

**TO BE RECORDED AND WHEN RECORDED  
RETURN TO:**

**Orrick, Herrington & Sutcliffe LLP  
2050 Main Street, Suite 1100  
Irvine, California 92614-8255  
Attention: Donald S. Field, Esq.**

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AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES  
PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.**

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## **GROUND LEASE**

**by and between**

**AZUSA UNIFIED SCHOOL DISTRICT**

**and**

**AZUSA UNIFIED SCHOOL DISTRICT FACILITIES CORPORATION**

**Dated as of June 1, 2022**

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## **GROUND LEASE**

**THIS GROUND LEASE** (as originally executed and as it may from time to time be amended or supplemented, this “Ground Lease”), executed and entered into as of June 1, 2022, is by and between the AZUSA UNIFIED SCHOOL DISTRICT, a unified school district duly organized and validly existing under the laws of the State of California (the “District”), as lessor, and the AZUSA UNIFIED SCHOOL DISTRICT FACILITIES CORPORATION, a nonprofit public benefit corporation organized and existing under and by virtue of the laws of the State of California (the “Corporation”), as lessee.

### **WITNESSETH:**

**WHEREAS**, in order to prepay the Azusa Unified School District Certificates of Participation (2012 School Facility Bridge Funding Program), the District caused to be executed and delivered the Azusa Unified School District Certificates of Participation, Series 2015 (the “Prior Certificates”) pursuant to the Trust Agreement, dated as of May 1, 2015, by and among U.S. Bank Trust Company, National Association, as successor trustee (formerly known as U.S. Bank National Association), the District and the Corporation; and

**WHEREAS**, the Prior Certificates evidence direct, fractional undivided interests of the owners thereof in the base rental payments to be made by the District under the Lease Agreement, dated as of May 1, 2015 (the “Prior Lease”), by and between the District and the Corporation; and

**WHEREAS**, the District desires to cause the base rental payments of the Prior Lease to be prepaid, thereby prepaying the Prior Certificates, and the Corporation desires to assist the District in such prepayment; and

**WHEREAS**, in order to accomplish such prepayment, the District will lease certain real property owned by the District and the improvements thereto (the “Property”) to the Corporation pursuant to this Ground Lease, and the District will sublease the Property back from the Corporation pursuant to the Lease Agreement, dated as of the date hereof (as originally executed and as it may from time to time be amended or supplemented, the “Lease Agreement”); and

**WHEREAS**, the Property, commonly known as Henry Dalton Elementary School and located at 500 East Tenth Street in Azusa, California 91702, is more particularly described in Exhibit A hereto; and

**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 premises and of the mutual agreements and covenants contained herein and for other valuable consideration, the parties hereto do hereby 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 meanings in this Ground Lease.

## ARTICLE II

### LEASE OF THE PROPERTY; RENTAL

**Section 2.01 Lease of Property.** The District hereby leases to the Corporation, and the Corporation hereby leases from the District, the Property, subject only to Permitted Encumbrances, to have and to hold for the term of this Ground Lease.

**Section 2.02 Rental; Application.** The Corporation shall pay to the District as and for rental of the Property hereunder, an amount equal to \$[\_\_\_\_\_] (the “Ground Lease Payment”). The Ground Lease Payment shall be paid from the proceeds of the sale, assignment and transfer to the Assignee of the Corporation’s right, title and interest in and to this Ground Lease and the Lease Agreement pursuant to the Assignment Agreement.

Upon receipt thereof, the District shall deposit (a) a portion of the Ground Lease Payment in the amount of \$[\_\_\_\_\_] with the Escrow Bank, to cause the base rental payments of the Prior Lease to be prepaid, thereby prepaying the Prior Certificates, in accordance with the Escrow Agreement, and (b) the remaining portion of the Ground Lease Payment in the amount of \$[\_\_\_\_\_] with U.S. Bank Trust Company, National Association, as costs of issuance custodian, to cause payment of Delivery Costs.

The Corporation and the District hereby find and determine that the amount of the Ground Lease Payment does not exceed the fair market value of the leasehold interest in the Property 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 Property under this Ground Lease.

## ARTICLE III

### QUIET ENJOYMENT

The parties intend that the Property will be leased back to the District 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 Corporation, 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, (c) relet the Property or use the Property for any lawful purpose subject to any applicable legal limitations or restrictions, (d) exercise the remedies provided in the Lease Agreement, and (e) exercise all remedies provided herein or under applicable law. Subject to any rights the District may have under the Lease Agreement (in the absence of an Event of Default) to possession and enjoyment of the Property, the District hereby

covenants and agrees that it will not take any action to prevent the Corporation from having quiet and peaceable possession and enjoyment of the Property during the term hereof and will, at the request of the Corporation and at the District's cost, to the extent that it may lawfully do so, join in any legal action in which the Corporation asserts its right to such possession and enjoyment.

## ARTICLE IV

### SPECIAL COVENANTS AND REPRESENTATIONS

**Section 4.01 Waste.** The Corporation 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 District and the Corporation 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 and the Lease Agreement.

