERMINATION OF FIRST AMENDMENT TO SITE LEASE

THIS TERMINATION OF FIRST AMENDMENT TO SITE LEASE (this “**Agreement**”), dated as of October 1, 2017 and effective as of the date of recordation hereof, is by and between the CITY OF COSTA MESA, 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 (the “**City**”), and the COSTA MESA PUBLIC FINANCING AUTHORITY, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “**Authority**”).

RECITALS

A. The City and the Authority entered into that certain Site Lease, dated as of October 1, 2003 (the “**2003 Site Lease**”), which was recorded on October 14, 2003 as Instrument No. 2003-001257023 in the Official Records of the County of Orange, State of California (the “**Official Records**”). Pursuant to the 2003 Site Lease, the City leased certain property described therein (as shown on Exhibit A hereto) (the “**Property**”) to the Authority.

B. The City and the Authority also entered into that certain First Amendment to Site Lease, dated as of January 1, 2007 (the “**2007 Site Lease**”), which amends the 2003 Site Lease and which was recorded on February 6, 2007 as Instrument No. 2007000081509 in the Official Records.

C. Pursuant to the 2007 Site Lease, the Authority made available to the City the proceeds of the City of Costa Mesa 2007 Certificates of Participation (Police Facility Expansion Project) (the “**2007 Certificates**”) in the original aggregate principal amount of \$29,960,000 in order to finance certain capital projects of the City.

D. Pursuant to the Lease/Purchase Agreement, dated as of October 1, 2003 (the “**2003 Lease**”), by and between the City and the Authority, which was recorded on October 14, 2003 as Instrument No. 2003-001257022 in the Official Records, the Authority subleased the Property back to the City in exchange for the payment of Lease Payments (as such term is defined in the 2003 Lease) by the City to the Authority.

E. Pursuant to the First Amendment to Lease/Purchase Agreement, dated as of January 1, 2007 (the “**2007 Lease**” and, together with the 2003 Lease, the “**Lease**”), by and between the City and the Authority, which was recorded on February 6, 2007 as Instrument No. 2007000081510 in the Official Records, the City increased the amount of Lease Payments payable under the Lease to reflect the City’s receipt of the proceeds of the 2007 Certificates from the Authority.

F. Pursuant to the Assignment Agreement, dated as of October 1, 2003, by and between the Authority and the Trustee, which was recorded on October 14, 2003 as Instrument No. 2003-001257024 in the Official Records, the Authority assigned its right to receive the Lease Payments that are payable under the 2003 Lease to The Bank of New York Mellon Trust Company, N.A. (the “**Trustee**”).

G. Pursuant to the First Amendment to Assignment Agreement, dated as of January 1, 2007, by and between the Authority and the Trustee, which was recorded on February 6, 2007 as Instrument No. 2007000081511 in the Official Records, the Authority assigned its right to receive the Lease Payments that are payable under the Lease to the Trustee.

H. The City has notified the Authority of its intention to defease, on August [31], 2017 (the “**Defeasance Date**”), that portion of the Lease Payments that is attributable to the 2007 Lease pursuant to Section 10.3 of the Lease, which will cause the defeasance of the 2007 Certificates as of the Defeasance Date in accordance with Section 14.01 of the Amended and Restated Trust Agreement, dated as of January 1, 2007, by and among the City, the Authority and the Trustee.

I. The City hereby certifies that it has caused to be delivered moneys, which[, together with the investment proceeds thereof as described in the Escrow Agreement (2007 Certificates), dated as of October 1, 2017, by and between the City and the Trustee, as escrow agent (the “**Escrow Agent**”),] will be sufficient to defease that portion of the Lease Payments that is attributable to the 2007 Lease as of the Defeasance Date (the “**Defeasance Amount**”).

J. In order to reflect the defeasance of that portion of the Lease Payments that is attributable to the 2007 Lease, the City and the Authority now desire to terminate and discharge the 2007 Site Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Recordation. This Agreement shall not be recorded until the City has caused the deposit of the Defeasance Amount with the Escrow Agent.

2. Termination of 2007 Site Lease. Effective as of the date of recordation of this Agreement, the Authority and the City hereby acknowledge and agree that the 2007 Site Lease shall be terminated and, from and after the date hereof, the Authority shall have no further interest in the Property pursuant to the 2007 Site Lease.

3. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one agreement. The signature and acknowledgment pages from each counterpart may be removed and attached to a single document in order to create one original instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, this Agreement has been executed by each party's respective duly authorized officers, as of the date first above written.

CITY OF COSTA MESA

By: _____
City Manager

ATTEST:

City Clerk

COSTA MESA PUBLIC FINANCING AUTHORITY

By: _____
Executive Director

ATTEST:

Secretary

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.

