

RECORDING REQUESTED BY  
CITY OF FONTANA, CALIFORNIA

AND WHEN RECORDED MAIL TO:  
STRADLING YOCCA CARLSON & RAUTH  
660 Newport Center Drive, Suite 1600  
Newport Beach, California 92660  
Attention: Vanessa Legbandt, Esq.

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(Above Space For Recorder's Use Only)

This document is exempt from the payment of  
a recording fee under Section 27383 of the  
Government Code

## **SUBORDINATION AND NON-DISTURBANCE AGREEMENT**

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR LIEN OR CHARGE  
IN THE LAND AND IMPROVEMENTS BECOMING SUBJECT TO AND OF LOWER  
PRIORITY THAN THE LIENS OF THE INSTRUMENTS REFERENCED BELOW.**

THIS SUBORDINATION AND NON-DISTURBANCE AGREEMENT ("Agreement") is made as of [October] 1, 2025 by and among the CITY OF FONTANA (the "City"), a municipal corporation and charter city duly organized and existing under and by virtue of the Constitution and laws of the State of California, the FONTANA PUBLIC FACILITIES FINANCING AUTHORITY (the "Authority"), a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California, and SAN BERNARDINO COUNTY, a political subdivision of the State of California ("County") each a "Party," collectively the "Parties."

### **RECITALS**

A. The City owns the "Fontana Lewis Library & Technology Center" located at 8437 Sierra Avenue, Fontana, California, 92335 (the "Library Property"). The Library Property is further described in the Legal Description, attached as Exhibit A and incorporated herein.

B. The City and County entered into that certain Lease Agreement dated as of January 8, 2008 (the "Library Lease Agreement") wherein the City leased an approximately 86,000 square feet of the building located at the Library Property to the County and pursuant to which the County provides for the management and operation of the Library Property upon the terms and conditions set forth in the Library Lease Agreement and a Joint Use Cooperative Agreement among the City, the County, the Fontana Unified School District, the Rialto Unified School District, the Colton Joint Unified School District, and the Etiwanda School District, dated April 2002.

C. The City and the Authority desire to finance and refinance the costs of the acquisition, construction and installation of certain capital improvements located in the City through the issuance by the Authority of lease revenue bonds (the “Bonds”).

D. As a condition to issuing the Bonds, the Authority has required that the County subordinate its interests in the Library Property under the Library Lease Agreement to the liens of the “Bond Documents” as defined below in Section 2.

E. In consideration for the County’s agreement to subordinate its interests in the Library Property under the Library Lease Agreement to the liens of the Bond Documents, the Authority, on behalf of itself and any successors or assignees, agrees to recognize County’s interests under the Library Lease Agreement on the terms and conditions provided herein, and not to disturb County’s use of the Library Property under the terms and conditions provided in the Library Lease Agreement so long as County is not in default under the Library Lease Agreement beyond any applicable notice or cure period.

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals.** The Recitals are incorporated herein by this reference and are deemed to be conclusively true as among the Parties and their successors and assigns.

2. **Subordination to Liens of Bond Documents.** The Library Lease Agreement and all of County’s rights and interest in and to the Library Property thereunder shall be, and the same are expressly made subject to, subordinate and inferior to documents evidencing the obligations securing the Bonds, including, but not limited to: (i) the Ground Lease, dated as of the date hereof between the City as lessor and the Authority as lessee, as it may be amended from time to time (the “Ground Lease”), (ii) the Lease Agreement, dated as of the date hereof between the Authority as sublessor and the City as sublessee, as it may be amended from time to time (the “Financing Lease Agreement”), (iii) the Assignment Agreement, dated as of the date hereof between the Authority as assignor and U.S. Bank Trust Company, National Association, as assignee, as it may be amended from time to time (the “Assignment Agreement”), and (iv) each and every other document evidencing the Bonds and to all extensions, renewals, modifications, consolidations and replacements of the foregoing agreements listed in (i), (ii), and (iii) above and the Bonds (collectively, the “Additional Financing Documents”). The Ground Lease, Financing Lease Agreement, Assignment Agreement and Additional Financing Documents are collectively referred to as the “Bond Documents”.

3. **Acknowledgements of Agreements of County.** County declares, acknowledges, and agrees that:

(a) The Authority would not issue the Bonds and the Authority would not enter into the Bond Documents and incur the obligations imposed therein without this Agreement.

(b) County intentionally and unconditionally waives, relinquishes, subjects, and subordinates the liens, claims, and charges of the Library Lease Agreement in favor of the Bond Documents and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection, and subordination, specific financing is being and will be made and, as part and parcel

thereof, specific leasehold, monetary, and other obligations will be entered into, that would not be made or entered into but for the Authority's reliance upon this waiver, relinquishment, subjection, and subordination.

