

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

[Space above for Recorder's use.]

FACILITY SUBLEASE

by and between the

**BOARD OF STATE AND COMMUNITY CORRECTIONS
OF THE STATE OF CALIFORNIA,
as Sublessor**

and

**COUNTY OF FRESNO,
as Sublessee**

Dated as of _____ 1, 2021

**FRESNO JAIL PROJECT
(FRESNO COUNTY)**

NO DOCUMENTARY TRANSFER TAX DUE.
This 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.

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FACILITY SUBLEASE

This Facility Sublease (the “Facility Sublease”), dated as of ____ 1, 2021, is made and entered into by and between the BOARD OF STATE AND COMMUNITY CORRECTIONS OF THE STATE OF CALIFORNIA, as sublessor (the “Department”) and the COUNTY OF FRESNO, a political subdivision of the State of California, as sublessee (the “Participating County”).

RECITALS

WHEREAS, pursuant to Chapter 3.13 of Part 10b of Division 3 of Title 2 of the California Government Code commencing at Section 15820.92 (the “Law”), the State Public Works Board (the “Board”) is authorized to finance the acquisition, design, and construction of an adult local criminal justice facility; and

WHEREAS, in accordance with the Law the Participating County is constructing a local criminal justice facility as described in Exhibit B hereto (the “Project”), which is located at 2208 Merced Street, Fresno, California 93721, on the real property described and depicted in Exhibit A hereto (the “Site”), fee title to which is owned by the Participating County; and

WHEREAS, the Participating County, as fee owner of the Site, has leased the Site to the Department pursuant to a Ground Lease, dated August 25, 2017 executed by and between the Participating County, as landlord, and the Department, as tenant, and consented to by the Board, and recorded on September 7, 2017 in the Official Records of the County of Fresno as Document No. 20170113476 (the “Ground Lease”); and

WHEREAS, further to the terms of the Ground Lease, the Department and the Participating County also entered into that certain Easement Agreement for Grants of Access, Utilities and Repairs dated as of August 25, 2017 and recorded on September 7, 2017 in the Official Records of the County of Fresno as Document No. 20170113475 (the “Easement Agreement”) pursuant to which the Participating County granted to the Department and the Board certain appurtenant easements in certain property described in the Easement Agreement and depicted in Exhibit A hereto (the “Easement Property”) necessary for the quiet enjoyment and beneficial use of the Site by the Department and the Board; and

WHEREAS, pursuant to the Law, the Board has issued its Lease Revenue Bonds 2021 Series B (Various Capital Projects) (the “Bonds”) to finance and refinance the Project, in conjunction with which the Department, as lessor, and the Board, as lessee, entered into a site lease dated as of ____ 1, 2021 (the “Site Lease”), providing for the sublease of the Site, the existing improvements thereon and all rights appurtenant thereto to the Board, and the Board, as lessor, and the Department, as lessee, entered into a facility lease dated as of ____ 1, 2021 (the “Facility Lease”), providing for the leasing of the Site and the Project to the Department (the Site, together with the Project, the “Facility”); and

WHEREAS, the Site Lease and the Facility Lease will provide security for the Bonds which have been issued by the Board under an indenture dated as of ____ 1, 2021 (the “Indenture”), by and between the Board and the Treasurer of the State of California, as trustee (the “State Treasurer”); and

WHEREAS, the Department, pursuant to the Law, is authorized to enter into one or more subleases and/or contracts with the Participating County; and

WHEREAS, the Participating County, as sublessee, will be responsible for all the maintenance and operating costs for the Facility; and

WHEREAS, payment of the principal of and interest on the Bonds will be made through rental payments made under the Facility Lease by the Department from annual appropriations to the Department included in the State budget, but the costs of operating and maintaining the Facility will be paid by the Participating County; and

WHEREAS, it is the intent of the parties that, upon the payment in full of the Bonds and all other indebtedness incurred by the Board for the Project, if any, the Ground Lease, the Easement Agreement, the Site Lease, the Facility Lease and this Facility Sublease will terminate in accordance with their respective terms and fee title to the Project will vest in the Participating County pursuant to the terms and conditions in the Ground Lease.

NOW THEREFORE, the parties hereto mutually agree as follows:

SECTION 1. Definitions. Unless otherwise required by the context, all capitalized terms used herein and not defined herein shall have the meanings assigned such terms in the Facility Lease or the Indenture.

SECTION 2. Sublease of the Facility to the Participating County Subject to Facility Lease. The Participating County hereby leases the Facility from the Department, and the Department hereby leases the Facility to the Participating County, on the terms and conditions hereinafter set forth, subject to all easements, encumbrances and restrictions of record, including without limitation, the terms and conditions of the Site Lease and Facility Lease. This Facility Sublease is in all respects subordinate and subject to the Facility Lease. The Participating County covenants it shall continuously operate and maintain the Facility and shall have no right to abandon the Facility.

SECTION 3. Term. The term of this Facility Sublease shall commence on the date of initial issuance and delivery of the Bonds and shall terminate on the same date as the Facility Lease, unless such term is extended by the parties hereto, or unless sooner terminated as provided herein, provided, however, except as set forth in Section 10(b) or (c), no termination of this Facility Sublease shall occur until all the Bonds and all other indebtedness incurred by the Board for the Project, if any, have been fully repaid.

SECTION 4. Consideration and Conflict between Documents. The Department makes this Facility Sublease in consideration for the public benefit to the State of California (the "State") provided by the Project, which is described in Government Code Section 15820.923, and for undertaking by the Participating County of the financial obligations required under this Facility Sublease. This Facility Sublease is subject to the terms of the Ground Lease, Easement Agreement, Site Lease and Facility Lease and in the event of a conflict between this Facility Sublease and any of the Ground Lease, Easement Agreement, Site Lease or the Facility Lease, the provisions of the Ground Lease, Easement Agreement, Site Lease or the Facility Lease, as the case may be, shall control.

SECTION 5. Purpose and Use. The Site shall be used by the Participating County for the purpose of staffing, operating and maintaining the Project and appurtenances related thereto, in order to provide the Project and for such other purposes as may be ancillary and related thereto for State and local criminal justice agencies. The Participating County shall be required to obtain the prior written consent of the Department and the Board for any change in use of the Facility, or any part thereof and 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 change in use will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income tax purposes.

SECTION 6. Obligations of Participating County.

(a) Maintenance, Repair, Replacement and Utilities. The Participating County shall, at its own cost and expense, pay for all maintenance and repair, both ordinary and extraordinary, of the Facility. The Participating County shall at all times maintain, or otherwise arrange for the maintenance of, the Facility in good condition, and the Participating County shall pay for, or otherwise arrange for, the payment of all utility services supplied to the Facility, and shall pay for, or otherwise arrange for, the payment of the costs of the repair and replacement of the Facility resulting from ordinary or extraordinary wear and tear or want of care on the part of the Participating County or any other cause (except for a catastrophic uninsured loss), and shall pay for, or otherwise arrange for, the payment of any insurance policies, except those provided by the Department pursuant to the Facility Lease.

(b) Rent. The Department shall pay all Base Rental and Additional Rental as defined in and as required under the Facility Lease. The Participating County shall pay upon the order of the Department or the Board as rent hereunder such amounts, if any, in each year as shall be required by the Department or Board for the payment of all applicable taxes and assessments of any type or nature assessed or levied by any governmental agency or entity having power to levy taxes or assessments charged to the Department, the Board or the State Treasurer affecting or relating to the Facility or their respective interests or estates therein. Except for the Base Rental and Additional Rental obligations and insurance obligations as specified in the Facility Lease, the Department shall have no duty under this Facility Sublease to pay for any other costs to maintain and operate the Facility. The rent required under this Section 6(b) shall be abated proportionately during any period in which the Department's obligation to pay rent under the Facility Lease shall be abated.

The Participating County shall submit to the Department within 15 Business Days of the final adoption of the Participating County's budget each year, a copy of its approved and authorized budget, or other written information acceptable to the Department, that details the amounts allocated to maintain and operate the Facility, including any reserves. On November 1 of each year during the term of this Facility Sublease, the Department shall submit a report to the Board including a summary of the information provided by the Participating County as set forth in this paragraph. This report shall be in a form approved by the Board and shall incorporate any other summary to be provided by the Department pursuant to the terms of any facility sublease entered into by the Department in connection with facilities constructed pursuant to the Law, as applicable.

SECTION 7. Insurance.

(a) Insurance Obligations of the Department. The Department will pay or cause to be paid the cost of all insurance required to be maintained under the Facility Lease. The

Participating County will not be required to pay or reimburse the Department or any other State agency for these insurance costs or any deductible paid by the State. The Department will provide, or cause to be provided, proof of insurance coverage to the Participating County upon request of the Participating County.

In the event of (i) damage or destruction of the Facility caused by the perils covered by the insurance required under the Facility Lease and (ii) if the Board elects, under the terms of the Facility Lease and the Indenture, to redeem the outstanding Bonds, and (iii) if any insurance proceeds remain after the Bonds have been redeemed and such remaining proceeds are not needed under the terms of the Indenture, and (iv) such funds are distributed to the Department, then the Department agrees to distribute such funds to the Participating County.

The Department will not insure the Participating County's equipment, stored goods, other personal property, fixtures, or tenant improvements, nor such personal property owned by Participating County's, subtenants or assigns, if any, or invitees. The Department shall not be required to repair any injury or damage to any personal property or trade fixtures installed in the Facility by the Participating County caused by fire or other casualty, or to replace any such personal property or trade fixtures. The Participating County may, at its sole option and expense, obtain physical damage insurance covering its equipment, stored goods, other personal property, fixtures or tenant improvement or obtain business interruption insurance.

To the extent permitted by law, the Department and the Participating County agree to release the other and waive their rights of recovery against the other for damage to the Facility or their respective property at the Facility arising from perils insured under any commercial property insurance listed in this Facility Sublease or the Facility Lease. The property insurance policies of the Department and the Participating County shall contain a waiver of subrogation endorsement in favor of the other.

(b) Insurance Obligations of the Participating County. The Participating County, at its own cost and expense, shall secure and maintain or cause to be secured and maintained from an insurance company or companies approved to do business in the State of California and maintain during the entire term of this Facility Sublease, the following insurance coverage for the Facility:

(1) General liability insurance in an amount not less than one million Dollars (\$1,000,000) per occurrence. Evidence of such insurance shall be on a General Liability Special Endorsement form and should provide coverage for premises and operations, contractual, personal injury and fire legal liability;

(2) By signing this Facility Sublease, the Participating County hereby certifies that it is aware of the provisions of Section 3700, *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply, and it will cause its subtenants and assignees to comply, with such provisions at all such times as they may apply during the term of this Facility Sublease.

(3) Auto insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of not less than one million dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles or coverage for any auto.

(c) Additional Insureds. The Participating County agrees that the Department and the Board and their officers, agents and employees shall be included as additional insureds in all insurance required herein.

(d) Insurance Certificate. The Participating County shall submit or cause to be submitted to the Department, by no later than June 30th of each year, a certificate of insurance or other evidence of insurance in a form satisfactory to the Department demonstrating that the insurance required to be maintained by the Participating County hereunder is in full force and effect.

(e) Self-Insurance. Notwithstanding any other provision of this Section, the Participating County may satisfy the insurance obligations hereunder by a combination of commercial insurance, formal risk pooling under California statutory provisions, and/or a self-funded loss reserve in whatever proportions are deemed appropriate by the Participating County and acceptable to the Department and the Board. The Participating County shall furnish the Department and the Board with a certificate or other written evidence of the Participating County's election to provide or cause to be provided all or part of its coverage under a risk pooling, risk retention, or self-insurance program or any combination thereof.

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 9. Hazardous Materials. The Participating County shall fully disclose in writing to the Department and the Board the existence, extent and nature of any Hazardous Materials (defined below), substances, wastes or other environmentally regulated substances, of which the Participating County has actual knowledge relative to the Facility. The Participating County further warrants, covenants and represents that it will promptly notify the Department and the Board in writing of any change in the nature or extent of any Hazardous Materials, substances or wastes maintained on, in, around or under the Facility or used in connection therewith, of which the Participating County gains actual knowledge, and will transmit to the Department and the Board copies of any citations, orders, notices or other material governmental or other communication received by the Participating County with respect to any other Hazardous Materials, substances, wastes or other environmentally regulated substances affecting the Facility. The Participating County shall ensure (as to itself), and shall use its best efforts to ensure (as to its contractors, consultants, sublessees and other agents), that all activities of the Participating County or any officers, employees, contractors, consultants, sublessees, or any other agents of the Participating County performed at the Facility will be in full compliance with all Environmental Laws, and further agrees that neither the Participating County nor its contractors, consultants, sublessees, agents, officers or employees will engage in any management of solid wastes or Hazardous Materials at the Facility which constitutes noncompliance with or a violation of any Environmental Law. If there is a release of Hazardous Materials on or beneath the Facility which constitutes noncompliance with or a violation of any Environmental Law, the Participating County shall promptly take all action necessary to investigate and remedy such release.

The Participating County shall defend, indemnify and hold the State of California, including, but not limited to, the Department, the Board and their officers, directors, agents, employees and successors and assigns (each, an “Indemnified Party” and, together, the “Indemnified Parties”) harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including cleanup costs), judgments and expenses (including attorneys’, consultants’, or experts’ fees and expenses of every kind and nature) suffered by or asserted against one or more of the Indemnified Parties as a direct or indirect result of any warranty or representation made by the Participating County in the preceding paragraph being false or untrue in any material respect or the breach of any obligation of the Participating County in the preceding paragraph or as a result of any act or omission on the part of the Participating County or any contractor, consultant, sublessee or other agent of the Participating County which constitutes noncompliance with or a violation of any Environmental Law. The indemnification obligations set forth in this paragraph shall survive any termination of this Facility Sublease.