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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

EXHIBIT A

DESCRIPTION OF THE LEASED PREMISES

Real property in the City of Costa Mesa, County of Orange, State of California, described as follows:

PARCEL 1:

THAT PORTION OF LOT A OF THE BANNING TRACT, IN THE RANCHO SANTIAGO DE SANTA ANA, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PARTITIONED IN MARCH, 1890, CASE NO. 6385 IN THE SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF FAIR DRIVE AS DESCRIBED IN A DEED TO THE COUNTY OF ORANGE, RECORDED AUGUST 2, 1950 IN BOOK 2050, PAGE 59 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY WITH THE CENTERLINE OF FAIRVIEW ROAD (FORMERLY KNOWN AS SANTA ANA ROAD) SAID INTERSECTION BEING DISTANT 0° 09' 00" WEST, 1825.85 FEET ALONG THE CENTERLINE OF FAIRVIEW ROAD FROM ITS INTERSECTION WITH THE NORTH LINE OF SAID LOT A OF THE BANNING TRACT; THENCE EASTERLY ALONG THE CENTERLINE OF SAID FAIR DRIVE, 882.27 FEET, TO A POINT ON THE EAST LINE OF LAND DESCRIBED IN A DEED TO SOUTHERN CALIFORNIA BIBLE COLLEGE, RECORDED MARCH 9, 1949 IN BOOK 1812, PAGE 313 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY; THENCE SOUTHERLY ALONG SAID EAST LINE, 50.00 FEET, TO A POINT ON A LINE PARALLEL WITH THE CENTERLINE OF SAID FAIR DRIVE, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE CONTINUING SOUTHERLY ALONG SAID EAST LINE OF LAND DESCRIBED IN A DEED TO SOUTHERN CALIFORNIA BIBLE COLLEGE, 330.00 FEET TO A POINT ON A LINE PARALLEL WITH THE CENTERLINE OF SAID FAIR DRIVE; THENCE EASTERLY ALONG LAST MENTIONED PARALLEL LINE, 852.00 FEET TO A LINE PARALLEL WITH SAID EAST LINE OF THE LAND DESCRIBED IN ABOVE DEED TO SOUTHERN CALIFORNIA BIBLE COLLEGE; THENCE NORTHERLY ALONG LAST MENTIONED PARALLEL LINE, 330.00 FEET TO A POINT ON A LINE 50 FEET SOUTHERLY OF, MEASURED AT RIGHT ANGLES, AND PARALLEL WITH SAID CENTERLINE OF FAIR DRIVE; THENCE WESTERLY ALONG SAID LINE, 852.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THE OIL, GAS, AND OTHER HYDROCARBON SUBSTANCES LOCATED THEREIN, AS RESERVED IN THE DEED FROM THE UNITED STATES OF AMERICA RECORDED AUGUST 19, 1949 IN BOOK 1891, PAGE 112 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM, IN ACCORDANCE WITH EXECUTIVE ORDER 9908 APPROVED DECEMBER 5, 1947 (12 F. R. 8223), ALL URANIUM, THORIUM AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(b)(1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761) TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED, IN WHATEVER CONCENTRATION, IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, AS RESERVED IN THE DEED FROM

THE UNITED STATES OF AMERICA RECORDED AUGUST 19, 1949 IN BOOK 1891, PAGE 112 OF OFFICIAL RECORDS.

PARCEL 2:

THAT PORTION OF LOT 6 IN BLOCK E OF THE BERRY TRACT, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 30, PAGE 74 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE CENTERLINE OF BAKER STREET, AS SHOWN ON SAID MAP, AND THE SOUTHERLY PROLONGATION OF THE WEST LINE OF SAID LOT 6; THENCE NORTH ALONG SAID PROLONGATION AND THE WEST LINE 412.5 FEET; THENCE EAST PARALLEL TO SAID CENTERLINE OF BAKER STREET, 211.2 FEET; THENCE SOUTH PARALLEL TO SAID WEST LINE OF LOT 6 AND ITS SOUTHERLY PROLONGATION 412.5 FEET TO THE CENTERLINE OF BAKER STREET; THENCE WEST ALONG SAID CENTERLINE 211.2 FEET TO THE POINT OF BEGINNING.

EXCEPT THE SOUTH 40 FEET CONVEYED TO THE COUNTY OF ORANGE FOR BAKER STREET BY DEED RECORDED FEBRUARY 15, 1943 IN BOOK 1181, PAGE 157 OF OFFICIAL RECORDS.

ALSO EXCEPT THAT PORTION LYING WITHIN TRACT NO. 11606 AS PER MAP RECORDED IN BOOK 509, PAGES 29 AND 30 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3:

THAT PORTION OF LOT A OF THE BANNING TRACT, IN THE RANCHO SANTIAGO DE SANTA ANA, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PARTITIONED IN MARCH, 1890, CASE NO. 6385 IN THE SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, AS DESCRIBED IN THE DEEDS RECORDED JULY 23, 1963 IN BOOK 6641, PAGE 450, OFFICIAL RECORDS AND RECORDED JUNE 19, 1964 IN BOOK 7095, PAGE 631, OFFICIAL RECORDS.

EXCEPTING THEREFROM THAT PORTION DESCRIBED IN PARCEL 1 OF THE MEMORANDUM OF LEASE AGREEMENT RECORDED OCTOBER 20, 1993 AS INSTRUMENT NO. 93-0715534, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THE OIL, GAS, AND OTHER HYDROCARBON SUBSTANCES LOCATED THEREIN, AS RESERVED IN THE DEED FROM THE UNITED STATES OF AMERICA RECORDED AUGUST 19, 1949 IN BOOK 1891, PAGE 112 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM, IN ACCORDANCE WITH EXECUTIVE ORDER 9908 APPROVED DECEMBER 5, 1947 (12 F. R. 8223), ALL URANIUM, THORIUM AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(b)(1) OF THE ATOMIC ENERGY ACT OF 1949 (60 STAT. 761) TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED, IN WHATEVER CONCENTRATION, IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, AS RESERVED IN THE DEED FROM THE UNITED STATES OF AMERICA RECORDED AUGUST 19, 1949 IN BOOK 1891, PAGE 112 OF OFFICIAL RECORDS.