

Stradling Yocca Carlson & Rauth
Draft dated November 22, 2006

RECORDING REQUESTED BY:
City of Costa Mesa

WHEN RECORDED MAIL TO:
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Attn: E. Kurt Yeager

This document is recorded for the benefit of the City of
Costa Mesa and recording is fee-exempt under § 27383
of the Government Code

FIRST AMENDMENT TO SITE LEASE

between

CITY OF COSTA MESA

and

COSTA MESA PUBLIC FINANCING AUTHORITY

Dated as of January 1, 2007

Relating to the

\$ _____
CITY OF COSTA MESA
2007 CERTIFICATES OF PARTICIPATION
(POLICE FACILITY EXPANSION PROJECT)

FIRST AMENDMENT TO SITE LEASE

This First Amendment to Site Lease (the "First Amendment to Site Lease") is made and entered into as of January 1, 2007, by and between the CITY OF COSTA MESA, a municipal corporation and general law city duly organized and existing under the Constitution and laws of the State, as lessor (the "City"), and the COSTA MESA PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State, as lessee (the "Authority"), and amends, in part, that certain Site Lease between the City, as lessor, and the Authority, as lessee, dated as of October 1, 2003 and recorded in the official records of the County of Orange (the "County") on October 14, 2003 as Document No. 2003001257023 (the "Site Lease").

W I T N E S S E T H :

WHEREAS, the City has entered into the Site Lease with the Authority for the purpose of leasing to the Authority, as lessee thereunder, the real property (including all existing improvements thereon) described in Exhibit A thereto; and

WHEREAS, the City and the Authority desire to enter into this First Amendment to Site Lease in order to facilitate the execution and delivery of those certain \$_____ City of Costa Mesa 2007 Certificates of Participation (Police Facility Expansion Project) (the "2007 Certificates") to facilitate the construction, modernization, rehabilitation and equipping of certain police facilities owned by the City (the "Project"); and

WHEREAS, the 2007 Certificates are being executed and delivered as Additional Certificates under that certain Amended and Restated Trust Agreement, dated as of January 1, 2007 (the "Trust Agreement"), by and among The Bank of New York Trust Company, N.A., as Trustee (the "Trustee"), the Authority and the City, which amends and restates in its entirety the Trust Agreement, dated as of October 1, 2003, by and among the City, the Authority and the Trustee, pursuant to which the Trustee executed and delivered the \$14,340,000 City of Costa Mesa Refunding Certificates of Participation (Public Facilities Project), Series 2003 (the "2003 Certificates"); and

WHEREAS, pursuant to Section 18 of the Site Lease the City and the Authority reserved the right to amend the Site Lease; and

WHEREAS, pursuant to Section 18 of the Site Lease and Section 8.3 of the Lease/Purchase Agreement, dated as of October 1, 2003 (the "Lease"), by and between the City, as lessee, and the Authority, as lessor, and recorded in the official records of the County on October 14, 2003 as Document No. 2003001257022, the City and the Authority reserved the right to amend the Site Lease and the Lease in connection with the execution and delivery of Additional Certificates; and

WHEREAS, the parties hereto have agreed to amend the Site Lease as described herein, which amendments do not adversely affect the interests of the Owners of the 2003 Certificates, the 2007 Certificates or any Additional Certificates;

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

SECTION 1. Definitions. Unless the context otherwise requires, the capitalized terms herein which are not defined herein shall have the meanings referenced in the Site Lease.

SECTION 2. Amendment of Section 3. The first sentence of Section 3 of the Site Lease is amended by deleting the words “October 31, 2018” and inserting in their place the words “October 1, 20__.”

SECTION 3. Additional Rental. Section 4 of the Site Lease is amended, in part, by adding a sentence thereto stating as follows: “The Authority, and any assignee or successor in interest of the Authority under this Site Lease, shall pay to the City as an additional rental payment hereunder an amount equal to the net proceeds of the 2007 Certificates and any Additional Certificates deposited with the Trustee.”

SECTION 4. Quiet Enjoyment. Section 9 of the Site Lease is hereby deleted and amended and restated in its entirety as follows:

“Section 9. Quiet Enjoyment. The Authority at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Property; provided, however, that the City shall have the right to demolish some or all of the existing improvements on the Property in order to complete the Project or to replace or renovate some of the existing improvements with new improvements of equivalent or greater value.”

SECTION 5. References to Trust Agreement. From and after the date of the execution and delivery of the 2007 Certificates, all references in the Site Lease to “Trust Agreement” shall refer to the Amended and Restated Trust Agreement as further amended from time to time.

SECTION 6. No Other Amendments. Except as expressly set forth in Section 2 through 4 above, all other provisions of the Site Lease remain in full force and effect.

SECTION 7. Counterparts. This First Amendment to Site Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this First Amendment to Site Lease to be executed by their duly authorized officers on the date and year first above written.

CITY OF COSTA MESA, as Lessor

By: _____
City Manager

ATTEST:

Finance Director

COSTA MESA PUBLIC FINANCING AUTHORITY,
as Lessee

By: _____
Executive Director

ATTEST:

Treasurer

CONSENTED TO BY:

THE BANK OF NEW YORK TRUST COMPANY, N.A.,
as successor-in-interest to BNY Western Trust Company,
as Trustee and Assignee

By: _____
Authorized Officer

CONSENTED TO BY:

MBIA INSURANCE CORPORATION, as
Insurer

By: _____
Authorized Officer

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed under the foregoing to the Costa Mesa Public Financing Authority (the "Authority"), a body corporate and politic, is hereby accepted by the undersigned officer or agent on behalf of the Board of the Authority (the "Board"), pursuant to authority conferred by resolution of the said Board adopted on _____, 2006, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2006

**COSTA MESA PUBLIC FINANCING
AUTHORITY**

By: _____
Its: Executive Director

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On _____, 2006 before me, _____, Notary
Public, personally appeared _____, personally known to me (or proved
to me on the basis of satisfactory evidence) to be the person(s) whose names(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE) ss

On _____, 2006 before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

EXHIBIT A

DESCRIPTION OF PROPERTY