“Hazardous Materials” means any substance, material, or waste which is or becomes, prior to the date of execution and delivery hereof, regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous substance”, “hazardous material”, “toxic substance”, “solid waste”, “pollutant or contaminant”, “hazardous waste”, “extremely hazardous waste”, or “restricted hazardous waste” under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”) [42 U.S.C.A §§ 9601 *et seq.*]; the Resource Conservation and Recovery Act of 1976 (“RCRA”) [42 U.S.C.A §§ 6901 *et seq.*]; the Clean Water Act, also known as the Federal Water Pollution Control Act (“FWPCA”) [33 U.S.C.A §§ 1251 *et seq.*]; the Toxic Substances Control Act (“TSCA”) [15 U.S.C.A §§ 2601 *et seq.*]; the Federal Insecticide, Fungicide,

Rodenticide Act [7 U.S.C.A §§ 136 *et seq.*]; the Superfund Amendments and Reauthorization Act [42 U.S.C.A §§ 9601 *et seq.*]; the Clean Air Act [42 U.S.C.A §§ 7401 *et seq.*]; the Safe Drinking Water Act [42 U.S.C.A §§ 300f *et seq.*]; the Solid Waste Disposal Act [42 U.S.C.A §§ 6901 *et seq.*]; the Surface Mining Control and Reclamation Act [30 U.S.C.A §§ 1201 *et seq.*]; the Emergency Planning and Community Right-to-Know Act [42 U.S.C.A §§ 11001 *et seq.*]; the Occupational Safety and Health Act [29 U.S.C.A §§ 655 and 657]; the California Underground Storage of Hazardous Substances Act [Health & Saf. Code §§ 25280 *et seq.*]; the California Hazardous Substances Account Act [Health & Saf. Code §§ 25300 *et seq.*]; the California Hazardous Waste Control Act [Health & Saf. Code §§ 25100 *et seq.*]; the California Safe Drinking Water and Toxic Enforcement Act [Health & Saf. Code §§ 25249.5 *et seq.*]; the Porter-Cologne Water Quality Act [Wat. Code §§ 13000 *et seq.*], including without limitation, Sections 25115, 25117 or 25122.7 of the California Health and Safety Code, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Talmer Hazardous Substance Account Act), (iii) defined as a “hazardous material”, “hazardous substance”, or “hazardous waste” under Section 25501 of the California Health and Safety Code.

“Environmental Laws” means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to Hazardous Materials to which the Participating County or the Facility is subject, including all those laws referenced above in the definition of Hazardous Materials.

SECTION 10. Termination, Breach, Default and Damages.

(a) This Facility Sublease shall terminate upon the occurrence of the expiration of the Facility Lease as set forth in Section 3.

(b) If the Participating County shall fail to keep, observe or perform any term, covenant or condition contained herein to be kept or performed by the Participating County for a period of sixty (60) days after notice of the same has been given to the Participating County by the Department or the Board or for such additional time as is reasonably required, in the sole discretion of the Department, with the consent of the Board, to correct any of the same, the Participating County shall be deemed to be in default hereunder and it shall be lawful for the Department to exercise any and all remedies available pursuant to law or granted pursuant to this Facility Sublease. Upon any such default, the Department, in addition to all other rights and remedies it may have at law, shall, with the consent of the Board, have the option to do any of the following:

(1) To terminate this Facility Sublease in the manner hereinafter provided on account of default by the Participating County, notwithstanding any re-entry or re-letting of the Facility as hereinafter provided for in subparagraph (2) hereof, and to re-enter the Facility and remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and place such personal property in storage in any warehouse or other suitable place. In the event of such termination, the Participating County agrees to immediately surrender possession of the Facility, without let or hindrance, and to pay the Department and the Board all damages recoverable at law that the Department may incur by reason of default by the Participating County, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Facility and removal and storage of such property by the Department or its duly authorized agents in accordance with the provisions herein contained. Neither

notice to deliver up possession of the Facility given pursuant to law nor any entry or re-entry by the Department nor any proceeding in unlawful detainer, or otherwise, brought by the Department for the purpose of effecting such re-entry or obtaining possession of the Facility, nor the appointment of a receiver upon initiative of the Department to protect the Board's interest under the Facility Lease shall of itself operate to terminate this Facility Sublease, and no termination of this Facility Sublease on account of default by the Participating County shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Department shall have given written notice to the Participating County of the election on the part of the Department to terminate this Facility Sublease. The Participating County covenants and agrees that no surrender of the Facility or of the remainder of the term hereof or any termination of this Facility Sublease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Department by such written notice.

(2) Without terminating this Facility Sublease, (i) to enforce any term or provision to be kept or performed by the Participating County or (ii) to exercise any and all rights of entry and re-entry upon the Facility. In the event the Department does not elect to terminate this Facility Sublease in the manner provided for in subparagraph (1) hereof, the Participating County shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the Participating County, and notwithstanding any entry or re-entry by the Department or suit in unlawful detainer, or otherwise, brought by the Department for the purpose of effecting a re-entry or obtaining possession of the Facility. Should the Department elect to re-enter as herein provided, the Participating County hereby irrevocably appoints the Department as the agent and attorney-in-fact of the Participating County to re-let the Facility, or any part thereof, from time to time, either in the Department's name or otherwise, upon such terms and conditions and for such use and period as the Department may deem advisable and to remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and to place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the Participating County, and the Participating County hereby exempts and agrees to save harmless the Department from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Facility and removal and storage of such property by the Department or its duly authorized agents in accordance with the provisions herein contained except for any such costs, loss or damage resulting from the intentional or negligent actions of the Department or its agents. The Participating County agrees that the terms of this Facility Sublease constitute full and sufficient notice of the right of the Department to re-let the Facility in the event of such re-entry without effecting a surrender of this Facility Sublease. The Participating County further agrees that no acts of the Department in effecting such re-letting shall constitute a surrender or termination of this Facility Sublease irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the Participating County the right to terminate this Facility Sublease shall vest in the Department to be effected in the sole and exclusive manner provided for in subparagraph (1) hereof. The Participating County further agrees to pay the Department the cost of any alterations or additions to the Facility necessary to place the Facility in condition for re-letting immediately upon notice to the Participating County of the completion and installation of such additions or alterations.

(c) This Facility Sublease may be terminated at the option of the Board if the Board determines to exercise its right to enter and re-let the Facility under the Facility Lease pursuant to a default by the Department thereunder.

(d) In addition to any default resulting from breach by the Participating County of any term or covenant of this Facility Sublease, if (1) the Participating County's interest in this Facility Sublease or any part thereof be assigned, sublet or transferred without the prior written consent to the Department and the Board, either voluntarily or by operation of law, or (2) the Participating County or any assignee shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the Participating County asks or seeks or prays to be adjudicated as bankrupt, or is to be discharged from any or all of the Participating County's debts or obligations, or offers to the Participating County's creditors to effect a composition or extension of time to pay the Participating County's debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of the Participating County's debts or for any other similar relief, or if any such petition or if any such proceedings of the same or similar kind or character be filed or be instituted or taken against the Participating County, or if a receiver of the business or of the property or assets of the Participating County shall be appointed by any court, except a receiver appointed at the insistence or request of the Department or the Board, or if the Participating County shall make a general or any assignment for the benefit of the Participating County's creditors, or (3) the Participating County shall abandon the Facility, then the Participating County shall be deemed to be in default hereunder.

(e) The Department shall in no event be in default in the performance of any of its obligations hereunder unless and until the Department shall have failed to perform such obligations within sixty (60) days or such additional time as is reasonably required to correct any such default after notice by the Participating County to the Department that the Department has failed to perform any such obligation.

(f) The Participating County hereby waives any and all claims for damages caused or which may be caused by the Department in re-entering and taking possession of the Facility as herein provided and all claims for damages that may result from the destruction of or injury to the Facility and all claims for damages to or loss of any property belonging to the Department, or any other person, that may be in or upon the Facility, except for such claims resulting from the intentional or negligent actions of the Department or its agents.

Each and all of the remedies given to the Department hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Department to other or further exercise thereof or the exercise of any or all other rights, powers or privileges. The term "re-let" or "re-letting" as used in this Section shall include, but not be limited to, re-letting by means of the operation or other utilization by the Department of the Facility. If any statute or rule of law validly shall limit the remedies given to the Department hereunder, the Department nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

In the event the Department shall prevail in any action brought to enforce any of the terms and provisions of this Facility Sublease, the Participating County agrees to pay reasonable attorney's fees incurred by the Department in attempting to enforce any of the remedies available to the Department hereunder; whether or not a lawsuit has been filed and whether or not any lawsuit culminates in a judgment.

SECTION 11. Additions, Betterments, Extensions or Improvements; Prohibition Against Encumbrance.

(a) Subject to the limitations set forth in this Section 11, at its sole cost and expense, the Participating County shall have the right during the term of this Facility Sublease to make additions, betterments, extensions or improvements to the Facility or to attach fixtures, structures or signs to the Facility if such additions, betterments, extensions or improvements or fixtures, structures or signs are necessary or beneficial for the use of the Facility by the Participating County; provided, however, that any such changes to the Facility shall be made in a manner that does not result in an abatement of the rental hereunder or the rental due from the Department under the Facility Lease.

(b) If any proposed additions, betterments, extensions or improvements of the Facility require the recommendations to be provided by the Department acting pursuant to the provisions of California Penal Code Section 6029 or other law granting similar regulatory authority to the Department, the Participating County shall, concurrently with the submission to the Department, request the approval of the Department and the Board to such additions, betterments, extensions or improvements. The Participating County acknowledges the commencement of such additions, betterments, extensions or improvements shall be subject to receipt by the Participating County of the Board's approval thereto. In the event the Participating County shall at any time during the term of this Facility Sublease cause any additions, betterments, extensions or improvements to the Facility to be acquired or constructed or materials to be supplied in or upon the Facility, the Participating County shall pay or cause to be paid when due all sums of money that may become due, or purporting to be due for any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the Participating County in, upon or about the Facility and shall keep the Facility free of any and all mechanics' or materialmen's liens or other liens against the Facility or the Department's or the Board's interest therein. In the event any such lien attaches to or is filed against the Facility or the Department's or the Board's interest therein, the Participating County shall cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that if the Participating County desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the Participating County shall forthwith pay or cause to be paid and discharged such judgment. In accordance with Section 20, the Participating County agrees to and shall, to the maximum extent permitted by law, defend, indemnify and hold the Department, the Board, the State Treasurer and their officers, directors, agents, employees, successors and assigns harmless from and against and defend each of them against any claim, demand, loss, damage, liability or expense (including attorneys' fees) as a result of any such lien or claim of lien against the Facility or the Department's or the Board's interest therein.

(c) The Participating County agrees it will not create or suffer to be created any recorded or unrecorded mortgage, pledge, lien, charge, easement, rights of way or other rights, reservations, covenants, conditions, restrictions or encumbrance upon the Facility or the Easement Property except Permitted Encumbrances (defined below).

The term "Permitted Encumbrances" means as of any particular time: (1) liens for general ad valorem taxes and assessments, if any, not then delinquent; (2) the Ground Lease, the Site Lease and the Facility Lease, as they may be amended from time to time; (3) easements (including the Easement Agreement), rights of way, mineral rights, drilling rights and other rights, reservations,

covenants, conditions or restrictions, all of a non-monetary nature, which exist of record as of the date of issuance of the Bonds; (4) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions, all of a non-monetary nature, established following the date of issuance of the Bonds and to which the Board consents in writing; and (5) this Facility Sublease, the Detention Services Intergovernmental Agreement, Number 97-02-0015, entered into by and between the County and the U.S. Department of Justice, United States Marshals Service Prisoner Operation Division (the “DOJ”), effective July 1, 2017 (the “IGA No. 97-02-0015”), as amended by that certain Amendment No. 1 to Detention Services Intergovernmental Agreement No. 97-02-0015 entered into by and between the County and the DOJ, effective July 1, 2017, and any additional sublease, assignment or use agreement approved by the Board in accordance with Section 8 hereof.

(d) The Department hereby covenants and agrees that, except as set forth in Sections 8 and 10, neither this Facility Sublease nor any interest of either party in this Facility Sublease shall be sold, mortgaged, pledged, assigned, or transferred by voluntary act or by operation of law or otherwise.

(e) The Participating County shall not in any manner impair, impede, or challenge the security, rights and benefits of the owners of the Bonds or the trustee for the Bonds.

SECTION 12. Continuing Disclosure. The Participating County hereby covenants and agrees that it will fully cooperate with the Department, the Board and the State Treasurer so that they can comply with and carry out all of the provisions of the Continuing Disclosure Agreement and will provide all information reasonably requested by the Department, the Board or the State Treasurer regarding the Facility, in connection with continuing disclosure obligations. The Participating County further covenants to provide notice to the Department, the Board and the State Treasurer within five Business Days of the occurrence of any event which causes any portion of the Facility not to be available for beneficial use or occupancy by the Participating County.

SECTION 13. Status of Private Activity Use of the Facility. The Participating County hereby covenants and agrees to provide information to the Department and the Board by January 31 of each year regarding “Private Use” (as such term is defined in Section 14(d) below), if any, of the Facility. Any such private use must be consistent with the Participating County’s covenants pursuant to Section 14 hereof. The information that must be updated annually is set forth in the Tax Certificate that was executed and delivered by the Board upon the initial issuance of the Bonds and acknowledged to by the Participating County in its certificate attached to the Tax Certificate.

