

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



ORIGINAL

Contract Number
23-1366

SAP Number

Real Estate Services Department

Department Contract Representative	<u>Terry W. Thompson</u>
Telephone Number	<u>(909) 387-5000</u>
Contractor	<u>St. John of God Health Care Services</u>
Contractor Representative	<u>Joseph de la Rosa a/k/a Br. Stephen de la Rosa, O.H.</u>
Telephone Number	<u>(323) 708-5004</u>
Contract Term	<u>Anticipated to Commence January 1, 2024 and Terminate Upon the Close of Escrow of PSA No. 23-34</u>
Original Contract Amount	<u>\$0</u>
Amendment Amount	<u>-</u>
Total Contract Amount	<u>\$0</u>
GRC/PROJ/JOB No.	<u>6200 4229</u>
Internal Order No.	_____

Briefly describe the general nature of the contract: This Use Permit Agreement is anticipated to commence January 1, 2024 and terminate upon the close of escrow of San Bernardino County Purchase and Sale Agreement No. 23-34, for San Bernardino County's use of approximately 29.47 acres, totaling approximately 17,770 square feet of building area for office space and recovery treatment services located at 13333 Palmdale Road in Victorville, Accessor's Parcel Number 310519111 for no cost or revenue.

FOR COUNTY USE ONLY

Approved as to Legal Form

▶ SEE SIGNATURE PAGE

John Tubbs II, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

▶ _____

Date _____

Reviewed/Approved by Department

▶ [Signature]

Lyle Ballard, Real Property Manager, RESD

Date _____

USE AGREEMENT

1. **PARTIES:** St. John of God Health Care Services, ("PERMITTOR") hereby enters into a Use Agreement ("Agreement") with San Bernardino County, ("COUNTY") to permit the COUNTY's use of approximately 29.47 acres, totaling approximately 17,770 square feet of building area located at 13333 Palmdale Road, Victorville, CA 92392, Accessor's Parcel Number 310519111 ("Property") as shown on Exhibit "A", Use Area. The Use Area of the Property includes interior and exterior space, and parking spaces.

2. **TERM:** The term of this Agreement is anticipated to commence on January 1, 2024 if the close of escrow of the COUNTY's Purchase and Sale Agreement No. 23-34 ("PSA") does not close by December 31, 2023, and will terminate upon the close of escrow of the COUNTY's Purchase and Sale Agreement No. 23-34. If escrow of the PSA is cancelled, this Agreement shall expire thirty (30) days from the date of cancellation of escrow.

3. **USE:** COUNTY shall use the Property during the Use Period for the following purposes: to make mutually agreed upon alterations and modifications to the Property, to transition staff and equipment onto the Property, and to provide recovery treatment program services.

4. **FEES:** There are no fees payable to the PERMITTOR from the COUNTY for the Agreement.

5. **INDEMNIFICATION:** The COUNTY agrees to indemnify and hold harmless the PERMITTOR, its officers, employees, agents and volunteers from any and all liabilities for injury to persons and damage to property arising out of any negligent act or omission of the COUNTY, its officers, employees, agents or volunteers in connection with COUNTY's use of the Property.

The PERMITTOR agrees to indemnify and hold harmless the COUNTY, its officers, employees, agents and volunteers from any and all liabilities for injury to persons and damage to property arising out of any negligent act or omission of the PERMITTOR, its officers, employees, agents or volunteers in connection with PERMITTOR's use of the Property.

In the event PERMITTOR and/or COUNTY is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, PERMITTOR and/or COUNTY shall indemnify the other to the extent of its comparative fault.

This Paragraph 6 shall survive the expiration or earlier termination of this Agreement.

6. **INSURANCE REQUIREMENTS AND SPECIFICATIONS:** The COUNTY is a self-insured public entity for purposes of Professional Liability, Automobile Liability, General Liability and Worker's Compensation.

PERMITTOR shall be named as an additional insured. The COUNTY's policy of self-insurance is primary, and any insurance carried by PERMITTOR is excess and noncontributing with such primary insurance. The COUNTY waives all rights of subrogation, and provides full indemnification to PERMITTOR. Not less than five (5) days prior to coming onto and using the Property, COUNTY shall deliver to PERMITTOR properly issued certificates of insurance, coverage thereof, showing compliance with the requirements of this section. All insurance shall provide for severability of interests and shall provide that an act or omission of one of the named or additional insureds shall not reduce or void coverage to the other named or additional insureds. Any deductible amounts under any insurance required herein shall be subject to PERMITTOR prior written approval, except as otherwise specified.

