

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
STRADLING YOCCA CARLSON & RAUTH)
660 Newport Center Drive, Suite 1600)
Newport Beach, California 92660)
Attention: Lawrence Chan, Esq.)

[Space above for Recorder's use]

FIRST AMENDMENT TO FACILITY SUBLEASE
by and between the

DEPARTMENT OF CORRECTIONS AND REHABILITATION
OF THE STATE OF CALIFORNIA,
as Sublessor

and

SAN BERNARDINO COUNTY,
as Sublessee

Dated as of October 1, 2013
and amended hereby as of
October 1, 2023

(SAN BERNARDINO JAIL FACILITY)
(SAN BERNARDINO COUNTY)

NO DOCUMENTARY TRANSFER TAX DUE.

This First Amendment to Facility Sublease is recorded for the benefit of the State of California and is exempt from California documentary transfer tax pursuant to Section 11928 of the California Revenue and Taxation Code and from recording fees pursuant to Sections 6103, 27383 and 27388.1 (a)(2)(D) and (d)(2) of the California Government Code. Lease term less than 35 years.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

FIRST AMENDMENT TO FACILITY SUBLEASE

THIS FIRST AMENDMENT TO FACILITY SUBLEASE (this “First Amendment to Facility Sublease”) is made and entered into as of October 1, 2023, by and between the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA, as sublessor (the “Department”), and SAN BERNARDINO COUNTY, as sublessee (the “Participating County”), and amends that certain Facility Sublease between the Department, as sublessor, and the Participating County, as sublessee, dated as of October 1, 2013, and recorded in the official records of the Participating County on October 23, 2013 as Instrument No. 2013-0461079 (the “Original Facility Sublease”) pursuant to which the Department subleased certain real property described in Exhibit A hereto (the “Site”) and the Project (as defined in the Original Facility Sublease) to the Participating County.

WITNESSETH:

WHEREAS, the State Public Works Board of the State of California (the “Board”) has previously financed and refinanced the costs of construction of the Project by the issuance of its Lease Revenue Bonds (Department of Corrections and Rehabilitation) 2013 Series F (Various Correctional Facilities) (the “2013 Bonds”), issued pursuant to the terms of the indenture dated as of April 1, 1994, as amended by the Tenth Supplemental Indenture, dated as of September 1, 1996, the Forty-Second Supplemental Indenture, dated as of October 1, 2002, the Fifty-Second Supplemental Indenture, dated as of October 15, 2004 and the Ninety-Third Supplemental Indenture, dated as of October 12, 2009, as supplemented by the One Hundred Twentieth Supplemental Indenture, dated as of October 1, 2013, each between the Board and the Treasurer of the State of California, as trustee; and

WHEREAS, in connection with the issuance of the 2013 Bonds, the Department and the Participating County entered into the Original Facility Sublease; and

WHEREAS, the Board intends to refinance the costs of construction of the Project through the issuance of its Lease Revenue Refunding Bonds 2023 Series C (Various Capital Projects) (the “2023 Bonds”) and in connection with the issuance of the 2023 Bonds, the Department and the Participating County desire to amend the Original Facility Sublease, as set forth herein; and

WHEREAS, Section 17 of the Original Facility Sublease allows the Original Facility Sublease to be amended by the parties thereto with the consent of the Board; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration, it is hereby mutually agreed as follows:

SECTION 1. Amendment to Definition of “Bonds.” The definition of “Bonds”, which term was previously defined in the sixth recital (“Whereas” clause) of the Original Facility Sublease, is hereby amended to read and to mean the: “State Public Works Board of the State of California Lease Revenue Refunding Bonds 2023 Series C (Various Capital Projects).”

SECTION 2. Amendment to Definition of “Site Lease.” The definition of “Site Lease”, which term was previously defined in the sixth recital (“Whereas” clause) of the Original Facility Sublease, is hereby amended to read and to mean the: “site lease, dated as of October 1, 2013, by and between the Board and the Department relating to the Facility, as amended from time to time.”

