

BOARD of SUPERVISORS



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MEMORANDUM

BUDGET AND FINANCE COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Cohen, Chair
Budget and Finance Committee

FROM: Linda Wong, Committee Clerk

DATE: February 13, 2017

SUBJECT: **COMMITTEE REPORT**

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, February 14, 2017. This item was acted upon at the Budget and Finance Committee Meeting on Thursday, February 9, 2017, at 10:00 a.m., by the vote indicated.

Item No. 27 File 170065

[Funding Application - Board of State and Community Corrections - Renovation of County Jail No. 2 - \$70,000,000 of State Funding - \$12,000,000 of Additional City Funding]

Resolution authorizing the Sheriff's Department to submit a funding application to the Board of State and Community Corrections pursuant to California State Senate Bill 844 (2016) for \$70,000,000 for a proposed project to renovate County Jail No. 2; outlining the matching cash contribution of \$8,200,000 and additional funds of \$3,800,000 for a total of \$12,000,000 needed for the proposed project; and conditionally approving the form and execution of associated financing and construction documents.

AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE by the following vote:

Vote: Supervisor Cohen - Aye
Supervisor Yee - Aye
Supervisor Tang - Aye

**RECOMMENDED AS AMENDED AS A COMMITTEE REPORT by the following
vote:**

Vote: Supervisor Cohen - Aye
Supervisor Yee - Aye
Supervisor Tang - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director

File No. 170065

Committee Item No. 5

Board Item No. 27

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date February 9, 2017

Board of Supervisors Meeting

Date February 14, 2017

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong Date February 3, 2017
Completed by: Linda Wong Date February 13, 2017

AMENDED IN COMMITTEE

2/9/17

FILE NO.170065

RESOLUTION NO.

1 [Funding Application - Board of State and Community Corrections - Renovation of County Jail
2 No. 2 - \$70,000,000 of State Funding - \$12,000,000 of Additional City Funding]

3
4 **Resolution authorizing the Sheriff's Department to submit a funding application to the**
5 **Board of State and Community Corrections pursuant to California State Senate Bill 844**
6 **(2016) for \$70,000,000 for a proposed project to renovate County Jail No. 2; outlining**
7 **the matching cash contribution of \$8,200,000 and additional funds of \$3,800,000 for a**
8 **total of \$12,000,000 needed for the proposed project; and conditionally approving the**
9 **form and execution of associated financing and construction documents.**

10
11 WHEREAS, Under Senate Bill 844, Chapter 34, Statutes of 2016 ("SB 844"), the State
12 of California authorized the California State Public Works Board ("SPWB") to issue up to
13 \$270,000,000 in lease revenue bonds, notes, or bond anticipation notes to finance the
14 acquisition, design, renovation, and construction of approved adult local criminal justice
15 facilities; and

16 WHEREAS, On December 30, 2016, the Board of State and Community Corrections
17 ("BSCC") issued a Request for Proposals for Construction of Adult Local Criminal Justice
18 Facilities ("SB 844 RFP"), a copy of which is on file with the Clerk of the Board of Supervisors
19 in File No. 170065, and is incorporated herein by reference; and

20 WHEREAS, In 1992, the City and County of San Francisco ("County") developed
21 Seismic Hazard Ratings for over 200 of its public buildings on a scale from one to four, with
22 four representing the most seismically deficient, and County's Hall of Justice building at 850
23 Bryant Street ("HOJ") is a seismically deficient building that received a rating of three; and

24 WHEREAS, County Jail No. 3 and County Jail No. 4 are located in the HOJ and have a
25 combined total of 905 (826 rated) bed facilities; and

1 WHEREAS, If the HOJ sustains significant damage due to a major seismic event, the
2 estimated cost to relocate and transport inmates housed in County Jail No. 3 and County Jail
3 No. 4 is estimated to be tens of millions of dollars, and replacing County Jail No. 3 and County
4 Jail No. 4 has been a high priority of the County's Ten-Year Capital Plan since its inception in
5 2006; and

6 WHEREAS, If County Jail No. 2, which is located at 425 Seventh Street, is renovated
7 to house higher security classifications, it could house some prisoners who otherwise need to
8 be housed in County Jail No. 3 or County Jail No. 4; and