SECTION 14. Tax Covenants.

(a) The Participating County covenants that it will not use or permit any use of the Facility, and shall not take or permit to be taken any other action or actions, which would cause any Bond to be a “private activity bond” within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended; and any applicable regulations promulgated from time to time thereunder. The Participating County further covenants that it will not take any action or fail to take any action, if such action or the failure to take such action would adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(b) The Participating County covenants that it will not use or permit more than 10% of (i) the proceeds of the Bonds or the Project to be used in the aggregate for any activities that

constitute a “Private Use” (as such term is defined in paragraph (d) below). The Participating County covenants that it will not cause more than 10% of the principal of or interest on the Bonds under the terms thereof or any underlying arrangement, to be secured by any interest in property (whether or not the Project) used for a Private Use or in payments in respect of property used for a Private Use, or which will be derived from payments in respect of property used for a Private Use.

(c) The Participating County covenants that it shall not take or permit to be taken any action or actions which would cause more than 5% of the proceeds of the Bonds or the Project to be used for a Private Use that is unrelated or disproportionate to the governmental use of the proceeds of the Bonds (an “Unrelated or Disproportionate Use”) or to cause more than 5% of the principal of or interest on the Bonds to be directly or indirectly secured by any interest in property used or to be used for a Private Use that is an Unrelated or Disproportionate Use or in payments in respect of property used or to be used for a Private Use that is an Unrelated or Disproportionate Use.

(d) The term “Private Use” means any activity that constitutes a trade or business that is carried on by persons or entities other than a “governmental person,” which is defined within Treasury Regulation Section 1.141-1(b) as a state or local governmental unit or any instrumentality thereof. A “governmental person” does not include the United States or any agency or instrumentality thereof. The leasing of property financed or refinanced with proceeds of the Bonds or the use by or the access of a person or entity other than a governmental unit to property or services on a basis other than as a member of the general public shall constitute a Private Use. Private Use may also result from certain management and service contracts as described in paragraph (e) below.

(e) The Participating County will not enter into any arrangement with any person or entity other than a state or local governmental unit which provides for such person to manage, operate, or provide services with respect to the Facility (or any portion thereof) (a “Service Contract”), unless the guidelines set forth in Revenue Procedure 97-13, as modified by Revenue Procedure 2001-39 (the “Guidelines”), are satisfied and the Board, in its discretion, consents to such Service Contract.

(f) The Participating County covenants to maintain records relating to the Project as are required to be maintained by it in accordance with the Tax Certificate.

SECTION 15. No Merger. The parties hereto intend that there shall be no merger of any estate or interest created by this Facility Sublease with any other estate or interest in the Facility, or any part thereof, by reason of the fact that the same party may acquire or hold all or any part of the estate or interest in the Facility created by this Facility Sublease as well as another estate or interest in the Facility.

SECTION 16. Waste. The Participating County shall not commit, suffer, or permit any waste or nuisance on or within the Facility or any acts to be done thereon in violation of any laws or ordinances.

SECTION 17. Amendments. This Facility Sublease may not be amended, changed, modified or altered without the prior written consent of the parties hereto and the Board.

SECTION 18. Waiver. Any waiver granted by the Department of any breach by the Participating County of any agreement, covenant or condition hereof shall not operate as a waiver of

any subsequent breach of the same or any other agreement, covenant or condition hereof. The Department shall not grant any such waiver without the prior written consent of the Board.

SECTION 19. Non-Liability of the Department and other State Entities. Any obligation of the Department created by or arising out of this Facility Sublease shall not impose a debt or pecuniary liability upon the Department, the Board or the State of California, or a charge upon the general credit or taxing powers thereof, but shall be payable solely out of funds duly authorized and appropriated by the State.

The delivery of this Facility Sublease shall not, directly or indirectly or contingently, obligate the Board, the Department, the State Treasurer or the State of California to levy any form of taxation therefor or to make any appropriation. Nothing herein or in the proceedings of the Participating County, the Board or the Department shall be construed to authorize the creation of a debt of the Board, the Department, the State Treasurer or the State of California, within the meaning of any constitutional or statutory provision of the State of California. No breach of any pledge, obligation or agreement made or incurred in connection herewith may impose any pecuniary liability upon, or any charge upon the general credit of the Board, the Department or the State of California.

SECTION 20. Indemnification. As required by California Government Code Section 15820.924 the Participating County agrees to indemnify, defend, and hold harmless the Indemnified Parties for any and all claims and losses accruing and resulting from or arising out of the acquisition, design and construction of the Project and the Participating County's use and occupancy of the Facility, including the use and occupancy of the Facility by any sublessee or invitee of the Participating County. The Participating County's obligation to indemnify, defend and hold harmless under this Section shall extend to all such claims and losses arising, occurring, alleged, or made at any time, including prior to, during, or after the period that this Facility Sublease is in full force and effect. Notwithstanding the preceding sentence, the Participating County will not be required to indemnify, defend or hold harmless an Indemnified Party from any claim which arises, in whole or in part, from the gross negligence or willful misconduct or omission of such Indemnified Party. The indemnification obligations of the Participating County set forth in this Section shall survive any termination of this Facility Sublease.

SECTION 21. Law Governing. This Facility Sublease shall be governed exclusively by the provisions hereof and by the laws of the State of California as the same from time to time exist. Any action or proceeding to enforce or interpret any provision of this Facility Sublease shall, to the extent permitted by law, be brought, commenced or prosecuted in the courts of the State located in the County of Sacramento, California.

SECTION 22. Headings. All section headings contained in this Facility Sublease are for convenience of reference only and are not intended to define or limit the scope of any provision of this Facility Sublease.

SECTION 23. Notices. All approvals, authorizations, consents, demands, designations, notices, offers, requests, statements or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

To the Department: Board of State and Community Corrections
of the State of California
2590 Venture Oaks Way
Sacramento, CA 95833
Attention: Executive Officer

To the Board: State Public Works Board
915 "L" Street, 9th Floor
Sacramento, CA 95814
Attention: Executive Director

To the State Treasurer: Treasurer of the State of California
Public Finance Division
915 Capitol Mall, Room 261
Sacramento, CA 95814
Attention: Public Finance Division

To the Participating County: County of Fresno
County Administrative Officer
2281 Tulare Street, Fresno, CA 93721
Hall of Records, Room 304
Attn: West Annex Jail Facility Sublease

With Copies to:

Fresno County Counsel
2220 Tulare Street, Fifth Floor
Fresno, CA 93721
Attn: Attorney for West Annex Jail Facility Sublease

and

Fresno County Sheriff-Coroner
1225 M. Street
Fresno, CA 93721
Attn: West Annex Jail Facility Sublease

The address to which notices shall be mailed as aforesaid to any party may be changed by written notice given by such party to the others as hereinabove provided.

SECTION 24. Successors and Assigns. The terms and provisions hereof shall extend to and be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

SECTION 25. Validity and Severability. If for any reason this Facility Sublease or any part thereof shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Department or by the Participating County, all of the remaining terms of this Facility Sublease shall nonetheless continue in full force and effect. If for any reason it is held by such a court that any of the covenants and conditions of the Participating County hereunder, including the covenant to pay

rentals hereunder, is unenforceable for the full term hereof, then and in such event this Facility Sublease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the Participating County annually in consideration of the right of the Participating County to possess, occupy and use the Facility, and all the other terms, provisions and conditions of this Facility Sublease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect, to the extent permitted by law.

SECTION 26. Execution. This Facility Sublease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Facility Sublease. It is also agreed that separate counterparts of this Facility Sublease may separately be executed by the Department, the Participating County and any other signatory hereto, all with the same force and effect as though the same counterpart had been executed by the Department, the Participating County and such other signatory.

SECTION 27. Recordation of Lease. The notarization of the signatures of the signatories to this Facility Sublease is for the purpose of recordation of this Facility Sublease with the official records of the County of Fresno. This Facility Sublease shall be recorded in the official records of the County of Fresno solely for the purpose of giving constructive notice of this Facility Sublease to third parties as provided under State law. The failure of any signatory to obtain and affix a notarization to this Facility Sublease shall not affect the validity of this Facility Sublease. The date of recordation of this Facility Sublease shall not change, alter or modify the commencement date of this Facility Sublease as set forth in Section 3 hereof or the effectiveness of any provision of this Facility Sublease.

SECTION 28. Multiple Originals. This Facility Sublease may be executed in any number of originals, each of which shall be deemed to be an original.

SECTION 29. Net Lease. This Facility Sublease shall be deemed and construed to be a “net lease” and the Participating County hereby agrees that the rentals provided for herein shall be an absolute net return to the Department, free and clear of any expenses, charges or set-offs whatsoever.

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 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 Boards 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 31. Board as Third Party Beneficiary. The Board is a third party beneficiary of this Facility Sublease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

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

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF CALIFORNIA

By: _____
Kathleen T. Howard
Executive Officer

APPROVED (Pursuant to Government Code
section 11005.2):

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA

By: _____
Authorized Signatory

CONSENT AND ACKNOWLEDGEMENT OF
THE BOARD:

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Sally Lukenbill
Executive Director

COUNTY OF FRESNO

By: _____

Jean M. Rousseau
County Administrative Officer

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the Facility conveyed under the foregoing to the County of Fresno, 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 County of Fresno, pursuant to authority conferred by resolution of the Board of Supervisors adopted on March 9, 2021 and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2021

COUNTY OF FRESNO

By: _____
Jean M. Rousseau
County Administrative Officer

STATE OF CALIFORNIA)
)
COUNTY OF SACRAMENTO) ss.

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.

WITNESS my hand and official seal

4840-7205-3724v4/024238-0087

STATE OF CALIFORNIA)
)
COUNTY OF FRESNO) ss.

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.

WITNESS my hand and official seal

4840-7205-3724v4/024238-0087

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

That portion of Block 107 of the Town (now City) of Fresno, per map recorded in Book 1, Page 2 of Plats, Fresno County Records, situated in the Southwest quarter of Section 3, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

Site

COMMENCING at the most easterly corner of said Block 107, said point bearing N41°58'59"W 135.04 feet from a found Brass Cap Monument in sidewalk marked "Fresno County Monument – Property Corner" as shown on that Record of Survey map recorded in Book 33, Page 93 of Record of Surveys, Fresno County Records;
thence S47°59'00"W 321.01 feet along the southeasterly line of said Block 107 to the most southerly corner of said Block 107;
thence N41°55'14"W 160.00 feet along the southwesterly line of said Block 107, to the TRUE POINT OF BEGINNING;
thence N41°55'14"W 239.50 feet along said southwesterly line of Block 107, to a point which lies 0.68 feet southeasterly of the most westerly corner of said Block 107;
thence N03°01'57"E 6.62 feet to a line parallel with and 4.00 feet northwesterly, from the northwesterly line of said Block 107;
thence N47°59'08"E 142.44 feet along said parallel line;
thence S41°58'27"E 180.08 feet to the southwesterly extension of the southeasterly face of the existing North Annex Jail building;
thence N47°59'27"E 30.11 feet along said southwesterly extension;
thence S41°58'27"E 36.99 feet;
thence S47°59'27"W 105.96 feet;
thence S41°58'27"E 27.11 feet;
thence S47°58'49"W 71.49 feet to the TRUE POINT OF BEGINNING.

Containing 34,996 square feet more or less

The Basis of Bearings for this description is the Southeasterly line of said Block 107 as shown on the Record of Survey recorded in Book 33 of Record of Surveys, Page 93, Fresno County Records. For the purpose of this description said Southeasterly line bears S47°59'00"W.