SECTION 3. Amendment to Definition of “Facility Lease.” The definition of “Facility Lease”, which term was previously defined in the sixth recital (“Whereas” clause) of the Original Facility Sublease, is hereby amended to read and to mean the: “facility lease, dated as of October 1, 2013, by and between the Board and the Department relating to the Facility, as amended from time to time.”

SECTION 4. Amendment to Definition of “Indenture.” The definition of “Indenture”, which term was previously defined in the seventh recital (“Whereas” clause) of the Original Facility Sublease, is hereby amended to read and to mean the: “indenture dated as of October 1, 2023, by and between the Board and the Treasurer of the State of California, as trustee, as amended from time to time.”

SECTION 5. Amendment to Section 8 of Original Facility Sublease. Section 8 of the Original Site Lease is hereby amended in its entirety to read as follows:

“SECTION 8. Assignment, Subletting of Facility or Third Party Use.

(a) The Participating County shall not sublet, assign or allow any third party, including but not limited to the federal government or any agency or instrumentality thereof, to use any portion of the Facility, or permit its subtenants, assignees or third party users to sublet or assign portions of the Facility, without obtaining the prior written consent and approval of the Department and the Board, which may be granted or denied in their sole discretion, and, provided further, that any such sublease, assignment or use agreement shall be subject to the following conditions:

(1) Any sublease, assignment or use agreement related to the Facility entered into or consented to by the Participating County shall explicitly provide that such agreement is subject to all rights of the Board under the Facility Lease, including, the Board’s right to re-enter and re-let the Facility or terminate the Facility Lease upon a default by the Department and to all rights of the Department under this Facility Sublease including, the Department’s right to re-enter and re-let the Facility or terminate this Facility Sublease upon a default by the Participating County; and

(2) At the request of the Department or the Board, the Participating County shall furnish the Department and the Board with an opinion of nationally recognized bond counsel acceptable to the Board to the effect that such sublease, assignment or use agreement will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income tax purposes.

(b) The Participating County acknowledges that, if the Department breaches the terms of the Facility Lease, a remedy for such breach available to the Board under the Facility Lease is to enter and re-let the Facility to an entity other than the Department. If the Board, at its discretion, chooses to exercise this remedy, the Board agrees that its first offer to relet the Facility shall be made to the Participating County; provided, however, the terms of such offer shall be determined at the sole reasonable discretion of the Board.

(c) This Facility Sublease shall not be subordinated to any sublease, assignment or use agreement.”

SECTION 6. Addition as Section 30 of Original Facility Sublease. The Original Facility Sublease is hereby amended to add the following as Section 30 thereof:

“SECTION 30. Effect of Substitution. Notwithstanding any provision herein to the contrary, in the event of a substitution of another public facility or facilities and real property for all of the Facility pursuant to Section 25 of the Facility Lease (a “Substitution”), this Facility Sublease shall remain in full force and effect except as provided in this Section 30 and the Participating County shall continue as the sublessee hereunder. Upon such Substitution, (a) the references to Site Lease and Facility Lease in Section 2 and Section 4 shall be deemed deleted and this Facility Sublease will no longer be subordinate to the Site Lease and the Facility Lease and the Department and the Board agree to record an appropriate document with the County Recorder’s Office to remove the lien of the Site Lease and the Facility Lease against the Facility; (b) the references to the Department’s obligations to pay Base Rental and Additional Rental and the abatement of rent paid by the Participating County in Section 6(b) shall be deemed deleted; (c) the first two paragraphs of Section 7(a) shall be deemed deleted and the Department and the Board will not be required to maintain any insurance with respect to the Facility; and (d) the references to the Facility Lease and the Board’s rights under the Facility Lease in Section 8(a)(1) and the provisions of Section 8(b) and Section 10(c) shall no longer be of any force and effect and neither the Department nor the Board shall have any right to declare a default hereunder or to re-enter or re-let the Facility as a result of a default under the Facility Lease.”

SECTION 7. Term. The Department and the Participating County hereby confirm that the term of the Original Facility Sublease commenced on the date of issuance of the 2013 Bonds and shall end as set forth in Section 3 of the Original Facility Sublease.

SECTION 8. Authorization. This First Amendment to Facility Sublease has been authorized, executed and delivered by the Department and the Participating County and consented to by the Board in accordance with Section 17 of the Original Facility Sublease.

