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FORM OF FACILITY SUBLEASE

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
[ADDRESS])
)
)
)
Attention:)

[Space above for Recorder's use]

FACILITY SUBLEASE
by and between the

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

and

County of [COUNTY],
as Sublessee

Dated as of _____ 1, 20__

[PROJECT NAME]
([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 and 27383 of the California Government Code.

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FACILITY SUBLEASE

This Sublease (this "Facility Sublease"), dated as of _____ 1, 20__, is made and entered into by and between the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA, as sublessor (the "Department") and the COUNTY OF [COUNTY], as sublessee (the "Participating County").

RECITALS

WHEREAS, pursuant to Chapter 3.11 of Part 10b of Division 3 of Title 2 of the California Government Code (the "Law"), the State Publics Work Board (the "Board") is authorized to finance the acquisition, design and construction of a jail facility approved by the Corrections Standards Authority pursuant to Section 15820.906 of the Government Code of the State (the "AB 900 Jail Financing Program"); and

WHEREAS, the Participating County [has built/is constructing] a jail facility (the "Project") financed pursuant to the AB 900 Jail Financing Program, which is located on _____, real property controlled by the Participating County through fee-simple ownership (the "Site"); and

WHEREAS, the Participating County has leased the Site to the Department pursuant to a Ground Lease Agreement, dated as of _____ 1, 20__ (the "Ground Lease") executed by and between the Participating County and the Department and consented to by the Board; and

WHEREAS, pursuant to the Law, the Board is authorized to issue lease revenue bonds for the Project (the "Bonds"), the Department, as lessor and the Board, as lessee, entered into a site lease dated as of _____ 1, 20__ (the "Site Lease"), providing for the sublease of the Site to the Board, and the Board, as sublessor, and the Department, as sublessee, entered into a facility lease dated as of _____ 1, 20__ (the "Facility Lease"), providing for the leasing of the Site and the Project (the Site, together with the Project, the "Facility"); and

WHEREAS, The Site Lease and the Facility Lease will provide security for the Bonds issued on the date hereof by the Board under an indenture[... as supplemented by the _____ supplemental indenture], (the "Indenture") 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 Bonds will be made through annual state appropriations to the Department, 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, 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; and

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. A legal description of the Site is attached hereto and incorporated herein as Exhibit A. This Facility Sublease is in all respects subordinate and subject to the Facility Lease. 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 [the first day of the month following the commencement of the Facility Lease/on the date of initial issuance and delivery of the Bonds] and shall co-terminate on the same date as the Facility Lease, unless such term is extended by the parties thereto, 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 provided by the Project and for undertaking of the financial obligations required under this Facility Sublease. This Facility Sublease is subject to the terms of the Ground Lease, Site Lease and Facility Lease and in the event of a conflict between this Facility Sublease and any of the Ground Lease, Site Lease or the Facility Lease, the provisions of the Ground Lease, 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 concurrence from the Department and the Board for the change in use of the Facility, or any part thereof, or expansion of the Facility.

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 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 adoption of the Participating County's Budget each year, a copy of its approved and authorized budget that details the amounts allocated to maintain and operate the Facility, including any reserves. The Participating County shall further submit to the Department by the above referenced date, a copy of the relevant portion of the approved and authorized budgets of each sublessee with respect to the Facility, if any, evidencing the respective sublessee's allocation of funds to maintain and operate its portion of the Facility. On September 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 of California 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.

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 their equipment, stored goods, other personal property, fixtures or tenant improvement or obtain business interruption insurance.

The Participating County and its boards, officers, agents and employees shall be named as additional insureds on the above 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 insured 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.

(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. 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 or Subletting of Facility.

(a) The Participating County and the Department hereby covenant and agree that neither this Facility Sublease nor any interest of either party in this Facility Sublease shall be sold, mortgaged, pledged, assigned, or transferred by either party by voluntary act or by operation of law or otherwise; provided, however, under certain circumstances, the Facility may be subleased in whole or in part by the Participating County. The Participating County shall not sublet or assign any portion of the Facility, or permit its subtenants to sublet or assign portions of the Facility, without obtaining the prior written consent and approval of the Department and the Board to the form and substance of such sublease, the sublessee and, provided further that, any such sublease shall be subject to the following conditions:

(1) Any sublease of the Facility by the Participating County shall explicitly provide that such sublease is subject to all rights of the Department and the Board under the Facility Sublease, including, the right to re-enter and re-let the Facility or terminate such lease 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, the Board and the State Treasurer with an opinion of nationally recognized bond counsel acceptable to the Board to the effect that such sublease 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 its first offer to relet the Facility, the terms of such offer to be at the sole reasonable discretion of the Board, shall be made to the Participating County.

(c) This CDCR Facility Sublease shall not be subordinated.

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, substances, wastes or other environmentally regulated substances, of which the Participating County has actual knowledge relative to the Project. 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, under or under the Project or used in connection therewith, of which the Participating County gains actual knowledge, and will transmit to the Agencies and the Trustee 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 Project. The Participating County shall ensure (as to itself), and shall use its best efforts to ensure (as to its contractors, consultants and other agents), that all activities of the Participating County or any officers, employees, contractors, consultants, or any other agents of the Participating County performed at the Facility will be in full compliance with all federal, state and local environmental laws, regulations, and ordinances, and further agrees that neither the Participating County nor its contractors, consultants, agents, officers or employees will engage in any management of solid or hazardous wastes at the Project in violation of any Environmental Law. If the presence of Hazardous Materials on the Project results in the contamination or deterioration of the Project or any water or soil beneath the Project, the Participating County shall promptly take all action necessary to investigate and remedy that contamination.