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

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

**Section 4.04 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 Property.

**Section 4.05 Right of Entry.** The District 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 Value for Eminent Domain.** The District shall not exercise the power of condemnation with respect to the Corporation's interest hereunder in and to the Property. If for any reason the foregoing covenant shall be held by a court of competent jurisdiction to be unenforceable and the District condemns the Property or if the District breaches such covenant or there is any other eminent domain proceeding with respect to the Property, each of the District and the Corporation hereby stipulates and agrees that, for purposes of any eminent domain proceedings

with respect to all or a portion of the Property, the reasonable condemnation value of the Corporation's leasehold interest in the Property under this Ground Lease is (i) if such condemnation occurs on or before February 1, 2024, no less than an amount equal to the sum of 103% of the aggregate amount of the then unpaid principal components of the Base Rental Payments payable under the Lease Agreement plus the interest components of Base Rental Payments accrued to the date of payment of all Base Rental Payments under the Lease Agreement, (ii) if such condemnation occurs after February 1, 2024 to and including February 1, 2026, no less than an amount equal to the sum of 102% of the aggregate amount of the then unpaid principal components of the Base Rental Payments payable under the Lease Agreement plus the interest components of Base Rental Payments accrued to the date of payment of all Base Rental Payments under the Lease Agreement, (iii) if such condemnation occurs after February 1, 2026 to and including February 1, 2028, no less than an amount equal to the sum of 101% of the aggregate amount of the then unpaid principal components of the Base Rental Payments payable under the Lease Agreement plus the interest components of Base Rental Payments accrued to the date of payment of all Base Rental Payments under the Lease Agreement, and (iv) if such condemnation occurs after February 1, 2028, no less than an amount equal to the sum of 100% of the aggregate amount of the then unpaid principal components of the Base Rental Payments payable under the Lease Agreement plus the interest components of Base Rental Payments accrued to the date of payment of all Base Rental Payments under the Lease Agreement.

**Section 4.07 Representations of the District.** The District represents and warrants to the Corporation and the Assignee as follows:

- (a) the District is the owner in fee of the Property;
- (b) the Property is not located in the 100-year flood plain and, during the time for which the District has been the owner in fee of the Property, the Property has never been subject to material damage from flooding;
- (c) the District 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, by action of its governing board, has duly authorized the execution of this Ground Lease;
- (d) 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 school purposes as contemplated by the District;
- (e) all taxes, assessments or impositions of any kind with respect to the Property, except current taxes not yet delinquent, have been paid in full; and
- (f) the Property is necessary to the District in order for the District to perform its governmental function relating to public education.

**Section 4.08 Representations of the Corporation.** The Corporation represents and warrants to the District and the Assignee that the Corporation 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, by action of its governing board, has duly authorized the execution and delivery of this Ground Lease.

## ARTICLE V

### ASSIGNMENT, SELLING AND SUBLEASING

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

The District understands and agrees that, upon the execution and delivery of the Assignment Agreement (which is occurring simultaneously with the execution and delivery hereof), all right, title and interest of the Corporation in and to this Ground Lease will be sold, assigned and transferred to the Assignee. The District hereby consents to such sale, assignment and transfer. Upon the execution and delivery of the Assignment Agreement, references in the provisions hereof to the Corporation with respect to the rights of the Corporation shall be deemed to be references to the Assignee, as assignee of the rights of the Corporation.

**Section 5.02 Restrictions on District.** The District 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

### IMPROVEMENTS

Title to all improvements made on the Property during the term hereof shall vest in the District.

## ARTICLE VII

### TERM; TERMINATION

**Section 7.01 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 August 1, 20[\_\_\_], unless such term is extended or sooner terminated as hereinafter provided.

**Section 7.02 Extension; Early Termination.** If, on August 1, 20[\_\_\_], the Rental Payments shall remain due and payable or shall have been abated at any time and for any reason, then the term of this Ground Lease shall be automatically extended until the date upon which all Rental Payments shall have been paid in full, or provision therefor shall have been made in accordance with the terms of the Lease Agreement, except that the term of this Ground Lease shall in no event be extended more than ten years. If prior to August 1, 20[\_\_\_], or prior to the date to



which the term of this Ground Lease has been extended pursuant to this Section, all Rental Payments shall have been paid in full, or provision therefor shall have been made in accordance with the terms of the Lease Agreement, the term of this Ground Lease shall end simultaneously therewith.

**Section 7.03 Action on Default.** In each and every case upon the occurrence and during the continuance of a default by the Corporation hereunder, which default continues for 30 days following notice and demand for correction thereof to the Corporation, the District shall have all the rights and remedies permitted by law, except the District, to the extent permitted by law, waives any and all rights to terminate this Ground Lease. In each and every case upon the occurrence and during the continuance of a default by the District hereunder, the Corporation shall have all the rights and remedies permitted by law.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01 Binding Effect.** This Ground Lease shall inure to the benefit of and shall be binding upon the District, the Corporation and their respective successors and assigns.