SECTION 9. No Other Amendments. Except as expressly set forth in Sections 1 through 6 above, all other provisions of the Original Facility Sublease remain in full force and effect.

SECTION 10. Execution. This First Amendment to Facility Sublease 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 instrument. It is also agreed that separate counterparts of this First Amendment to Facility Sublease may be separately executed by the Department and the Participating County, all with the same force and effect as though the same counterpart had been executed by both the Department and the Participating County. This First Amendment to Facility Sublease shall become effective on the date of issuance of the 2023 Bonds.

SECTION 11. Recordation of First Amendment to Facility Sublease. The notarization of the signatures of the signatories to this First Amendment to Facility Sublease is for the purpose of recordation of this First Amendment to Facility Sublease in the official records of the Participating County. This First Amendment to Facility Sublease shall be recorded in the official records of the Participating County solely for the purpose of giving constructive notice of this First Amendment to Facility Sublease to third parties as provided under State law. The failure of any signatory to obtain and affix a notarization to this First Amendment to Facility Sublease shall not affect the validity of this

First Amendment to Facility Sublease. The date of recordation of this First Amendment to Facility Sublease shall not change, alter or modify the effective date of this First Amendment to Facility Sublease as set forth in Section 10 hereof or the effectiveness of any provision of this First Amendment to Facility Sublease.

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SPWB 2023 SERIES C
FIRST AMENDMENT TO FACILITY SUBLEASE
(SAN BERNARDINO JAIL FACILITY)

IN WITNESS WHEREOF, the Department and the Participating County have caused this First Amendment to Facility Sublease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
Jennifer Barretto
Undersecretary, Administration

APPROVED (Pursuant to Government Code
section 11005.2):

DEPARTMENT OF GENERAL SERVICES
OF THE STATE OF CALIFORNIA

By: _____
Authorized Officer

CONSENT AND ACKNOWLEDGEMENT
OF THE BOARD:

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Sally Lukenbill
Executive Director

SPWB 2023 SERIES C
FIRST AMENDMENT TO FACILITY SUBLEASE
(SAN BERNARDINO JAIL FACILITY)

SAN BERNARDINO COUNTY

By: _____
Matthew Erickson
County Chief Financial Officer

APPROVED AS TO FORM:

Tom Bunton
COUNTY COUNSEL

By: _____
Julie J. Surber
Principal Assistant County Counsel

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the Facility conveyed under the foregoing to the San Bernardino County, a political subdivision duly organized under the laws of the State of California, is hereby accepted by the undersigned officer or agent on behalf of the Board of Supervisors of the San Bernardino County, pursuant to authority conferred by resolution of the Board of Supervisors adopted on September 12, 2023 and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2023

SAN BERNARDINO COUNTY

By: _____
Matthew Erickson
County Chief Financial Officer

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 SACRAMENTO)

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

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.
SAN BERNARDINO COUNTY)

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

**LEGAL DESCRIPTION OF SITE
SAN BERNARDINO JAIL FACILITY**

PARCELS 22, 23 AND 24 OF PARCEL MAP 12345, RECORDED NOVEMBER 13, 1990, IN BOOK 154 OF PARCEL MAPS, PAGES 29-32 INCLUSIVE, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 5 NORTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, AND THAT PORTION OF PARCEL 21 OF SAID PARCEL MAP 12345 LYING SOUTH OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE WEST LINE OF SAID PARCEL 21, SAID POINT OF BEGINNING BEING SOUTH 00° 02' 38" EAST (SOUTH 00° 03' 01" EAST PER GRANT DEED RECORDED OCTOBER 15, 1999 AS DOCUMENT NO. 1999-0430735, OFFICIAL RECORDS OF SAID COUNTY), A DISTANCE OF 165.00 FEET FROM THE NORTHWEST CORNER OF SAID PARCEL 21;

THENCE PARALLEL WITH THE NORTH LINE OF SAID PARCEL 21 SOUTH 88° 41' 03" EAST (SOUTH 88° 40' 46" EAST PER SAID DEED), A DISTANCE OF 367.35 FEET (367.23 FEET PER SAID DEED) TO A POINT IN THE EAST LINE OF SAID PARCEL 21, SAID POINT BEING SOUTH 00° 06' 31" EAST (SOUTH 00° 08' 34" EAST PER SAID DEED), A DISTANCE OF 165.01 FEET FROM THE NORTHEAST CORNER OF SAID PARCEL 21.