7. **ATTORNEY'S FEES AND COSTS:** If any legal action is instituted to enforce or declare any party's rights hereunder, each party, regardless of which party is the prevailing party, must bear its own costs and attorneys' fees. This paragraph will not apply to those costs and attorneys' fees directly arising from any third-party legal action against the COUNTY, including such attorneys' fees and costs payable under Paragraph 6, INDEMNIFICATION, and Paragraph 7, INSURANCE REQUIREMENTS AND SPECIFICATIONS.

8. **TERMINATION:** In the event that either party is in default of any of the terms and conditions of this Agreement, the non-defaulting party may give written notice to the defaulting party of specific violations. If, within

three (3) business day after written notice, the defaulting party has not corrected such default, the non-defaulting party shall have the right to terminate this Agreement. Both Parties have the right to terminate this Agreement without cause within thirty (30) days advance notice to the other party.

9. **COMPLIANCE WITH LAWS:** The Parties shall comply with all applicable ordinances, statutes, and laws of San Bernardino County, State of California, the United States of America, and all other governmental or regulatory agencies having jurisdiction over the COUNTY's use and the Property.

11. **NOTICES:** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party under the provisions of this Agreement shall be in writing and shall be served personally, delivered by reputable overnight courier service, or sent by United States mail, postage prepaid, certified, or registered, return receipt requested. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party, shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notices shall be deemed delivered and effective upon the earlier of (i) actual receipt or (ii) the date of delivery or refusal of the addressee to accept delivery if such notice is sent by reputable overnight courier service or United States mail, postage prepaid, certified or registered, return receipt requested. Any notices received after 5:00 pm local time on a business day shall be deemed effective on the following business day.

COUNTY: San Bernardino County
Real Estate Services Department
385 North Arrowhead Avenue, Third Floor
San Bernardino, CA 92415-0180

With a copy to:

San Bernardino County
Department of Behavioral Health
303 W. Vanderbilt Way
San Bernardino, CA 92408

PERMITTOR: St. John of God Health Care Services
2468 S St. Andrews Place
Los Angeles, CA 90018

12. **SURRENDER:** COUNTY agrees that it will, upon any termination of this Agreement, return the Property in a clean and tidy condition with all trash and debris caused by the COUNTY removed and all damages to the extent caused by the COUNTY repaired or restored to substantially as good a condition as existed immediately prior to the damage caused by the COUNTY, reasonable wear and tear excluded.

13. **VENUE:** The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Agreement will be the Superior Court of the State of California, San Bernardino County. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Use Agreement is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of the State of California, San Bernardino County.

14. **LAW:** This Agreement shall be construed and interpreted in accordance with the laws of San Bernardino County, State of California.

15. **SEVERABILITY:** If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Use Agreement is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Use Agreement or any other portion thereof.

16. **SURVIVAL**: The obligations of the parties that, by their nature, continue beyond the Use Period, will survive the termination of this Agreement.

17. **DISPUTE**: In the event of a dispute, the Parties shall use their best efforts to settle the dispute through negotiation with each other in good faith.

18. **CONTRACT ASSIGNABILITY**: Without the prior written consent of both Parties, the Agreement is not assignable either in whole or in part.

19. **AUTHORIZED SIGNATORS**: The parties to this Agreement represent for itself that its respective signators executing this document are fully authorized to enter into this Use Agreement.

20. **ENTIRE AGREEMENT**: This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. No modifications or waiver will be binding unless made in writing and signed by both parties.

21. **CAMPAIGN CONTRIBUTION DISCLOSURE (SB 1439)**: PERMITTOR has disclosed to the COUNTY using Exhibit "B" - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other COUNTY elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the COUNTY, or (2) 12 months before the date this Agreement was approved by the Board of Supervisors. PERMITTOR acknowledges that under Government Code section 84308, PERMITTOR is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other COUNTY elected officer for 12 months after the COUNTY's consideration of the Agreement.

In the event of a proposed amendment to this Agreement, the PERMITTOR will provide the COUNTY a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other COUNTY elected officer within the preceding 12 months of the date of the proposed amendment.

22. **COUNTERPARTS**: This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

IN WITNESS WHEREOF, PERMITTOR and PERMITEE have each caused this Use Agreement to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

ST. JOHN OF GOD HEALTH CARE SERVICES

By: *Dawn Rowe*
Dawn Rowe, Chair
Board of Supervisors

By: *Joseph de la Rosa*
Joseph de la Rosa a/k/a Br. Stephen de la Rosa, O.H., Secretary

Title: _____

Date: DEC 19 2023

Date: 12/13/2023

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
San Bernardino County

By: *[Signature]*
Deputy
Date: DEC 19 2023



Approved as to Legal Form:

TOM BUNTON, County Counsel
San Bernardino County, California

By: *John Tubbs II*
John Tubbs II, Deputy County Counsel

Date: 12-12-23

EXHIBIT "A"
(Highlighted in Red)