9 WHEREAS, Renovating County Jail No. 2 to house higher security classifications (the
10 "Proposed Renovation Project") is currently estimated to cost \$82,000,000; and

11 WHEREAS, The County is qualified to receive up to \$70,000,000 of SB 844 funds for
12 the Proposed Renovation Project, which would substantially offset its cost; and

13 WHEREAS, The County would need to apply for the SB 844 funds by submitting a
14 Proposal Form in substantially the form on file with the Clerk of the Board of Supervisors in
15 File No. 170065 ("Proposal Form"), which is incorporated herein by reference; and

16 WHEREAS, If County receives the SB 844 funds, it would need to provide a matching
17 County contribution of \$8,200,000 ("County's Cash Contribution") and fund the additional
18 \$3,800,000 ("Additional Contribution") needed to fully fund the Proposed Renovation Project;
19 and

20 WHEREAS, If the County receives a conditional intent to award SB 844 financing and
21 elects to perform the Proposed Renovation Project, County staff will cause the issuance of not
22 more than \$12,000,000 of commercial paper to fund on an interim basis the remainder of the
23 County's Cash Contribution and the Additional Contribution to this Board of Supervisors for
24 consideration, such commercial paper to be refunded with cash or the issuance of the
25 County's long-term bonds; and

1 WHEREAS, The submitted application for SB 844 financing must include a resolution
2 that is adopted by this Board of Supervisors and authorizes an adequate amount of available
3 funds for County's Cash Contribution; and

4 WHEREAS, The submitted application for SB 844 financing must include a resolution
5 that is adopted by this Board of Supervisors and authorizes the execution of a Project Delivery
6 and Construction Agreement, a Jail Construction Agreement, and a Right of Entry for
7 Construction and Operation (collectively, "Construction Documents"), and a Ground Lease,
8 Site Lease, Facility Lease, and a Facility Sublease (collectively, the "Financing Documents"),
9 which are substantially the forms on file with the Clerk of the Board of Supervisors in File No.
10 170065, and the Construction Documents and the Financing Documents are hereby declared
11 to be a part of this resolution as if set forth fully herein; and

12 WHEREAS, The Planning Department determined the Proposed Renovation Project is
13 categorically exempt from the California Environmental Quality Act, California Public
14 Resources Code Sections 21000 et seq., and issued a CEQA Categorical Exemption
15 Determination with respect to such determination, which is on file with the Clerk of the Board
16 of Supervisors in File No. 170065 and is incorporated herein by reference, and the Board
17 adopts such determination as its own; now therefore be it

18 RESOLVED, The County is authorized to submit an application for \$70,000,000 of SB
19 844 funds in response to the SB 844 RFP; and, be it

20 FURTHER RESOLVED, The County Sheriff is authorized to execute and submit the
21 Proposal Form to the BSCC; and, be it

22 FURTHER RESOLVED, The County will be authorized to proceed with the Proposed
23 Renovation Project if County is awarded, and this Board of Supervisors accepts and
24 appropriates, the SB 844 financing for the Proposed Renovation Project and this Board of
25

1 Supervisors approves the contract for the design of the Proposed Renovation Project, if such
2 contract is for more than \$10,000,000 (the "Acceptance Conditions"); and, be it


3 FURTHER RESOLVED, This Board of Supervisors does hereby approve the form of
4 the Construction Documents and the Financing Documents, as may be modified by mutual
5 agreement of County and BSCC to allow County Jail No. 2 to be encumbered with the
6 Financing Documents for the SB 844 funds awarded for the Proposed Renovation Project and
7 the financing documents related to the issuance of County's General Fund certificates of
8 participation for the Proposed Renovation Project if necessary; and, be it

9 FURTHER RESOLVED, If the Acceptance Conditions are fully satisfied, the
10 Controller's Director of Public Finance is hereby authorized and directed to cause the
11 issuance of not more than \$12,000,000 of County's commercial paper to fund on an interim
12 basis costs for the Proposed Renovation Project, such commercial paper to be refinanced on
13 a long term basis from available County funds or certificates of participation or other forms of
14 indebtedness, the security documents of which shall be submitted to this Board of Supervisors
15 for its consideration and approval; and, be it