END OF DESCRIPTION



Date
Signed 5/22/17

Map of Site and Easement Property

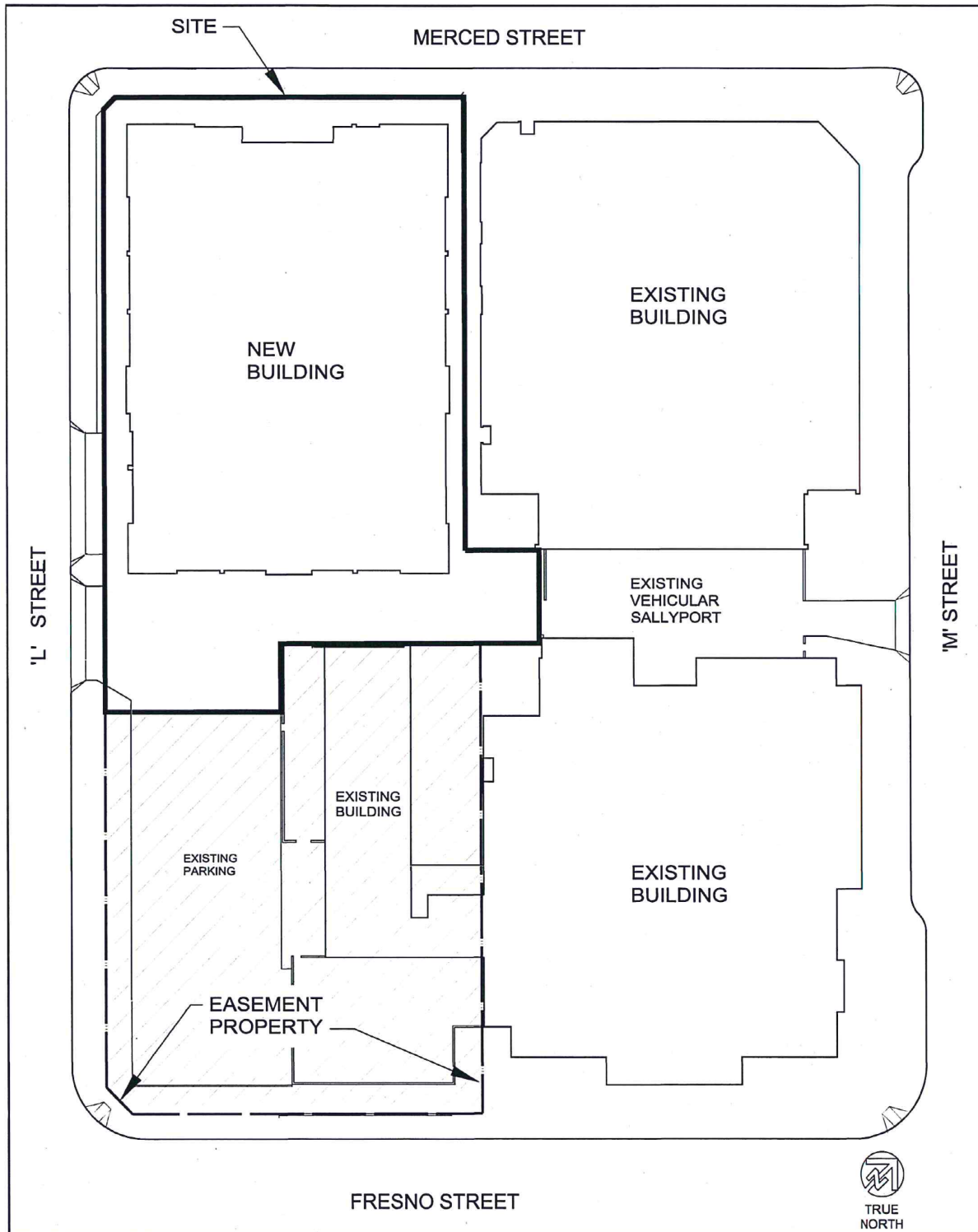


EXHIBIT B

DESCRIPTION OF PROJECT

Fresno Jail Project: The Fresno Jail Project (the “Project”) consists of the design and construction of a new building on county-owned land that is adjacent to the existing North Annex Jail building. The new building is a 119,000 square-foot detention facility that will have four floors consisting of one full basement level and three above-grade floors that will provide housing, program, and administrative space. These three above-grade floors contain five levels. The main floor is one level, and the two housing floors each have a mezzanine (two levels). The detention facility will have 150 beds per housing floor for 300 total beds.

Construction of the Project is of reinforced steel cast-in-place concrete with an exterior comprised of concrete (both cast-in-place and pre-cast) and brick and a roof composition of Modified Bituminous Membrane. Floor material of the Project is concrete (with various floor coverings depending on location) and ceilings are, depending on location, either acoustical, concrete, gypsum board, or metal panels.

The basement level will include rooms for staff services, laundry, warehouse, court transfers, and mechanical facilities. Floor 1 is the main floor and will include a public lobby, receiving, video visitation, in-person visitation, day reporting, facility administration, and central control. Floors 2 and 3 are the housing levels, and will each include cells/beds, housing control, video visitation, interview rooms, program rooms, day rooms, exercise/recreation yards, medical and treatment staff, acute care, segregation housing, safety cells, officer workstations, and mechanical rooms. The Project will also include electrical; plumbing; mechanical; heating, ventilation, and air conditioning; security; and fire protection systems.

The Project will include the portion of an underground tunnel for court transfer leading from the Project to the boundary between the Project and the adjacent North Annex Jail. The remainder of the tunnel leading from the boundary between the Project site and the North Annex Jail is outside of the Project site.

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

[Space above for Recorder's use]

SITE LEASE

by and between the

**BOARD OF STATE AND COMMUNITY CORRECTIONS
OF THE STATE OF CALIFORNIA,
as Lessor**

and the

**STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA,
as Lessee**

Dated as of April 15, 2021

**(FRESNO JAIL PROJECT)
(FRESNO COUNTY)**

NO DOCUMENTARY TRANSFER TAX DUE.

This Site Lease 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.

BOARD OF STATE AND COMMUNITY CORRECTIONS

SITE LEASE

THIS SITE LEASE, dated as of April 15, 2021 (the "Site Lease"), by and between the STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA (the "Board"), an entity of state government of the State of California, as lessee, and the BOARD OF STATE AND COMMUNITY CORRECTIONS OF THE STATE OF CALIFORNIA (the "Department"), an entity of state government of the State of California, as lessor;

WITNESSETH:

WHEREAS, the Board intends to assist the Department by financing and refinancing certain costs of the [design and construction] of the Project (as defined in the Facility Lease dated as of April 15, 2021 between the Board and the Department (the "Facility Lease")), which is located on the Site (as defined below);

WHEREAS, the Board intends to lease the Facility (as defined in the Facility Lease) to the Department pursuant to the Facility Lease, and the Department proposes to enter into this Site Lease with the Board as a material consideration for the Board's agreement to finance and refinance certain costs of the [design and construction] of the Project for and on behalf of the Department;

WHEREAS, the Department is the ground lessee of certain real property, as more particularly described in Exhibit A attached hereto and made a part hereof, which was ground leased to the Department by the County of Fresno (the "Participating County") pursuant to the terms of that certain Ground Lease dated as of August 25, 2017, by and between the Participating County, as landlord, and the Department, as tenant, and recorded on September 7, 2017 in the Official Records of the County of Fresno as Document No. 20170113476 (the "Ground Lease");

WHEREAS, in connection with the execution of the Ground Lease, the Department and the Participating County also entered into that certain Easement Agreement for Grants of Access, Utilities and Repairs dated as of August 25, 2017 and recorded on September 7, 2017 in the Official Records of the County of Fresno as Document No. 20170113475 (the "Easement Agreement") pursuant to which the Participating County granted to the Department and the Board certain easements in certain property as depicted in Exhibit A attached hereto (the "Easement Property");

WHEREAS, pursuant to the terms of this Site Lease, the Board wishes to lease the real property described in Exhibit A attached hereto (the "Site"), the existing improvements thereon and all rights appurtenant thereto from the Department to facilitate the financing and refinancing of the Project; and

WHEREAS, the Board is authorized under the State Building Construction Act of 1955 (being Part 10b of Division 3 of Title 2 of the California Government Code, commencing at Section 15800), and all laws amendatory thereof or supplemental thereto (the "Act") to acquire the real property interests being leased hereunder, and the Department is authorized to lease such interests to the Board pursuant to applicable law and the terms hereof.

NOW, THEREFORE, THE PARTIES HERETO MUTUALLY AGREE as follows:

SECTION 1. Lease of Site; Effect of Easement Agreement. The Department hereby leases to the Board and the Board hereby leases from the Department, on the terms and conditions

hereinafter set forth, the Site, the existing improvements thereon and all rights appurtenant thereto, including rights granted under the Easement Agreement with respect to the Easement Property, subject, however, to any conditions, reservations, and easements of record as of the date hereof.

SECTION 2. Term. The term of this Site Lease shall commence on the date of issuance of the Bonds (as defined in the Facility Lease) and shall end on _____ 1, 2036, unless such term is extended or sooner terminated as hereinafter provided. If on _____ 1, 2036 any Bonds or other indebtedness of the Board incurred to pay for the Project shall not be fully paid and retired as a result of the Base Rental (as defined in the Facility Lease) not being paid when due or being abated, then the term of this Site Lease shall be extended until ten (10) days after all Bonds and other indebtedness of the Board outstanding as a result of the nonpayment of Base Rental under the Facility Lease shall be fully paid and retired, except that the term of this Site Lease shall in no event be extended beyond _____ 1, 2046. If, prior to _____ 1, 2036, the portion of the Bonds and other indebtedness of the Board payable from the Base Rental shall be fully paid and retired, the term of this Site Lease shall end ten (10) days thereafter.

SECTION 3. Purpose. The Board shall use the Site solely for the purpose of causing the Project to be constructed thereon and leasing the Facility to the Department pursuant to the Facility Lease and for such purposes as may be incidental thereto; provided, that in the event of default by the Department under the Facility Lease, the Board may exercise the remedies provided in the Facility Lease.

SECTION 4. Rental. The Board shall pay to the Department as and for rental hereunder the sum of One Dollar (\$1.00) per year, all of which rental shall be deemed to have been prepaid to the Department upon the date of issuance of the Bonds from proceeds of the Bonds deposited in the Construction Fund established under the Indenture (as defined in the Facility Lease). The Department agrees that the payment of such rental is adequate consideration for the lease by the Department to the Board of the Site and the other real property interests described in Section 1 above.

SECTION 5. Nonsubordination; Assignments and Subleases. This Site Lease shall be nonsubordinated and unless the Department shall be in default under the Facility Lease, the Board shall not assign its rights under this Site Lease or sublet the Site without the prior written consent of the Department.

SECTION 6. Vesting on Termination or Expiration. The Board agrees that upon the termination or expiration of this Site Lease, the Site and any permanent improvements and structures existing upon the Site at the time of such termination or expiration of this Site Lease shall vest in accordance with the provisions of Section 14 of the Facility Lease.

SECTION 7. Quiet Enjoyment and Prohibition Against Encumbrance. The parties hereto mutually covenant that the Board at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Site without suit, trouble or hindrance from the Department, subject only to the right of the Department to occupy the Facility as set forth in the Facility Lease. The Department agrees it will not create or suffer to be created with respect to the Facility any recorded or unrecorded mortgage, pledge, lien, charge, easement, rights of way or other rights, reservations, covenants, conditions, restrictions or encumbrance upon the Facility except Permitted Encumbrances (as defined in the Facility Lease).

SECTION 8. Taxes. The Department covenants and agrees to pay any and all lawful assessments of any kind or character and also all lawful taxes, including possessory interest taxes, if applicable, levied or assessed upon the Site (including both land and improvements).

SECTION 9. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 10. Notices. All notices and communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States certified mail, return receipt requested, postage prepaid, and, if to the Department, addressed to the Board of State and Community Corrections, 2590 Venture Oaks Way, Sacramento, California 95833, Attention: Executive Officer, or, if to the Board, addressed to the State Public Works Board, 915 L Street, 9th Floor, Sacramento, California 95814, Attention: Executive Director, with a copy to the State Treasurer addressed to the Office of the State Treasurer, Public Finance Division, 915 Capitol Mall, Room 261, Sacramento, California 95814, or to such other addresses as the respective parties may from time to time designate by notice in writing.

SECTION 11. Default. In the event the Board shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for sixty (60) days following notice and demand for correction thereof to the Board, the Department may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Facility Lease shall be deemed to occur as a result thereof, provided, however, that the Department shall have no power to terminate this Site Lease by reason of any default on the part of the Board if such termination would affect or impair any assignment or sublease of all or any part of the Site then in effect between the Board and any assignee or subtenant of the Board (other than the subtenancy created under the Facility Lease); and provided, further, that, so long as any bonds or other indebtedness incurred by the Board to pay for the Project are outstanding and unpaid in accordance with the terms of any indenture authorizing such bonds or other indebtedness, the rentals or any part thereof payable to the trustee pursuant to such indenture (by the terms of such assignment or sublease) shall continue to be paid to said trustee. So long as any such assignee or subtenant of the Board shall duly perform the terms and conditions of this Site Lease and of its then existing sublease (if any), such assignee or subtenant shall be deemed to be and shall become the tenant of the Department hereunder and shall be entitled to all of the rights and privileges granted under any such assignment or sublease; provided, further, however, that, so long as any bonds or other indebtedness incurred by the Board to pay for the Project are outstanding and unpaid in accordance with the terms of any indenture authorizing such bonds or other indebtedness, the rentals or any part thereof payable to the trustee pursuant to such indenture (by the terms of such assignment or sublease) shall continue to be paid to said trustee.

SECTION 12. Waiver of Personal Liability. All liabilities under this Site Lease on the part of the Board are solely liabilities of the Board as an entity of state government, and the Department hereby releases each and every member, officer, agent and employee of the Board of and from any personal or individual liability for negligence under this Site Lease. All liabilities under this Site Lease on the part of the Department are solely liabilities of the Department as an entity of state

government, and the Board hereby releases each and every member, officer, agent and employee of the Department of and from any personal or individual liability for negligence under this Site Lease.

SECTION 13. Eminent Domain. In the event the whole or any part of the Site or the improvements thereon (including the Project) is taken permanently or temporarily under the power of eminent domain, the interest of the Board shall be recognized and is hereby determined to be the amount of the then unpaid indebtedness incurred by the Board to finance or refinance the [design and construction] of the Project, including the unpaid principal of and interest on any then outstanding bonds or other indebtedness of the Board, and shall be paid to the trustee under any indenture authorizing such bonds or other indebtedness and applied as provided in said indenture. The term "unpaid indebtedness," as used in the preceding sentence, includes the principal amount of the indebtedness evidenced by any outstanding bonds or notes of the Board issued to finance or refinance the [design and construction] of the Project, together with the interest thereon and all other payments required to be made by the trustee pursuant to the indenture authorizing the issuance of said bonds or notes on account of said indebtedness, until such indebtedness, together with the interest thereon, has been paid in full in accordance with the terms thereof.

SECTION 14. 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 Site Lease.

SECTION 15. Amendment. This Site Lease may only be amended by a written instrument duly authorized and executed by the Department and the Board; provided, however, that no such amendment shall materially adversely affect the owners of the Bonds. This Site Lease may be amended to reflect any substitution of property under the Facility Lease.