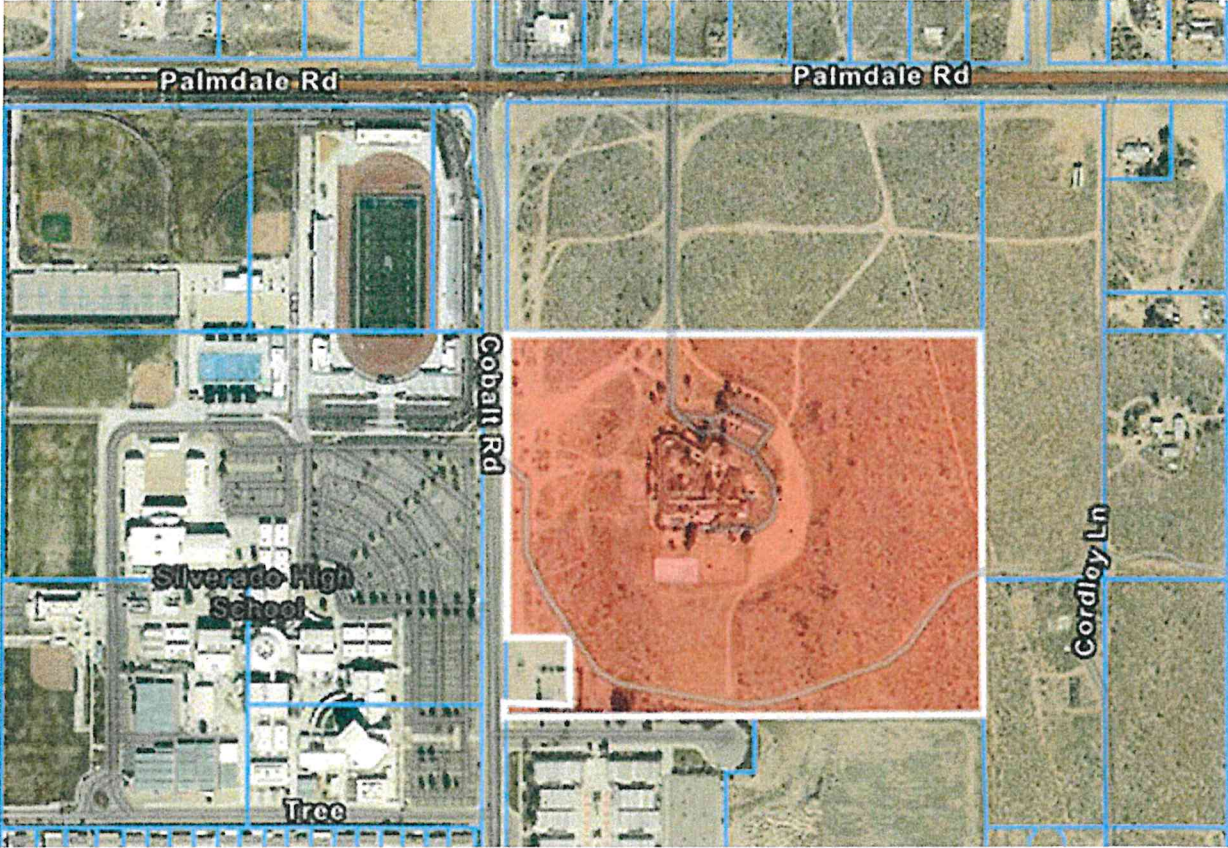




EXHIBIT "B"
Campaign Contribution Disclosure
(SB 1439)

DEFINITIONS

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

PERMITTOR must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.

Name of Permitter: St. John of God Health Care Services

1. Name of Principal (i.e., CEO/President) of Permitter, if the individual actively supports the matter and has a financial interest in the decision:

2. Name of agent of Permitter:

Company Name	Agent(s)
N/A	

3. Name of any known lobbyist(s) who actively supports or opposes this matter:

Company Name	Contact
N/A	

4. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and/or Agent(s):
N/A		

5. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?

Yes

No

6. Name of any known individuals/companies who are not listed in Questions 1-5, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
N/A	

7. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer on or after January 1, 2023, by any of the individuals or entities listed in Question Nos. 1-7?

No If **no**, please skip Question No. 9 and sign and date this form.

Yes If **yes**, please continue to complete this form.

8. Name of Board of Supervisor Member or other County elected officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Please add an additional sheet(s) to identify additional Board Members/County elected officer to whom anyone listed made campaign contributions.

By signing the Agreement, PERMITTOR certifies that the statements made herein are true and correct. PERMITTOR understands that the individuals and entities listed in Question Nos. 1-7 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Agreement is being considered and for 12 months after a final decision by the County.