**Section 8.02 Attorneys' Fees, Costs and Expense.** In the event of civil action or proceeding arising from or relating to this Ground Lease or a party's performance under this Ground Lease, the prevailing party shall be entitled to recover from the other party all costs and expenses, including attorneys' fees which may be those of in-house counsel, incurred by the prevailing party in exercising any of its rights or remedies hereunder or enforcing any the terms, conditions or provisions of this Ground Lease.

**Section 8.03 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. The Corporation and the District each hereby declares that it would have entered into this Ground 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 Ground Lease may be held illegal, invalid or unenforceable.

**Section 8.04 Amendments; Substitution and Release.** This Ground Lease may be amended, changed, modified, altered or terminated only in accordance with the provisions of the Lease Agreement. The District shall have the right to substitute alternate real property for the Property or to release portions of the Property as provided in the Lease Agreement.

**Section 8.05 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 8.06 Third Party Beneficiary.** The Assignee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

**Section 8.07 Applicable Law.** This Ground Lease shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

**Section 8.08 Waiver of Jury Trial; Judicial Reference; Venue.** To the extent permitted by law, the parties hereto hereby irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this Ground Lease or any of the related documents or the transaction contemplated hereby or thereby. If and to the extent that the foregoing waiver of the right to a jury trial is unenforceable for any reason in such forum, the parties hereto hereby consent to the adjudication of any and all claims pursuant to judicial reference as provided in California Code of Civil Procedure Section 638, and the judicial referee shall be empowered to hear and determine any and all issues in such reference whether fact or law. The parties hereto represent that each has reviewed this waiver and consent and each knowingly and voluntarily waives its jury trial rights and consents to judicial reference following the opportunity to consult with legal counsel of its choice on such matters. In the event of litigation, a copy of this Ground Lease may be filed as a written consent to judicial reference under California Code of Civil Procedure Section 638 as provided herein. To the extent permitted by law, the parties hereto consent and submit to jurisdiction only in Superior Court of the State of California in and for the County or in U.S. District Court in or nearest to the County for the purposes of any suit, action or other proceeding arising in connection with this Ground Lease, and each party expressly waives any objections that it may have to the venue of such courts.

**Section 8.09 Captions.** The captions or headings in this Ground Lease are for convenience only and in no way define or limit the scope or intent of any provision of this Ground Lease.

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

**AZUSA UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_

**AZUSA UNIFIED SCHOOL DISTRICT  
FACILITIES CORPORATION**

By: \_\_\_\_\_

[Signature page to Ground Lease]

## EXHIBIT A

### DESCRIPTION OF THE PROPERTY

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

**PARCEL 1:**

LOTS 7, 8, 9, 10 AND 11 IN BLOCK 85 OF AZUSA, IN THE CITY OF AZUSA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 15, PAGES 93](#) THROUGH 96 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM SAID LOT 11, THAT PORTION WITHIN THE LINES OF LEMON TRACT, AS PER MAP RECORDED IN [BOOK 11, PAGE 108](#), OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THEREFROM THE NORTH 30 FEET OF SAID LOT 7, CONVEYED TO THE CITY OF AZUSA FOR ROAD AND STREET PURPOSES BY DEED RECORDED IN [BOOK 310, PAGE 281, OF OFFICIAL RECORDS](#) OF SAID COUNTY.

[APN: 8608-017-900](#)

**PARCEL 2:**

THE WESTERLY 360 FEET OF THAT PORTION OF LOT 85, SUBDIVISION NO. 2, AZUSA LAND AND WATER COMPANY, IN THE CITY OF AZUSA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 43, PAGE 94](#) OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING NORTHERLY OF THE NORTHERLY LINE OF THE RIGHT OF WAY 80 FEET WIDE, GRANTED TO THE LOS ANGELES INTERURBAN RAILWAY COMPANY, BY DEED RECORDED IN [BOOK 2712, PAGE 207](#), OF DEEDS, RECORDS OF SAID COUNTY AND SHOWN ON MAP ATTACHED THERETO

[APN: 8625-029-903](#)

[END OF LEGAL DESCRIPTION]

[The above-described property is commonly referred to as Henry Dalton Elementary School, located at 500 East Tenth Street in Azusa, California 91702.]

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 LOS ANGELES         )

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.

\_\_\_\_\_

[Seal]

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 LOS ANGELES )

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.

[Seal]

\_\_\_\_\_

**CERTIFICATE OF ACCEPTANCE**

In accordance with Section 27281 of the California Government Code, this is to certify that the interest in the real property conveyed by the Ground Lease, dated as of June 1, 2022, by and between the Azusa Unified School District, a school district organized and existing under and by virtue of the laws of the State of California (the "District") and the Azusa Unified School District Facilities Corporation, a nonprofit public benefit corporation organized and existing under and by virtue of the laws of the State of California (the "Corporation"), from the District to the Corporation, is hereby accepted by the undersigned on behalf of the Corporation pursuant to authority conferred by resolution of the Board of Directors of the Corporation adopted on June 14, 2022, and the Corporation consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_, 2022

**AZUSA UNIFIED SCHOOL DISTRICT  
FACILITIES CORPORATION**

By: \_\_\_\_\_