SECTION 16. Execution. This Site Lease 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 Site Lease. It is also agreed that separate counterparts of this Site Lease may separately be executed by the Department and the Board, all with the same force and effect as though the same counterpart had been executed by both the Department and the Board.

SECTION 17. Recordation of Lease. The notarization of the signatures of the signatories to this Site Lease is for the purpose of recordation of this Site Lease in the official records of the County of Fresno. This Site Lease shall be recorded in the official records of County of Fresno solely for the purpose of giving constructive notice of this Site Lease to third parties as provided under State law. The failure of any signatory to obtain and affix a notarization to this Site Lease shall not affect the validity of this Site Lease. The date of recordation of this Site Lease shall not change, alter or modify the commencement date of this Site Lease as set forth in Section 2 hereof or the effectiveness of any provision of this Site Lease.

SECTION 18. Binding Effect. The rights granted herein shall run with the ownership of the Site and this Site Lease shall be binding upon and inure to the benefit of the Board and the Department and their respective successors and assigns.

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SPWB 2021 SERIES B
SITE LEASE
(FRESNO JAIL PROJECT)

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

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF CALIFORNIA

By: _____
Kathleen T. Howard
Executive Officer

STATE PUBLIC WORKS BOARD OF THE STATE
OF CALIFORNIA

By: _____
Sally Lukenbill
Executive Director

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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.

WITNESS my hand and official seal

4828-4555-0044v3/024238-0087

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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.

WITNESS my hand and official seal

4828-4555-0044v3/024238-0087

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

That portion of Block 107 of the Town (now City) of Fresno, per map recorded in Book 1, Page 2 of Plats, Fresno County Records, situated in the Southwest quarter of Section 3, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

Site

COMMENCING at the most easterly corner of said Block 107, said point bearing N41°58'59"W 135.04 feet from a found Brass Cap Monument in sidewalk marked "Fresno County Monument – Property Corner" as shown on that Record of Survey map recorded in Book 33, Page 93 of Record of Surveys, Fresno County Records;
thence S47°59'00"W 321.01 feet along the southeasterly line of said Block 107 to the most southerly corner of said Block 107;
thence N41°55'14"W 160.00 feet along the southwesterly line of said Block 107, to the TRUE POINT OF BEGINNING;
thence N41°55'14"W 239.50 feet along said southwesterly line of Block 107, to a point which lies 0.68 feet southeasterly of the most westerly corner of said Block 107;
thence N03°01'57"E 6.62 feet to a line parallel with and 4.00 feet northwesterly, from the northwesterly line of said Block 107;
thence N47°59'08"E 142.44 feet along said parallel line;
thence S41°58'27"E 180.08 feet to the southwesterly extension of the southeasterly face of the existing North Annex Jail building;
thence N47°59'27"E 30.11 feet along said southwesterly extension;
thence S41°58'27"E 36.99 feet;
thence S47°59'27"W 105.96 feet;
thence S41°58'27"E 27.11 feet;
thence S47°58'49"W 71.49 feet to the TRUE POINT OF BEGINNING.

Containing 34,996 square feet more or less

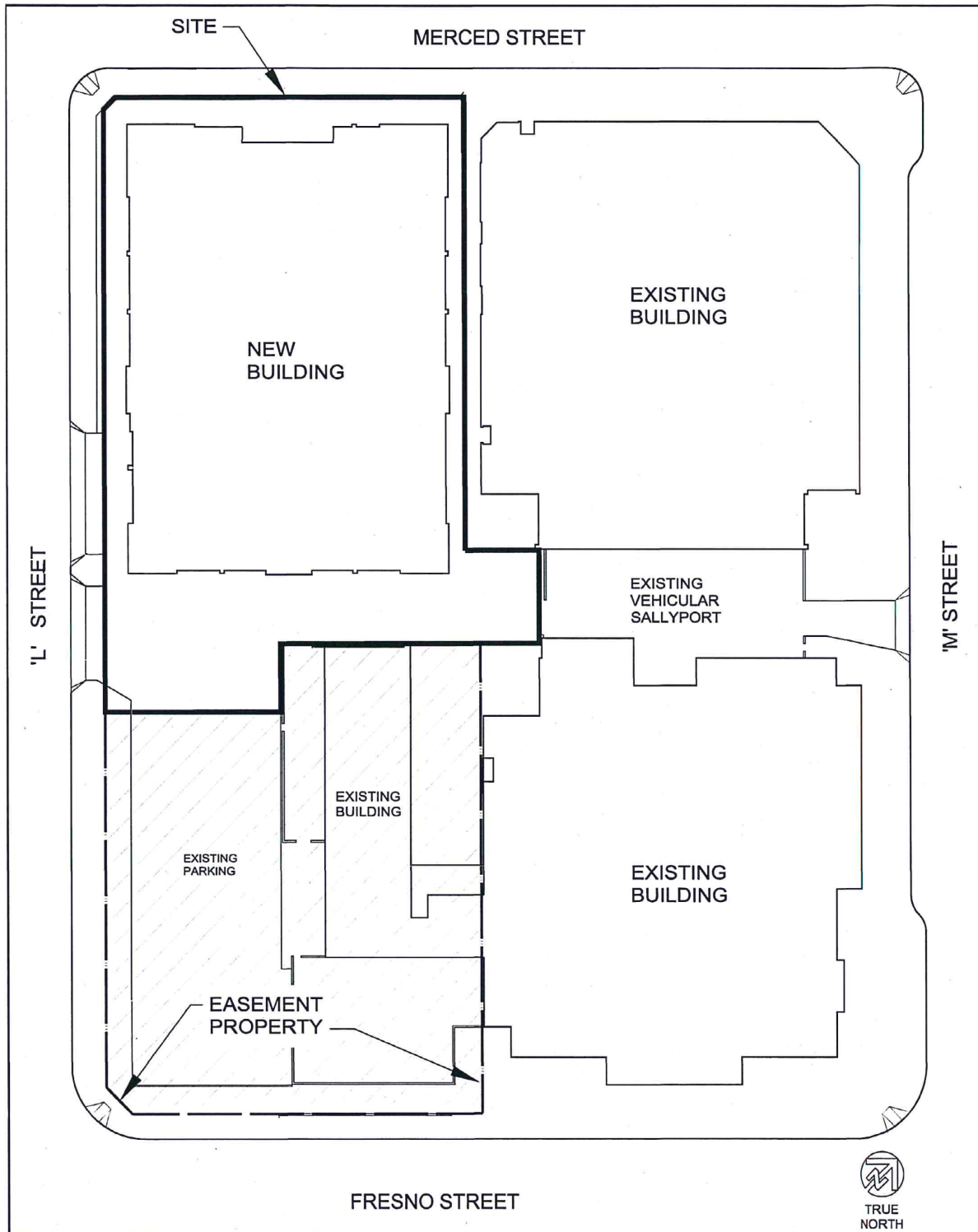
The Basis of Bearings for this description is the Southeasterly line of said Block 107 as shown on the Record of Survey recorded in Book 33 of Record of Surveys, Page 93, Fresno County Records. For the purpose of this description said Southeasterly line bears S47°59'00"W.

END OF DESCRIPTION



Date
Signed 5/22/17

Map of Site and Easement Property



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

[Space above for Recorder's use]

FACILITY LEASE

by and between the

**STATE PUBLIC WORKS BOARD
OF THE STATE OF CALIFORNIA
as Lessor**

and

**BOARD OF STATE AND COMMUNITY CORRECTIONS
OF THE STATE OF CALIFORNIA,
as Lessee**

Dated as of April 15, 2021

**(FRESNO JAIL PROJECT)
(FRESNO COUNTY)**

NO DOCUMENTARY TRANSFER TAX DUE.

This Facility Lease 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.

BOARD OF STATE AND COMMUNITY CORRECTIONS

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FACILITY LEASE

THIS FACILITY LEASE, dated as of April 15, 2021 (the “Facility Lease”), by and between the STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA (the “Board”), an entity of state government of the State of California, as lessor, and the BOARD OF STATE AND COMMUNITY CORRECTIONS OF THE STATE OF CALIFORNIA (the “Department”), an entity of state government of the State of California, as lessee;

W I T N E S S E T H:

WHEREAS, the Board has financed a portion of the costs of the [design and construction] of the Project (as defined herein) by obtaining an interim loan (the “Loan”) from the Pooled Money Investment Account pursuant to California Government Code Sections 16312 and 16313; and

WHEREAS, the Board intends to refinance the Loan and finance the remaining costs of the [design and construction] of the Project through the issuance and sale of the Board’s Lease Revenue Bonds 2021 Series B (Various Capital Projects) (the “Bonds”) as authorized by the Act (as defined herein) and the Law (as defined herein) which Bonds will be secured, in part, by the Base Rental (as defined herein) payments to be made under this Facility Lease;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

SECTION 1. Definitions.

Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Facility Lease, have the meanings below. All defined terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture (defined below).

The term “Act” means the State Building Construction Act of 1955 (being Part 10b of Division 3 of Title 2 of the California Government Code commencing at Section 15800) and all laws amendatory thereof or supplemental thereto.

The term “Additional Rental” means the additional rental payments payable by the Department to or upon the order of the Board pursuant to Section 3(b) and Section 5(b) hereof for the purposes described in such Sections.

The term “Base Rental” means the base rental payments payable by the Department to the Board pursuant to Section 3(a) in order to pay a portion of the principal of and interest on the Bonds.

The term “Board” means the State Public Works Board of the State of California, an entity of state government duly organized and validly existing under and pursuant to Part 10.5 of Division 3 of Title 2 of the California Government Code, commencing at Section 15752.

The term “Bonds” is defined in the second “Whereas” clause above.

The term “Business Day” means a day of the year other than a Saturday or Sunday or a day on which the State of California offices or banking institutions located in the State of California are required or authorized to remain closed.

The term “Continuing Disclosure Agreement” means that certain Continuing Disclosure Agreement among the Board, the Department, the Department of Corrections and Rehabilitation of the State of California, the Department of General Services of the State of California, the Department of Forestry and Fire Protection of the State of California, the Judicial Council of California and the State Treasurer, dated the date of issuance and delivery of the Bonds.

The term “Department” means the Board of State and Community Corrections of the State of California, an entity of state government duly organized and validly existing under and by virtue of the laws of the State, and any successor entity thereto.

The term “Facility” means the Site and the Project, as described in Exhibit B hereto, or any Substituted Property leased hereunder, as applicable. On the date of issuance of the Bonds, the Facility consists of the Site and the Project located at 2208 Merced Street, Fresno, California 93721, and is known as the “Fresno Jail Project.”

The term “Facility Sublease” means that certain Facility Sublease, dated as of April 15, 2021, by and between the Department and the Participating County, as originally executed and as it may from time to time be amended or supplemented pursuant to the provisions thereof.

The term “Indenture” means the Indenture for the Bonds, dated as of April 15, 2021, by and between the Board and the State Treasurer, as it may from time to time be amended or supplemented pursuant to the provisions thereof.

The term “Law” means Government Code sections 15820.92 through 15820.926, inclusive.

The term “Participating County” means the County of Fresno and any successor entity thereto.

The term “Permitted Encumbrances” means as of any particular time: (1) liens for general ad valorem taxes and assessments, if any, not then delinquent; (2) the Site Lease and this Facility Lease, as they may be amended from time to time; (3) the Ground Lease (as defined in the Site Lease), as it may be amended from time to time; (4) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions, all of a non-monetary nature, which exist of record as of the date of issuance of the Bonds; (5) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions, all of a non-monetary nature, established following the date of issuance of the Bonds and to which the Board consents in writing; and (6) the Facility Sublease, the Detention Services Intergovernmental Agreement, Number 97-02-0015, entered into by and between the County and the U.S. Department of Justice, United States Marshals Service Prisoner Operation Division (the “DOJ”), effective July 1, 2017, as amended by that certain Amendment No. 1 to Detention Services Intergovernmental Agreement No. 97-02-0015 entered into by and between the County and the DOJ, effective July 1, 2017, and any additional sublease, assignment or use agreement approved by the Board in accordance with the terms of the Facility Sublease.

The term “Project” means the buildings, structures, fixtures, works and related improvements constructed or to be constructed on the Site, as more particularly described in Exhibit B hereto, and any and all additions, betterments, extensions and improvements thereto.

The term “Site” means that certain real property on which the Project is located, as more particularly described in Exhibit A to this Facility Lease, as amended from time to time.

The term “Site Lease” means the Site Lease, dated as of April 15, 2021, by and between the Department, as lessor, and the Board, as lessee, related to the Site, as originally executed and as it may from time to time be amended or supplemented pursuant to the provisions thereof.

The term “State” means the State of California.

The term “State Treasurer” means the Treasurer of the State of California, or her successor, acting as trustee under and pursuant to the Indenture.

The term “Substituted Property” means any public facility or facilities and real property under the jurisdiction of the Department substituted for the Facility in accordance with Section 25 hereof, including any and all additions, betterments, extensions and improvements thereto.

SECTION 2. Purpose and Term.

The Board leases the Facility to the Department and the Department leases the Facility from the Board on the terms and conditions hereinafter set forth and subject to all easements, encumbrances and restrictions of record as of the date hereof. The Department agrees and covenants during the term of this Facility Lease that, except as hereinafter provided, it will use the Facility to afford the public the benefits contemplated by the Act, the Law and by this Facility Lease and so as to permit the Board to carry out its agreements and covenants contained in the Indenture and further agrees that it will not abandon the Facility.

