

*Stradling Yocca Carlson & Rauth*  
*Draft dated November 22, 2006*

**RECORDING REQUESTED BY:**  
City of Costa Mesa

**WHEN RECORDED MAIL TO:**  
Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Attn: E. Kurt Yeager

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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 ASSIGNMENT AGREEMENT**

between

COSTA MESA PUBLIC FINANCING AUTHORITY

and

THE BANK OF NEW YORK TRUST COMPANY, N.A.,  
as successor trustee to  
BNY WESTERN TRUST COMPANY,  
as Trustee

Dated as of January 1, 2007

Relating to the

\$ \_\_\_\_\_

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

## **FIRST AMENDMENT TO ASSIGNMENT AGREEMENT**

This First Amendment to Assignment Agreement, dated as of January 1, 2007 (the "First Amendment to Assignment Agreement"), is made and entered into by and between the Costa Mesa Public Financing Authority, a joint powers authority duly organized and existing under the laws of the State of California (the "Authority"), as assignor, and The Bank of New York Trust Company, N.A., a national banking association organized and existing under the laws of the United States, as successor-in-interest to BNY Western Trust Company, as trustee (the "Trustee"), as assignee, and amends that certain Assignment Agreement between the Authority and the Trustee, 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. 2003001257024 (the "Assignment Agreement");

### W I T N E S S E T H :

WHEREAS, the Authority and the City of Costa Mesa (the "City") have entered into a certain Site Lease, dated as of October 1, 2003, recorded on October 14, 2003 in the official records of the County as Document No. 2003001257023, as amended by that certain First Amendment to Site Lease dated as of January 1, 2007, as recorded concurrently herewith (collectively, the "Site Lease"), whereby the City has leased to the Authority certain real property, including the improvements thereon other than the Project, described in Exhibit A to First Amendment to Site Lease and in Exhibit A hereto (the "Property"); and

WHEREAS, the Authority and the City have entered into a certain Lease/Purchase Agreement, dated as of October 1, 2003, recorded on October 14, 2003 in the official records of the County as Document No. 2003001257022, as amended by that certain First Amendment to Lease/Purchase Agreement dated as of January 1, 2007 and recorded concurrently herewith (collectively, the "Lease"), whereby the Authority has leased to the City, and the City has leased from the Authority, the Property (as defined therein); and

WHEREAS, the Authority has assigned absolutely, without recourse, all of its rights to receive the Lease Payments scheduled to be paid by the City under and pursuant to the Lease to the Trustee and certain of its other rights, title and interest under the Lease, pursuant to the Assignment Agreement; and

WHEREAS, the Authority has assigned absolutely, without recourse, all of its rights to, under and pursuant to the Site Lease to the Trustee, pursuant to the Assignment Agreement; and

WHEREAS, the Authority and the Trustee desire to enter into this First Amendment to Assignment Agreement in order to facilitate the execution and delivery of those certain \$\_\_\_\_\_ City of Costa Mesa 2007 Certificates of Participation (Policy Facility Expansion Project) (the "2007 Certificates"); 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 Trustee, the Authority and the City; and

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 used herein shall have the meanings specified in the Lease and the Trust Agreement.

**SECTION 2. Execution and Delivery of 2007 Certificates.** From and after the date of the execution and delivery of the 2007 Certificates, the 2007 Certificates shall constitute Additional Certificates subject to the provisions of the Assignment Agreement, and all references in the Assignment Agreement to the "Trust Agreement" shall refer to the Amended and Restated Trust Agreement as further amended from time to time.

**SECTION 3. No Other Amendments.** Except as expressly set forth in Section 2 above, all other provisions of the Assignment Agreement remain in full force and effect.

**SECTION 4. Counterparts.** This First Amendment to Assignment Agreement 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 executed this First Amendment to Assignment Agreement by their officers thereunto duly authorized as of the day and year first written above.

COSTA MESA PUBLIC FINANCING  
AUTHORITY, as Lessor

By: \_\_\_\_\_  
Its: Executive Director

ATTEST:

\_\_\_\_\_  
Treasurer

THE BANK OF NEW YORK TRUST COMPANY,  
N.A., as successor-in-interest to BNY WESTERN  
TRUST COMPANY, as Trustee

By: \_\_\_\_\_  
Authorized Officer

CONSENT

The City of Costa Mesa hereby consents to the foregoing.

CITY OF COSTA MESA, as Lessee

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
Finance Director

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

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**  
**LEGAL DESCRIPTION OF PROPERTY**