EXCEPTING THEREFROM THOSE PORTIONS OF PARCELS 23 AND 24 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID PARCEL 24;

THENCE ALONG THE SOUTH LINE OF SAID PARCEL 24 NORTH 88° 41' 54" WEST, A DISTANCE OF 84.26 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID SOUTH LINE NORTH 01° 15' 49" EAST, A DISTANCE OF 40.33 FEET;

THENCE SOUTH 88° 44' 11" EAST, A DISTANCE OF 33.32 FEET;

THENCE NORTH 13° 23' 03" EAST, A DISTANCE OF 71.16 FEET;

THENCE NORTH 88° 44' 11" WEST, A DISTANCE OF 47.93 FEET;

THENCE NORTH 01° 15' 49" EAST, A DISTANCE OF 55.28 FEET;

THENCE SOUTH 88° 44' 11" EAST, A DISTANCE OF 53.01 FEET;

THENCE NORTH 01° 15' 49" EAST, A DISTANCE OF 81.88 FEET;

THENCE NORTH 43° 44' 11" WEST, A DISTANCE OF 35.53 FEET;

THENCE NORTH 01° 16' 05" EAST, A DISTANCE OF 72.21 FEET;
THENCE NORTH 88° 44' 48" WEST, A DISTANCE OF 34.82 FEET;
THENCE NORTH 00° 51' 38" EAST, A DISTANCE OF 12.00 FEET;
THENCE NORTH 88° 44' 48" WEST, A DISTANCE OF 445.02 FEET;
THENCE SOUTH 01° 15' 49" WEST, A DISTANCE OF 10.46 FEET;
THENCE NORTH 88° 44' 11" WEST, A DISTANCE OF 48.40 FEET;
THENCE NORTH 01° 15' 49" EAST, A DISTANCE OF 10.45 FEET;
THENCE NORTH 88° 44' 48" WEST, A DISTANCE OF 84.22 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL 23;
THENCE ALONG SAID WEST LINE SOUTH 00° 06' 31" EAST, A DISTANCE OF 155.78 FEET;
THENCE LEAVING SAID WEST LINE SOUTH 88° 44' 11" EAST, A DISTANCE OF 67.94 FEET;
THENCE SOUTH 01° 15' 49" WEST, A DISTANCE OF 155.33 FEET;
THENCE NORTH 88° 44' 11" WEST, A DISTANCE OF 39.44 FEET;
THENCE SOUTH 15° 10' 16" EAST, A DISTANCE OF 10.43 FEET;
THENCE SOUTH 01° 17' 44" WEST, A DISTANCE OF 34.86 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 23;
THENCE ALONG THE SOUTH LINE OF SAID PARCELS 23 AND 24 SOUTH 88° 41' 54" EAST, A DISTANCE OF 549.16 FEET TO THE **TRUE POINT OF BEGINNING**.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID PARCEL 21 LYING NORTHERLY AND WESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL 21;

THENCE NORTH ALONG THE WEST LINE OF SAID PARCEL 21 NORTH 00° 02' 38" WEST, A DISTANCE OF 65.44 FEET TO THE **TRUE POINT OF BEGINNING**,

THENCE LEAVING SAID WEST LINE SOUTH 89° 54' 52" EAST, A DISTANCE OF 44.07 FEET;

THENCE SOUTH 01° 14' 35" WEST, A DISTANCE OF 3.00 FEET;

THENCE SOUTH 89° 14' 54" EAST, A DISTANCE OF 9.83 FEET;

THENCE SOUTH 01° 22' 31" WEST, A DISTANCE OF 18.53 FEET;

THENCE SOUTH 88° 37' 40" EAST, A DISTANCE OF 111.40 FEET;


THENCE NORTH 01° 16' 38" EAST, A DISTANCE OF 67.36 FEET;

THENCE NORTH 88° 37' 39" WEST, A DISTANCE OF 29.89 FEET;

THENCE NORTH 01° 18' 17" EAST, A DISTANCE OF 52.72 FEET TO A POINT OF
TERMINUS ON THE NORTHERLY LINE OF THE AFOREMENTIONED PORTION OF
PARCEL 21.