The term of this Facility Lease will commence on the date of issuance of the Bonds and shall end on _____ 1, 2036, unless such term is extended or sooner terminated as hereinafter provided. If on _____ 1, 2036, the Bonds or other indebtedness incurred by the Board to pay for the Project are not fully paid and retired as a result of the Base Rental payable hereunder set forth on Schedule I not being paid when due, or as a result of the Base Rental having been abated at any time and for any reason, then the term of this Facility Lease shall be extended until the date upon which all Bonds and other indebtedness of the Board outstanding as a result of the nonpayment of such Base Rental are fully paid and retired, except that the term of this Facility Lease shall in no event be extended beyond _____ 1, 2046. If, prior to _____ 1, 2036, the Bonds and other indebtedness of the Board payable from the Base Rental shall have been fully paid and retired or the Site Lease shall have been terminated, then the term of this Facility Lease shall end simultaneously therewith.

SECTION 3. Rental.

The Department agrees to pay to the Board, its successors or assigns, without deduction or offset of any kind (except as set forth in Section 3(g) below), as rental for the use and occupancy of the Facility, the following amounts at the following times:

(a) Base Rental. In order to allow the Board to pay the principal of and interest on the Bonds when due, subject to the following two paragraphs and the provisions of Section 3(g) below,

the Department shall pay to the Board Base Rental hereunder in the semiannual installments set forth on the attached Schedule I. Such Base Rental shall be due and payable on or before _____ 15 and _____ 15 in each year through _____ 15, 2036 and, subject to the provisions of the following two paragraphs, the first Base Rental installment will be due on _____ 15, 202_. If any date for the payment of Base Rental is not a Business Day, such Base Rental shall be paid on the next succeeding Business Day. The payment of Base Rental due on _____ 15, 202_ shall be for the right to use and occupancy of the Facility from the date of initial occupancy of any portion of the Facility. Thereafter, the payments of the Base Rental due on _____ 15 and _____ 15 of a calendar year as set forth in the attached Schedule I shall be for the right to the use and occupancy of the Facility for the preceding six-month period.

It is contemplated that the Department will take possession of the Facility and each and every part thereof on or before _____ 1, 2021. If the Facility or any part thereof shall be substantially completed before _____ 1, 2021, the Department may take possession of the Facility or such part thereof upon such substantial completion. The Board covenants that it will cause the Facility to be constructed with all practical dispatch.

If the Board for any reason whatsoever cannot deliver possession of the Facility or any part thereof to the Department by _____ 1, 202_, this Facility Lease shall not be void or voidable, nor shall the Board be liable to the Department for any loss or damages resulting therefrom, but in that event the Base Rental payable hereunder shall be abated proportionately in the proportion which the [design and construction] costs of the part or parts of the Facility not yet delivered to the Department bear to the costs of [design and construction] of the entire Facility with respect to the period between _____ 1, 202_ and the time when the Board delivers possession of such part.

(b) Additional Rental. In addition to any amounts payable by the Department pursuant to Section 5(b) hereof, the Department shall pay to or upon the order of the Board as Additional Rental hereunder such reasonable amounts in each year as shall be required by the Board for the payment of all administrative costs and other expenses of the Board in connection with the Facility and the Project, including all expenses, compensation and indemnification of the State Treasurer payable by the Board under the Indenture, fees of accountants, fees of the Attorney General and other attorneys, litigation costs, insurance premiums and all other necessary costs of the Board and the State Treasurer or charges required to be paid by them in order to comply with the terms of the Act, the Law, the Indenture or the Bonds. Such Additional Rental shall be billed by the Board or the State Treasurer from time to time, together with a statement certifying that the amount so billed has been paid by the Board or by the State Treasurer on behalf of the Board for one or more of the items above described, or that such amount is then payable by the Board or the State Treasurer on behalf of the Board for such items. Amounts so billed shall be due and payable by the Department within thirty (30) days after receipt of the bill by the Department and such amounts shall be deposited to the Expense Account of the Public Buildings Construction Fund established under the Act.

(c) Total Rental. Such payments of Base Rental and Additional Rental for each rental payment period during the term of this Facility Lease shall constitute the total rental for such rental payment period, and shall be paid by the Department in each rental payment period for and in consideration of the right to the use and occupancy, and the continued quiet enjoyment, of the Facility during each such rental payment period for which such rental is paid. The parties hereto have agreed and determined that the amount of such total rental is consistent with and does not exceed the fair rental value of the Facility. In making such determination, consideration has been given to the costs of the [design and construction] of the Project to be financed and refinanced by the Board with the proceeds

of the Bonds, other obligations of the parties under this Facility Lease, the uses and purposes which may be served by the Facility and the benefits therefrom which will accrue to the Department and the general public.

(d) Payment Terms. Each installment of rental payable hereunder shall be paid in lawful money of the United States of America to or upon the order of the Board in Sacramento, California, or such other place as the Board shall designate. Any such installment of rental accruing hereunder which shall not be paid when due shall bear interest at the legal rate of interest per annum at which judgments for money in the State bear interest from the date when the same is due hereunder until the same shall be paid. Notwithstanding any dispute between the Board and the Department, the Department shall make all rental payments when due without deduction or offset of any kind and shall not withhold any rental payments pending the final resolution of such dispute.

(e) Covenant to Budget. The Department covenants to take such action as may be necessary to include or cause to be included all such rental payments due hereunder in that portion of the annual budget of the State related to the Department and to make or cause to be made the necessary annual allocations for all such rental payments. The Department further covenants to take all actions necessary and appropriate to assist in implementing the procedure contained in California Government Code Section 15848 for making rental payments under this Facility Lease if the required rental payments have not been included in the annual budget adopted by the State or the State is operating without a budget. The covenants on the part of the Department herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the Department to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Department to carry out and perform the agreements and covenants in this Facility Lease agreed to be carried out and performed by the Department.

(f) Order of Payments. All rental payments received shall be applied first to the Base Rental due hereunder and thereafter to all Additional Rental due hereunder, but no such application of any payments which are less than the total rental due and owing shall be deemed a waiver of any default hereunder.

(g) Rental Abatement. The rental shall be abated proportionately during any period in which, by reason of any damage or destruction of the Facility (other than by eminent domain which is provided for in Section 9 of this Facility Lease), or title defect in the Site, there is substantial interference with the use and occupancy of the Facility or any portion thereof by the Department. Such abatement shall continue for the period commencing with such damage or destruction or title defect and ending when such use and occupancy are restored. The Department waives the benefits of California Civil Code Sections 1932(2) and 1933(4) and any and all other rights to terminate this Facility Lease by virtue of any such damage or destruction.

SECTION 4. Financing the Project.

The Board agrees to use a portion of the proceeds of the Bonds to finance certain costs of the [design and construction] of the Project and costs incidental to or connected with such [design and construction] (or for making reimbursements to the Board or any other state agency, public agency, person, firm or corporation for such costs theretofore paid by him, her or it), to pay the Loan, and to pay for the costs of issuance related to the Bonds.

SECTION 5. Maintenance, Utilities, Taxes and Assessments.

(a) During the term of this Facility Lease, all maintenance and repair, both ordinary and extraordinary, of the Facility shall be the sole responsibility of the Department, which shall at all times maintain or otherwise arrange for the maintenance of the Facility in good condition, and the Department shall pay for or otherwise arrange for the payment of all utility services supplied to the Facility and shall pay for or otherwise arrange for the payment of the costs of the repair and replacement of the Facility resulting from ordinary wear and tear or want of care on the part of the Department or any other cause and shall pay for or otherwise arrange for the payment of all insurance policies required to be maintained with respect to the Facility. In exchange for the rentals herein provided, the Board agrees to provide only the Facility.

(b) The Department shall also pay to the Board or upon the order of the Board, as Additional Rental hereunder, such amounts, if any, in each year as shall be required by the Board for the payment of all taxes and assessments of any type or nature assessed or levied by any governmental agency or entity having power to levy taxes or assessments charged to the Board or the State Treasurer affecting or relating to the Facility or the respective interests or estates therein, or the amount of rentals received by the Board hereunder. Such amounts shall be deposited to the Expense Account of the Public Buildings Construction Fund established under the Act.

SECTION 6. Changes to the Facility.

At its sole cost and expense, the Department shall have the right during the term of this Facility Lease to make additions, betterments, extensions or improvements to the Facility or to attach fixtures, structures or signs to the Facility if such additions, betterments, extensions or improvements or fixtures, structures or signs are necessary or beneficial for the use of the Facility by the Department; provided, however, that any such changes to the Facility shall be made in a manner that does not result in an abatement of Base Rental hereunder.

SECTION 7. Insurance.

(a) The Department shall maintain or cause to be maintained (i) fire, lightning and extended coverage insurance on the Facility which initially may be in the form of a builder's risk policy providing coverage in an amount not less than the construction costs expended for the Project and, if no builder's risk policy is in effect, shall be in a form of a commercial property policy in an amount equal to one hundred percent (100%) of the then current replacement cost of the Facility, excluding the replacement cost of the unimproved real property constituting the Site (except that such insurance may be subject to a deductible clause of not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) for any one loss), and (ii) earthquake insurance (if, in the sole discretion of the Board, such insurance is available on the open market from reputable insurance companies at a reasonable cost) on any structure comprising part of the Facility in an amount equal to the full insurable value of such structure or the portion of the principal amount of the Outstanding Bonds and any Additional Bonds issued to finance and refinance the Project, whichever is less (except that such insurance may be subject to a deductible clause of not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) for any one loss). The extended coverage endorsement shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke, vandalism and malicious mischief and such other hazards as are normally covered by such endorsement. Each such policy of insurance shall be in a form satisfactory to the Board and shall contain a clause making all losses payable to the Board, the State Treasurer and the Department, as their interests may appear, and

all proceeds thereof shall be paid over to the party contractually responsible for making repairs of casualty damage or to the Board to redeem the Bonds or any Additional Bonds as hereinafter provided.

In the event of any damage to or destruction of the Facility caused by the perils covered by the insurance described in the preceding paragraph, or in the event of a loss of use of all or a portion of the Facility due to a title defect for which the Board or the Department has obtained any title insurance, the proceeds of such insurance shall be utilized, in the sole discretion of the Board, either (i) to redeem Outstanding Bonds or Additional Bonds to the extent possible and in accordance with the provisions of the Indenture, but only if the Base Rental payments due after such a redemption together with other Revenues available under the Indenture would be sufficient to retire the Bonds and any Additional Bonds then Outstanding in accordance with their terms, or (ii) for the repair, reconstruction or replacement of the Facility to the end that the Facility shall be restored to at least the same condition that it was in prior to such damage, destruction or loss of use. If the Board so elects to repair, reconstruct or replace the Facility, it shall do so with all practicable dispatch in an expeditious manner and in conformity with the law so as to complete the same as soon as possible. Any balance of such proceeds not required for such repair, reconstruction or replacement shall be transferred to the Board and treated as Revenues and applied in the manner provided in Section 4.03 of the Indenture. Provided that no substitution of Substituted Property pursuant to Section 25 hereof has occurred, in the event that the Board elects to apply the insurance proceeds to redeem Bonds or any Additional Bonds pursuant to (i) above and all Bonds and any Additional Bonds related to the Project are redeemed, then any remaining insurance proceeds shall be applied by the Department in accordance with Section 7(a) of the Facility Sublease; provided, however, that in the event a substitution of Substituted Property pursuant to Section 25 hereof has occurred, then such remaining insurance proceeds shall be transferred to the Board and treated as Revenues and applied in the manner provided in Section 4.03 of the Indenture.

(b) The Department shall maintain or cause to be maintained, from and after the later of (i) the date any portion of the Facility is available for use and occupancy, and (ii) the last date on which interest on the Bonds issued to finance and refinance the Project is fully paid from capitalized interest as set forth in Schedule I hereto, rental interruption insurance or use and occupancy insurance to cover loss, total or partial, of the use of the Facility as a result of any of the hazards covered by the insurance required by subsection (a) of this Section in an amount not less than the succeeding two (2) consecutive years' Base Rental. Any such insurance policy shall be in a form satisfactory to the Board and shall contain a loss payable clause making any loss thereunder payable to the State Treasurer. Any proceeds of such insurance shall be used by the State Treasurer to reimburse the Department for any rental theretofore paid by the Department under this Facility Lease for a period of time during which the payment of rental hereunder is abated, and any proceeds of such insurance not so used shall be applied as provided in Section 4.03 of the Indenture to the extent required to pay annual debt service on the Bonds and any Additional Bonds or shall be applied as provided in the Indenture to the extent required to pay administrative costs of the Board in connection with the Facility.

(c) The Department will deliver or cause to be delivered to the Board and the State Treasurer in the month of July in each year a schedule, in such detail as the State Treasurer or the Board in their discretion may request, setting forth the insurance policies then in force pursuant to this Section, the names of the insurers which have issued the policies, the amounts thereof and the property and risks covered thereby. Each such insurance policy shall require that the State Treasurer and the Board be given thirty (30) days' notice of any intended cancellation thereof or reduction of the coverage provided thereby. Delivery to the State Treasurer and the Board of the schedule of insurance policies under the provisions of this Section shall not confer responsibility upon the State Treasurer or the

Board as to the sufficiency of coverage or amounts of such policies. If so requested in writing by the Board or the State Treasurer, the Department shall also deliver or cause to be delivered to the Board or the State Treasurer duplicate originals or certified copies of each insurance policy described in such schedule.

SECTION 8. Breach.