The Participating County shall defend, indemnify and hold the Department and the Board harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean up costs), judgments and expenses (including attorneys', consultants', or experts' fees and expenses of every kind and nature) suffered by or asserted against the Department or the Board 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. 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 lease term 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 lease, (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; Liens. If any proposed additions, betterments, extensions or improvements of the Facility require approval by the Corrections Standards Authority, the Participating County shall concurrently with the request for such approval(s) request the approval to such additions, betterments, extensions or improvements of the Board. 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 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 Department's or the Board's interest therein. The Participating County hereby acknowledges and agrees that it shall not cause any additions, betterments, extensions or improvements to the Facility to occur in such a manner that Rental under the Facility Lease would be abated.

The Department covenants that the Project is not and will not be mortgaged, pledged, or hypothecated by the Department in any manner or for any purpose and that the Project has not been and will not be the subject of a security interest by the Department. In addition, the Department covenants that the Project is not and will not be mortgaged, pledged, or hypothecated for the benefit of the Participating County or its creditors in any manner or for any purpose and that the Project has not been and will not be the subject of a grant of a security interest in favor of the Participating County or its creditors. The Department 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.

SECTION 13. Status of Private Activity Use of the Facility. The Participating County hereby covenants and agrees to provide information to the Department, the Board and the State Treasurer annually regarding the private activity use, 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.

SECTION 14. Tax Covenants. 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.

The Participating County does not expect to and shall not perform any act, enter into any agreement, or use or permit more than 10% of the Bond proceeds or the Project to be used in any trade or business unrelated to the exempt purposes of the Participating County (as defined in Section 513(a) of the Code), or enter into any contract or arrangement with any person or organization (other than a state or local governmental unit, or a 501(c)(3) organization acting within the scope of its exempt purposes), including the federal government (a “Disqualified Person”), which provides for use of more than 10% of the Project in any trade or business of such Disqualified Person (“Private Use”), including a lease or sale of any part of the Project excluding general public use and other uses disregarded under Treasury Regulation §1.141-3, unless the Participating County provides prior written notice to the Board of the proposed act, agreement or use and the Participating County and the Issuer receive an opinion of nationally recognized bond counsel acceptable to the Board with respect to such act, agreement or use.

The Participating County will not enter into any arrangement with any Disqualified Person which provides for such person to manage, operate, or provide services with respect to the Project (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, except to the extent the Participating County obtains a private letter ruling from the Internal Revenue Service or an opinion of nationally recognized bond counsel acceptable to the Board which allows for a variation from the Guidelines.

The Participating County will not enter into any contract or arrangement with any Disqualified Person which provides for use of the Project (or any portion thereof) for “research,” within the meaning of Treasury Regulations Section 1.141-3(b)(6), for the benefit of such Disqualified Person unless such contract or arrangement meets the requirements of Rev. Proc. 2007-47. For this purpose, “research” includes activities that represent research in the experimental or laboratory sense. The term generally includes all activities incident to the development or improvement of a product, including obtaining a patent. “Research” for this purpose does not include management studies. However, contracts or arrangements with a Disqualified Person for management studies may result in private trade or business use if the Disqualified Person has possessory or priority rights in specific portions of the Project.

SECTION 15. 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 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.

The waiver by the Department, any such waiver subject to the consent thereto of the Board, 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 waiver by the Participating County, any such waiver subject to the consent thereto of 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 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 15820.905, the Participating County agrees to indemnify, defend, and hold harmless the State of California, including but not limited to the Department and the Board and their officers, agents and employees, for any and all claims and losses accruing and resulting from or arising out of the Participating County's use and occupancy of the Facility. 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 the Department, the Board, or any other State agency, or their respective officers, agents, employees, contractors and/or invitees from any claim which arises, in whole or in part, from the gross negligence or willful misconduct or omission of the Department, the Board, or any other State agency, or their respective officers, agents, employees, contractors and/or invitees. 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 lease shall, to the extent permitted by law, be brought, commenced or prosecuted in the courts of the State located in the Participating 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: Department of Corrections and
Rehabilitation of the State of California
Attention: _____
[Address]

To the Board: State Public Works Board

Attn: Administrative Secretary
915 "L" Street, 9th floor
Sacramento, CA 95814

To the State Treasurer: Treasurer of the State of California
Public Finance Division
915 Capitol Mall, Room 280
Sacramento, CA 95814

To the Participating County: [COUNTY] Sheriff
[Address]

Attention: _____

With a copy to:

[Title of Appropriate County Officer],
[Address]

Attention: _____

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

SECTION 28. 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.

IN WITNESS WHEREOF, this Facility Sublease has been executed by the parties hereto as of the ____ day of _____, 20__.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By _____
[Name]
[Title]

COUNTY OF [COUNTY]

By _____
[Name]
[Title]

APPROVED AS TO FORM:

[NAME]
County Counsel

By _____
[Name]
[Title]

CONSENT AND ACKNOWLEDGEMENT
OF THE BOARD PURSUANT TO SECTION
8(b) OF THE FACILITY LEASE:

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By _____
[Name]
[Title]

APPROVED (Pursuant to Government Code
section 11005.2):

DEPARTMENT OF GENERAL SERVICES
OF THE STATE OF CALIFORNIA

By _____
[Name]
[Title]

EXHIBIT A
LEGAL DESCRIPTION OF SITE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

On _____, before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")

a Notary Public, personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF SACRAMENTO) ss.

On _____, before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
a Notary Public, personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public