(c) The County has delivered to the Authority true and complete copies of the Library Lease Agreement, and the Library Lease Agreement has not been amended, modified or supplemented in any way, except as disclosed therein.

(d) There are no defaults (or conditions or events which, with notice or the passage of time or both, would constitute a default), known to the County as of the date hereof, by the County or the City under the Library Lease Agreement.

(e) The County agrees it will not enter into any agreement to amend or modify the Library Lease Agreement without notice to, and the prior written consent of the Authority, except County may exercise its two five-year options to extend the term of the Lease without the prior written consent of the Authority.

4. **Nondisturbance.** So long as the County is not in default in the performance of the terms, provisions and conditions contained this Agreement, Authority agrees that: (i) the County shall not be named or joined in any proceedings to enforce the Bond Documents and (ii) enforcement of the Bond Documents shall not have any effect on the Library Lease Agreement or disturb the County's use of the Library Property in accordance with the terms and conditions in the Library Lease Agreement.

5. **Notices.** All written notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

If to the City:                      City of Fontana  
8353 Sierra Avenue  
Fontana, California 92335  
Attention: City Manager

If to the Authority:              Fontana Public Facilities Financing Authority  
c/o City of Fontana  
8353 Sierra Avenue  
Fontana, California 92335  
Attention: Executive Director

If to the County:                  San Bernardino County  
385 N. Arrowhead Avenue  
San Bernardino, CA 92415-0120  
Attention: Terry Thompson, Director of  
Real Estate Services Department

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is

addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

6. **Integration; Amendments; No Waiver.** This Agreement is the whole and only agreement with regard to the subordination of the Library Lease Agreement to the Bond Documents. This Agreement may not be modified or amended except by a written agreement signed by the Parties. No waiver shall be deemed to be made by the Authority of any of its rights hereunder unless the same shall be in writing signed on behalf of the Authority.

7. **Successors and Assigns.** This Agreement is binding on and inures to the benefit of the legal representatives, successors, and assigns of the Parties.

8. **Governing Law.** This Agreement is governed by the laws of the State of California, without regard to the choice of law rules of that state.

9. **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 Agreement.

10. **Execution.** This Agreement 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 Agreement.

*[Remainder of Page Intentionally Blank; Signature Pages to Follow]*

**IN WITNESS WHEREOF**, the Authority, the City, and the County have caused this Agreement to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF FONTANA

By: \_\_\_\_\_  
Matthew Ballantyne  
City Manager

ATTEST:

\_\_\_\_\_  
~~Andrea Alexander~~ Christina Rudsell  
~~Chief Deputy~~ City Clerk

FONTANA PUBLIC FACILITIES FINANCING  
AUTHORITY

By: \_\_\_\_\_  
Matthew Ballantyne  
Executive Director

ATTEST:

\_\_\_\_\_  
~~Andrea Alexander~~ Christina Rudsell  
~~Chief Deputy Secretary~~ City Clerk

SAN BERNARDINO COUNTY

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

Its: Director, Real Estate Services

Printed Name: Terry W. Thompson

EXHIBIT A

LEGAL DESCRIPTION OF LIBRARY PROPERTY

Real property in the City of Fontana, County of San Bernardino, State of California, described as follows:

Parcel 1 (APN: 0192-042-01)

The West 61.5 feet of Lot 1, Tract No. 2753, FONTANA TOWNSITE, in the County of San Bernardino, State of California, as per plat recorded in Book 38 of Maps, Page(s) 51, records of said County.

Parcel 2: (APN: 0192-042-02)

The East 132.5 feet of the West 194 feet of Lot 1, Tract No. 2753, in the County of San Bernardino, State of California, as per plat recorded in Book 38 of Maps, Page(s) 51, records of said County.

Parcel 3: (APN: 0192-042-03)

Lot 1, Tract No. 2753, in the County of San Bernardino, State of California, as per plat recorded in Book 38 of Maps, Page(s) 51, records of said County.

Excepting the West 194 feet thereof.

Parcel 4: (APN: 0192-041-07)

The North 103.00 feet of Lot 4 of Tract No. 2753, in the City of Fontana, County of San Bernardino, State of California, as per map recorded in Book 38, Page(s) 51, of Maps, in the Office of the County Recorder of said County.

Parcel 5: (APN: 0192-041-08)

Lot 4 of Tract No. 2753, in the City of Fontana, County of San Bernardino, State of California, as per map recorded in Book 38, Page(s) 51, of Maps, in the Office of the County Recorder of said County.

EXCEPTING THEREFROM the North 103.00 feet thereof.

APN: 0192-042-01 and 0192-042-02 and 0192-042-03 and 0192-042-07 and 0192-042-08

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 SAN BERNARDINO )

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

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.

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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 )  
 )  
COUNTY OF SAN BERNARDINO ) ss.

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

SIGNATURE OF NOTARY PUBLIC