(a) If the Department shall fail to pay any rental payable hereunder when the same becomes due and payable, time being expressly declared to be of the essence of this Facility Lease, or the Department shall fail to keep, observe or perform any other term, covenant or condition contained herein to be kept or performed by the Department for a period of sixty (60) days after notice of the same has been given to the Department by the Board or the State Treasurer plus such additional time as may be reasonably required, in the discretion of the Board and the State Treasurer, to correct any of the same, or upon the happening of any of the events specified in subsection (b) of this Section, the Department shall be deemed to be in default under this Facility Lease and it shall be lawful for the Board to exercise any and all remedies available pursuant to law or granted pursuant to this Facility Lease. Upon any such default, the Board, in addition to all other rights and remedies it may have at law, shall have the option to do any of the following:

(1) To terminate this Facility Lease in the manner hereinafter provided on account of default by the Department, notwithstanding any re-entry or re-letting of the Facility as hereinafter provided for in subparagraph (2) hereof, and to re-enter the Facility and remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and place such personal property in storage in any warehouse or other suitable place. In the event of such termination, the Department agrees to immediately surrender possession of the Facility, without let or hindrance, and to pay the Board all damages recoverable at law that the Board may incur by reason of default by the Department, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Facility and removal and storage of such property by the Board or its duly authorized agents in accordance with the provisions herein contained. Neither notice to pay rent or to deliver up possession of the Facility given pursuant to law nor any entry or re-entry by the Board nor any proceeding in unlawful detainer, or otherwise, brought by the Board for the purpose of effecting such re-entry or obtaining possession of the Facility nor the appointment of a receiver upon initiative of the Board to protect the Board's interest under this Facility Lease shall of itself operate to terminate this Facility Lease, and no termination of this Facility Lease on account of default by the Department shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Board shall have given written notice to the Department of the election on the part of the Board to terminate this Facility Lease. The Department covenants and agrees that no surrender of the Facility or of the remainder of the term hereof nor any termination of this Facility Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Board by such written notice.

(2) Without terminating this Facility Lease, (i) to collect each installment of rent as it becomes due and enforce any other term or provision hereof to be kept or performed by the Department, or (ii) to exercise any and all rights of entry and re-entry upon the Facility. If the Board does not elect to terminate this Facility Lease in the manner provided for in subparagraph (1) hereof, the Department shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the Department, and, if the Facility is not re-let, to pay the full amount of the rent to the end of the term of this Facility Lease or, if the Facility is re-let, to pay any deficiency in rent that results therefrom; and further agrees to pay such rent and/or rent deficiency

punctually at the same time and in the same manner as hereinabove provided for the payment of rent hereunder, notwithstanding the fact that the Board may have received in previous years or may receive thereafter in subsequent years rental in excess of the rental herein specified, and notwithstanding any entry or re-entry by the Board or suit in unlawful detainer or otherwise, brought by the Board for the purpose of effecting such re-entry or obtaining possession of the Facility. Should the Board elect to re-enter as herein provided, the Department irrevocably appoints the Board as the agent and attorney-in-fact of the Department to re-let the Facility, or any part thereof, from time to time, either in the Board's name or otherwise, upon such terms and conditions and for such use and period as the Board may deem advisable and to remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and to place such personal property in storage in any warehouse or other suitable place for the Department, for the account of and at the expense of the Department, and the Department exempts and agrees to save harmless the Board from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Facility and removal and storage of such property by the Board or its duly authorized agents in accordance with the provisions herein contained except for any such costs, loss or damage resulting from the intentional or negligent actions of the Board or its agents. The Department agrees that the terms of this Facility Lease constitute full and sufficient notice of the right of the Board to re-let the Facility in the event of such re-entry without effecting a surrender of this Facility Lease, and further agrees that no acts of the Board in effecting such re-letting shall constitute a surrender or termination of this Facility Lease irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the Department, the right to terminate this Facility Lease shall vest in the Board to be effected in the sole and exclusive manner provided for in subparagraph (1) hereof. The Department further waives the right to any rental obtained by the Board in excess of the rental herein specified and conveys and releases such excess to the Board as compensation to the Board for its services in re-letting the Facility. The Department further agrees to pay the Board the cost of any alterations or additions to the Facility necessary to place the Facility in condition for re-letting immediately upon notice to the Department of the completion and installation of such additions or alterations.

The Department waives any and all claims for damages caused or which may be caused by the Board in re-entering and taking possession of the Facility as herein provided and all claims for damages that may result from the destruction of or injury to the Facility and all claims for damages to or loss of any property belonging to the Department, or any other person, that may be in or upon the Facility, except for such claims resulting from the intentional or negligent actions of the Board or its agents.

Upon the occurrence of an event of default, payments of Base Rental hereunder may not be accelerated.

Each and all of the remedies given to the Board hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Board to other or further exercise thereof or the exercise of any or all other rights, powers or privileges. The term "re-let" or "re-letting" as used in this Section shall include, but not be limited to, re-letting by means of the operation or other utilization by the Board of the Facility. If any statute or rule of law validly shall limit the remedies given to the Board hereunder, the Board nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

If the Board shall prevail in any action brought to enforce any of the terms and provisions of this Facility Lease, the Department agrees to pay a reasonable amount as and for attorney's fees incurred by the Board in attempting to enforce any of the remedies available to the Board hereunder, whether or not a lawsuit has been filed and whether or not any lawsuit culminates in a judgment.

(b) In addition to any default resulting from breach by the Department of any term or covenant of this Facility Lease, if (1) the interest of the Department in this Facility Lease or any part thereof be assigned, sublet or transferred without the written consent of the Board, either voluntarily or by operation of law, or (2) the Department or any assignee shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the Department asks or seeks or prays to be adjudicated a bankrupt, or is to be discharged from any or all of the debts or obligations of the Department, or offers to the Department's creditors to effect a composition or extension of time to pay the Department's debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of the Department's debts or for any other similar relief, or if any such petition or if any such proceedings of the same or similar kind or character be filed or be instituted or taken against the Department, or if a receiver of the business or of the property or assets of the Department shall be appointed by any court, except a receiver appointed at the instance or request of the Board, or if the Department shall make a general or any assignment for the benefit of the Department's creditors, or (3) the Department shall abandon the Facility, then the Department shall be deemed to be in default hereunder.

(c) The Board shall in no event be in default in the performance of any of its obligations hereunder unless and until the Board shall have failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any such default, after notice by the Department to the Board properly specifying wherein the Board has failed to perform any such obligation.

SECTION 9. Eminent Domain.

If the whole or any portion of the Facility shall be taken by eminent domain proceedings (or sold to a governmental entity threatening to exercise the power of eminent domain), the proceeds therefrom shall be deposited with the State Treasurer in a special fund in trust and shall be applied and disbursed by the State Treasurer as follows:

(a) If less than the entire Facility shall have been so taken and the remainder is usable for purposes substantially similar to those for which it was constructed, then this Facility Lease shall continue in full force and effect as to such remainder and (i) if the portion taken is replaced by a facility of equal or greater utility and of equal or greater fair rental value within or adjacent to such remainder, the State Treasurer shall disburse such proceeds to the party that incurred the expense of making such replacement and there shall not be any abatement of rental under this Facility Lease, or (ii) failing the making of such replacement, there shall be a partial abatement of rental under this Facility Lease and the State Treasurer shall apply such proceeds as specified in subsection (b).

(b) If less than the entire Facility shall have been so taken and the remainder is not usable for purposes substantially similar to those for which it was constructed, or if the entire Facility shall have been so taken, then the term of this Facility Lease shall cease as of the day that possession shall

be so taken, and the State Treasurer shall apply such proceeds, together with any other money then available to the State Treasurer for such purpose, for the payment of the entire amount of principal then due or to become due upon the portion of the Outstanding Bonds and any Additional Bonds issued to finance and refinance the Project, together with the interest thereon so as to enable the Board to retire such portion of the Bonds and any Additional Bonds then Outstanding by redemption or by payment at maturity; except that if such proceeds, together with any other money, then lawfully available to it for such purpose, are insufficient to provide for the foregoing purpose, the State Treasurer shall apply such proceeds in accordance with the provisions of Section 8.03 of the Indenture so far as the same may be applicable.

SECTION 10. Right of Entry.

The Board shall have the right to enter the Facility during daylight hours (and in emergencies at all times) but only after giving notice to the Department and to the chief administrator at the Facility at least one hour prior to such entry to inspect the same for any purpose connected with the Department's rights or obligations under this Facility Lease, and for all other lawful purposes; provided, however, that any entry by, or denial of entry to, the Board or its agents shall at all times be subject to the security procedures of the Department.

SECTION 11. Liens; Prohibitions Against Encumbrance.

(a) In the event the Department shall at any time during the term of this Facility Lease cause any additions, betterments, extensions or improvements to the Facility to be constructed or materials to be supplied in or upon the Facility, the Department shall pay or cause to be paid when due all sums of money that may become due, or purporting to be due for any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the Department in, upon or about the Facility and shall keep the Facility free of any and all mechanics' or materialmen's liens or other liens against the Facility or the Board's interest therein. In the event any such lien attaches to or is filed against the Facility or the Board's interest therein, the Department shall cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that if the Department desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and such stay thereafter expires, the Department shall forthwith pay or cause to be paid and discharged such judgment. The Department agrees to and shall, to the maximum extent permitted by law, indemnify and hold the Board, the State Treasurer, and their members, directors, agents, successors and assigns harmless from and against and defend each of them against any claim, demand, loss, damage, liability or expense (including attorneys' fees) as a result of any such lien or claim of lien against the Facility or the Board's interest therein.

(b) The Department agrees it will not create or suffer to be created any recorded or unrecorded mortgage, pledge, lien, charge, easement, rights of way or other rights, reservations, covenants, conditions, restrictions or encumbrance upon the Facility, except for Permitted Encumbrances. The Department acknowledges and agrees that notwithstanding the Board's consenting to the Facility Sublease as a Permitted Encumbrance, the execution and delivery of the Facility Sublease by the Department and the Participating County shall in no way relieve the Department of any of its obligations under this Facility Lease. The Department covenants to take reasonable steps to ensure that the Participating County complies with the terms of the Facility Sublease.

SECTION 12. Quiet Enjoyment.

The parties hereto mutually covenant that the Department, so long as it keeps and performs the agreements and covenants herein contained and is not in default hereunder, shall at all times during the term of this Facility Lease peaceably and quietly have, hold and enjoy the Facility without suit, trouble or hindrance from the Board.

SECTION 13. Board Not Liable.

The Board and its members, officers and employees shall not be liable to the Department or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Facility, except any liability due to entry by the Board onto the Facility. The Department shall, to the extent permitted by law, indemnify and hold harmless the Board and its members, officers and employees from, and defend each of them against, any and all claims, liens and judgments for death of or injury to any person or damage to property whatsoever occurring in, on or about the Facility; provided, however, that such indemnity and holding harmless shall not include any such claims, liens and judgments arising due to the negligent or willful acts of the Board in connection with its entry onto the Facility.

SECTION 14. Title and Jurisdiction to Facility.

Upon the termination or expiration of this Facility Lease (other than as provided in Sections 8 and 9 of this Facility Lease), (i) all interests in any portion of the Facility consisting of the Project and the real property on which the Project is located previously transferred to the Board under the Site Lease shall transfer in accordance with the Ground Lease (as defined in the Site Lease); and (ii) all interests in the Facility which constitutes Substituted Property transferred to the Board under the Site Lease shall transfer in accordance with Government Code Section 15816 and title will remain in the State of California and jurisdiction shall be placed with the Department.

SECTION 15. Status of Private Activity Use of the Project.

The Department hereby covenants and agrees to provide updated information to the Board and the State Treasurer annually regarding the private activity use, if any, of the Project. The information that must be updated annually is set forth in the Tax Certificate that was executed and delivered by the Board upon the initial issuance of the Bonds.

SECTION 16. Tax Covenants.

The Department covenants that it will not use or permit any use of the Project, and shall not take or permit to be taken any other action or actions, which would cause any Bond to be a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated from time to time thereunder. The Department further covenants that it will not take any action or fail to take any action, if such action or the failure to take such action would adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. The Department hereby covenants and agrees that it will cooperate with the Board and will provide all information reasonably requested by the Board regarding the Project in connection with maintaining and using the Project in compliance with covenants in the Tax Certificate or Section 141 of the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated from time to time thereunder.

SECTION 17. Continuing Disclosure.

The Department hereby covenants and agrees that it will cooperate with the Board and the State Treasurer to comply with and carry out all of the provisions of the Continuing Disclosure Agreement applicable to it, and will provide all information reasonably requested by the Board or the State Treasurer regarding the Facility, and in the event the Facility is substituted with Substituted Property, information regarding the Facility and the Project, in connection with continuing disclosure obligations. Notwithstanding any other provision of this Facility Lease, failure of the Department to comply with the Continuing Disclosure Agreement shall not be considered an event of default hereunder and shall not be deemed to create any monetary liability on the part of the Board, the Department or the State Treasurer to any other persons, including any Holder or Beneficial Owner of the Bonds; however, the State Treasurer may (and, at the request of the Holders or Beneficial Owners of at least twenty-five percent (25%) aggregate principal amount of Outstanding Bonds, shall), or any Holder or Beneficial Owner of the Bonds may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Department to comply with its obligations under this Section. For purposes of this paragraph, "Beneficial Owner" means any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

SECTION 18. Law Governing.

This Facility Lease shall be governed exclusively by the provisions hereof and by the laws of the State as the same from time to time exist. Any action or proceeding to enforce or interpret any provision of this Facility Lease, to the extent permitted by law, shall be brought, commenced or prosecuted in Sacramento County, California.