CONTAINING 8.16 ACRES OR 355,493.49 SQUARE FEET, MORE OR LESS.

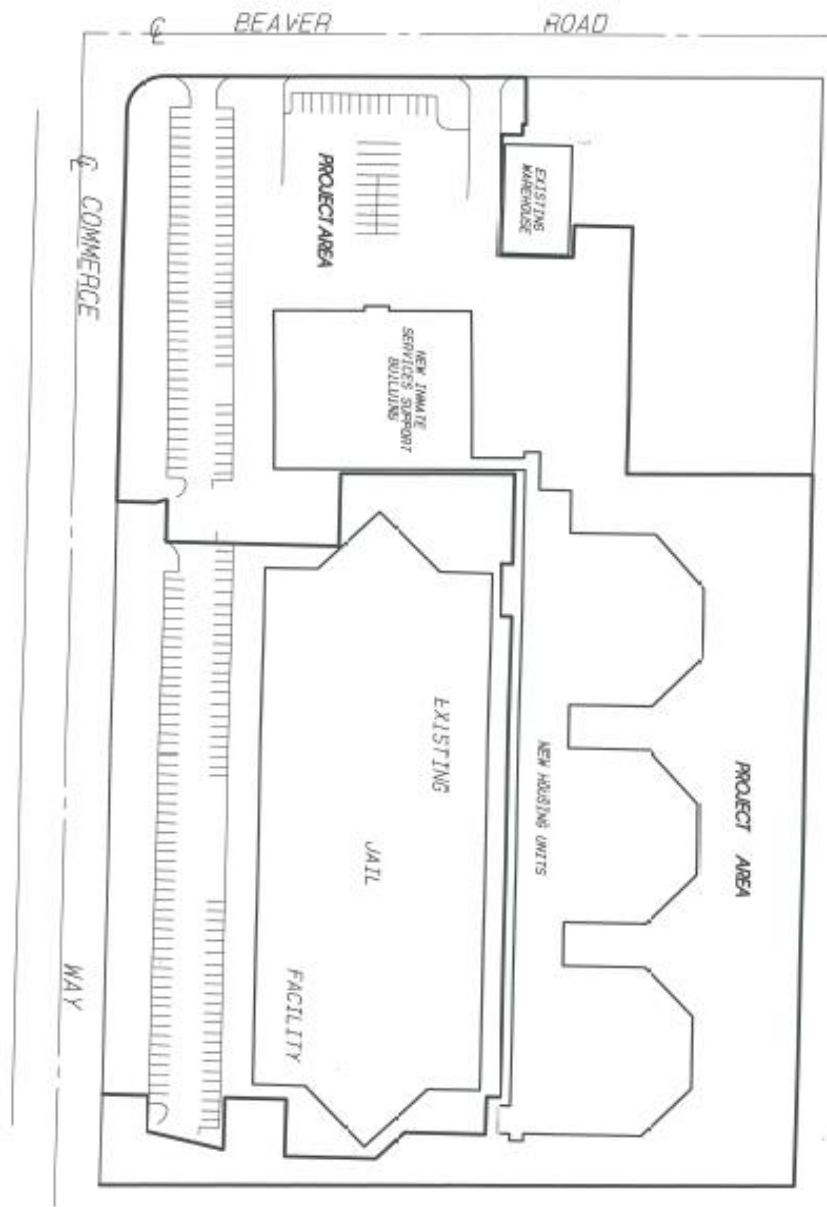
THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.


JOHN C. DODRILL
DEPUTY COUNTY SURVEYOR

9/12/2013
PLS 7806
EXP. 13-31-2013



MAP OF SITE
 SAN BERNARDINO JAIL FACILITY
 SAN BERNARDINO, CALIFORNIA



John C. Donnell

9/12/13