SECTION 19. Notices.

All approvals, authorizations, consents, demands, designations, notices, offers, requests, statements or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage prepaid, and, if to the Department, addressed to the Board of State and Community Corrections, 2590 Venture Oaks Way, Sacramento, California 95833, Attention: Executive Director, or, if to the Board, addressed to the State Public Works Board, 915 L Street, 9th Floor, Sacramento, California 95814, Attention: Executive Director, with a copy to the State Treasurer addressed to the Office of the State Treasurer, Public Finance Division, 915 Capitol Mall, Room 261, Sacramento, California 95814.

SECTION 20. Validity and Severability.

If for any reason this Facility Lease or any part thereof shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Board or by the Department, all of the remaining terms of this Facility Lease shall nonetheless continue in full force and effect. If for any reason it is held by such a court that any of the covenants and conditions of the Department hereunder, including the covenant to pay rentals hereunder, is unenforceable for the full term hereof, then and in such event this Facility Lease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the Department annually in consideration of the right of the Department to possess, occupy and use the Facility, and all the other terms, provisions and conditions of this Facility

Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

SECTION 21. Waiver.

The waiver by the Board of any breach by the Department of any agreement, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other agreement, covenant or condition hereof.

SECTION 22. Net Lease.

This Facility Lease shall be deemed and construed to be a “net lease” and the Department agrees that the rentals provided for herein shall be an absolute net return to the Board, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 23. 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 Facility Lease.

SECTION 24. Amendment.

This Facility Lease may only be amended by a written instrument duly authorized and executed by the Board and the Department with the written consent of the State Treasurer; provided, however, that no such amendment shall materially adversely affect the owners of the Bonds or any Additional Bonds. Any amendment of this Facility Lease made to comply with the provisions of Section 3.01(c) of the Indenture with respect to the issuance of a series of Additional Bonds shall be deemed to not materially adversely affect the owners of the Bonds or any previously issued Additional Bonds.

SECTION 25. Substitution.

The Department and the Board jointly, but not separately, reserve the right at any time, in their sole discretion, to substitute any Substituted Property for all of the Facility without Bondholder consent, provided that:

(a) the Department and the Board find (and deliver a certificate of the Department and the Board to the State Treasurer setting forth such findings) that (i) the Substituted Property has the same or greater annual fair rental value than the annual Base Rental payments remaining unpaid pursuant to this Facility Lease and (ii) the Base Rental payments being made by the Department pursuant to this Facility Lease will not be reduced as a result of the proposed substitution; and

(b) the Department certifies to the Board and the State Treasurer that (i) the Substituted Property has (A) similar or greater utility to the Department in performing its essential governmental functions as the Facility, and (B) equivalent or greater economic useful life than the period remaining until the last maturity of the Bonds, (ii) the Department has transferred an appropriate interest in the Substituted Property (by amendment to the Site Lease or otherwise) to the Board so that the Board may lease such property to the Department; and (iii) this Facility Lease has been amended to include the Substituted Property; and

(c) the Board obtains and delivers to the State Treasurer an Opinion of Counsel to the effect that such substitution will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income tax purposes; and

(d) the Department certifies that the Substituted Property is not subject to any liens or encumbrances, except for encumbrances permitted by the Board which will not adversely affect the right of the Department to use and occupy the Substituted Property in accordance with the provisions of this Facility Lease; and

(e) not less than 15 days prior to the date on which the Substituted Property is substituted pursuant to this Section 25, the Board shall deliver copies of the proposed amendments to the Site Lease and this Facility Lease to any rating agency then rating the Bonds.

Any substitution of Substituted Property in accordance with the provisions of this Section 25 may be made without the consent of any Bondholder and shall be deemed not to result in any material impairment of the security given or intended to be given to the Bondholders under the Indenture. In no event shall the Department or the Board be obligated or compelled to deliver any Substituted Property pursuant to the provisions of this Section 25.

SECTION 26. Execution.

This Facility Lease 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 Facility Lease. It is also agreed that separate counterparts of this Facility Lease may be separately executed by the Board and the Department all with the same force and effect as though the same counterpart had been executed by both the Board and the Department.

SECTION 27. Recordation of Lease. The notarization of the signatures of the signatories to this Facility Lease is for the purpose of recordation of this Facility Lease in the official records of the County of Fresno. This Facility Lease shall be recorded in the official records of the County of Fresno solely for the purpose of giving constructive notice of this Facility Lease to third parties as provided under State law. The failure of any signatory to obtain and affix a notarization to this Facility Lease shall not affect the validity of this Facility Lease. The date of recordation of this Facility Lease shall not change, alter or modify the commencement date of this Facility Lease as set forth in Section 2 hereof or the effectiveness of any provision of this Facility Lease.

SECTION 28. No Merger.

The parties hereto intend that there shall be no merger of any estate or interest created by this Facility Lease with any other estate or interest in the Facility, or any part thereof, by reason of the fact that the same party may acquire or hold all or any part of the estate or interest in the Facility created by this Facility Lease as well as another estate or interest in the Facility.

SECTION 29. Binding Effect.

This Facility Lease shall be binding upon and inure to the benefit of the Board and the Department and their respective successors and assigns.

SPWB 2021 SERIES B
FACILITY LEASE
(FRESNO JAIL PROJECT)

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

STATE PUBLIC WORKS BOARD OF THE STATE
OF CALIFORNIA

By: _____
Sally Lukenbill
Executive Director

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF CALIFORNIA

By: _____
Kathleen T. Howard
Executive 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.

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4832-2297-1868v3/024238-0087

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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SCHEDULE I

\$ _____

**State Public Works Board of the State of California
Lease Revenue Bonds
2021 Series B
(Various Capital Projects)**

**SCHEDULE OF CAPITALIZED INTEREST PAYMENTS
AND BASE RENTAL PAYMENTS**

I. CAPITALIZED INTEREST PAYMENTS

Interest on the portion of the Bonds issued to finance and refinance the Project shall be paid from the 2021B Capitalized Interest Subaccount established under the Indenture on the following dates and in the following amounts:

<i>Payment Date</i>	<i>Amount</i>
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II. BASE RENTAL PAYMENTS

<i>Payment Date</i>	<i>Principal</i>	<i>Interest</i>	<i>Total Base Rental Payments</i>
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EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

That portion of Block 107 of the Town (now City) of Fresno, per map recorded in Book 1, Page 2 of Plats, Fresno County Records, situated in the Southwest quarter of Section 3, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

Site

COMMENCING at the most easterly corner of said Block 107, said point bearing N41°58'59"W 135.04 feet from a found Brass Cap Monument in sidewalk marked "Fresno County Monument – Property Corner" as shown on that Record of Survey map recorded in Book 33, Page 93 of Record of Surveys, Fresno County Records;
thence S47°59'00"W 321.01 feet along the southeasterly line of said Block 107 to the most southerly corner of said Block 107;
thence N41°55'14"W 160.00 feet along the southwesterly line of said Block 107, to the TRUE POINT OF BEGINNING;
thence N41°55'14"W 239.50 feet along said southwesterly line of Block 107, to a point which lies 0.68 feet southeasterly of the most westerly corner of said Block 107;
thence N03°01'57"E 6.62 feet to a line parallel with and 4.00 feet northwesterly, from the northwesterly line of said Block 107;
thence N47°59'08"E 142.44 feet along said parallel line;
thence S41°58'27"E 180.08 feet to the southwesterly extension of the southeasterly face of the existing North Annex Jail building;
thence N47°59'27"E 30.11 feet along said southwesterly extension;
thence S41°58'27"E 36.99 feet;
thence S47°59'27"W 105.96 feet;
thence S41°58'27"E 27.11 feet;
thence S47°58'49"W 71.49 feet to the TRUE POINT OF BEGINNING.

Containing 34,996 square feet more or less

The Basis of Bearings for this description is the Southeasterly line of said Block 107 as shown on the Record of Survey recorded in Book 33 of Record of Surveys, Page 93, Fresno County Records. For the purpose of this description said Southeasterly line bears S47°59'00"W.

END OF DESCRIPTION



Date
Signed 5/22/17

Map of Site and Easement Property

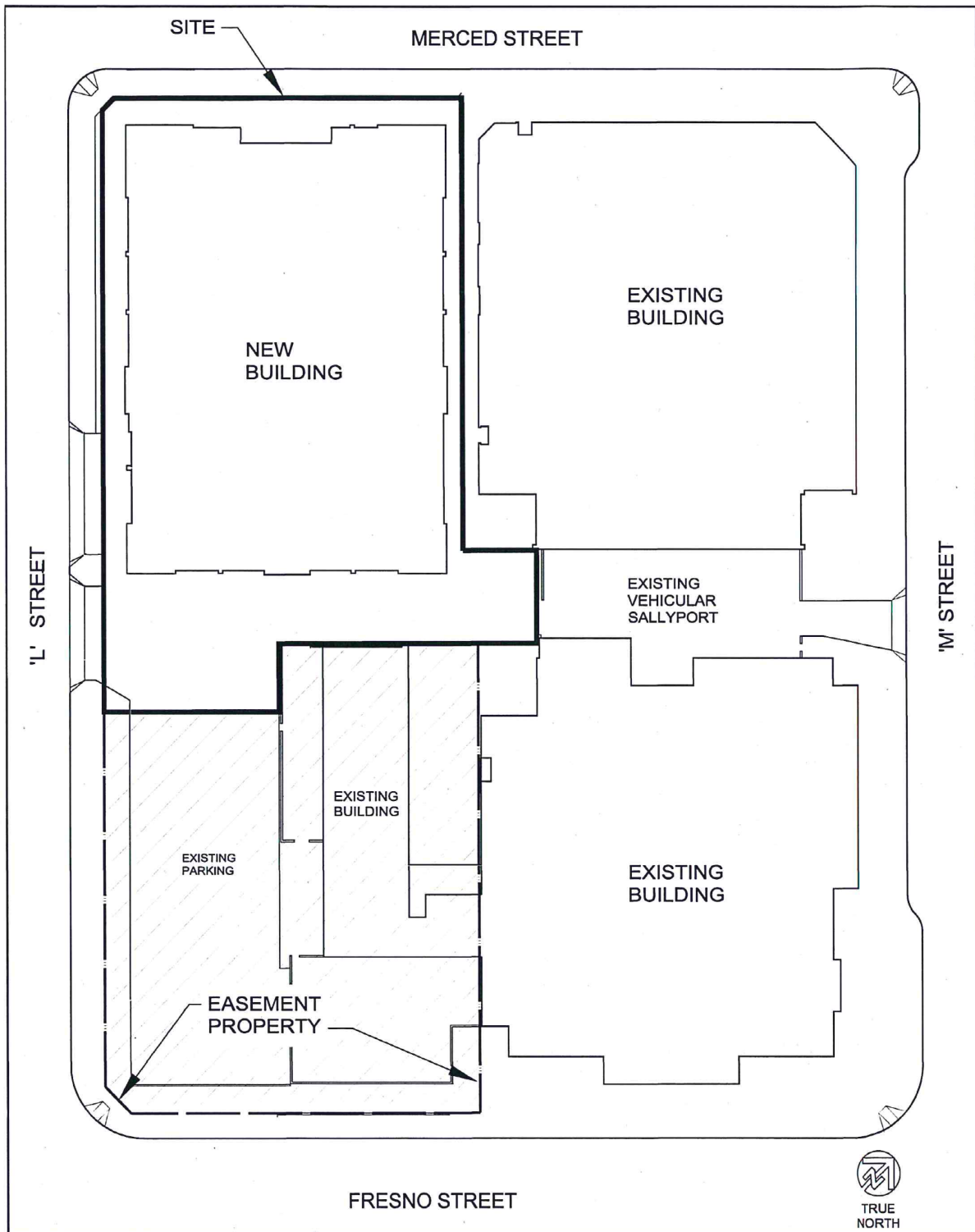


EXHIBIT B

DESCRIPTION OF PROJECT

Fresno Jail Project: The Fresno Jail Project (the “Project”) consists of the design and construction of a new building on county-owned land that is adjacent to the existing North Annex Jail building. The new building is a 119,000 square-foot detention facility that will have four floors consisting of one full basement level and three above-grade floors that will provide housing, program, and administrative space. These three above-grade floors contain five levels. The main floor is one level, and the two housing floors each have a mezzanine (two levels). The detention facility will have 150 beds per housing floor for 300 total beds.

Construction of the Project is of reinforced steel cast-in-place concrete with an exterior comprised of concrete (both cast-in-place and pre-cast) and brick and a roof composition of Modified Bituminous Membrane. Floor material of the Project is concrete (with various floor coverings depending on location) and ceilings are, depending on location, either acoustical, concrete, gypsum board, or metal panels.

The basement level will include rooms for staff services, laundry, warehouse, court transfers, and mechanical facilities. Floor 1 is the main floor and will include a public lobby, receiving, video visitation, in-person visitation, day reporting, facility administration, and central control. Floors 2 and 3 are the housing levels, and will each include cells/beds, housing control, video visitation, interview rooms, program rooms, day rooms, exercise/recreation yards, medical and treatment staff, acute care, segregation housing, safety cells, officer workstations, and mechanical rooms. The Project will also include electrical; plumbing; mechanical; heating, ventilation, and air conditioning; security; and fire protection systems.

The Project will include the portion of an underground tunnel for court transfer leading from the Project to the boundary between the Project and the adjacent North Annex Jail. The remainder of the tunnel leading from the boundary between the Project site and the North Annex Jail is outside of the Project site.