16 FURTHER RESOLVED, If the Acceptance Conditions are fully satisfied, the following
17 persons (collectively, the "Authorized Officers"), will be authorized to execute the Construction
18 Documents and the Financing Documents as specified below for and in the name of the
19 County at such time and in such manner as is required for the awarded SB 844 financing,
20 modified as may be necessary for a design-build project, with such additions thereto and
21 changes therein as are required by the BSCC or the SPWB to effectuate the financing
22 program for the SB 844 financing, if the applicable Authorized Officers, determine, in
23 consultation with the County's City Attorney, such changes are in the best interest of the
24 County, do not materially increase the obligations or liabilities of the County, are necessary or
25 advisable to effectuate the purposes of the Construction Documents, the Financing

1 Documents or this resolution, and are in compliance with all applicable laws, including the
2 County's Charter, and approval of such changes shall be conclusively evidenced by the
3 execution and delivery thereof by the applicable Authorized Officers, with (i) County's Director
4 of Property or his or her designee, acting alone, authorized to sign the Financing Documents,
5 (ii) County's Director of Property or his or her designee, authorized to sign the Right of Entry
6 for Construction and Operation and the Facilities Sublease on behalf of the County, (iii)
7 County's Controller or his or her designee, County's Sheriff or his or her designee, and the
8 Director of San Francisco Public Works or his or her designee, acting together, authorized to
9 sign the BSCC Jail Construction Agreement, and (iv) County's Controller or his or her
10 designee, and County's Sheriff or his or her designee, acting together and with the
11 recommendation of the Director of San Francisco Public Works or his or her designee,
12 authorized to sign the Project Delivery and Construction Agreement.
13
14
15

16 RECOMMENDED BY:

17 
18 _____
19 Vicki L. Hennessy, Sheriff
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25

<p>Item 5 File 17-0065</p>	<p>Departments: San Francisco Public Works Controller's Office of Public Finance Sheriff's Department</p>
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EXECUTIVE SUMMARY

Legislative Objectives

The proposed resolution would: 1) authorize the Sheriff's Department to submit a funding application to the Board of State and Community Corrections (BSCC) for \$70,000,000 to partially fund the renovation of County Jail No. 2; 2) outline the matching cash contribution of \$8,200,000 and additional funds of \$3,800,000 for a total of \$12,000,000 needed for the proposed project; and 3) approve the form and execution of associated financing and construction documents.

Approval of the proposed resolution authorizes 1) Public Works and the Sheriff's Department to precede with the proposed renovation of County Jail No. 2; and 2) the Office of Public Finance to issue up to \$12,000,000 in commercial paper.

Key Points

- County Jail Nos. 3 and 4 are seismically deficient, outdated, and slated for closure.
- In November 2015, the City received a conditional intent to award \$80 million of funds from the BSCC and the State Public Works Board to partially fund the construction of a replacement jail, but in December 2015, the Board of Supervisors rejected the proposal.
- During 2016, the Director of Health and the Sheriff convened a working group to develop alternatives to jail replacement, such as renovation of County Jail No. 2 to accommodate a portion of the inmates that would be displaced by the closure.
- The Phase 1 scope for the renovation would include upgrades to limited areas of County Jail No. 2 for a not-to-exceed budget of \$82 million.

Fiscal Impact

- Upon grant award, the Office of Public Finance will issue commercial paper as interim financing.
- Use of \$70,000,000 in grant proceeds and \$12,000,000 in COPs proceeds, totaling \$82,000,000 to fund the proposed renovation of County Jail No. 2, are subject to future Board of Supervisors appropriation approval.
- The Office of Public Finance estimates a 6.5 percent fixed interest rate for the COPs, resulting in approximately \$12,159,929 in interest payments over a 20-year term. The principal amount of \$14,990,000, plus the estimated interest payments of \$12,159,929 would result in \$27,149,929 in total debt service payments.

Policy Consideration

- Although there is a downward trend in the average daily inmate population, the proposed project would not accommodate the low-end forecasted need of 120 replacement jail beds.

Recommendations

- Amend the proposed resolution to correctly state on page 2, lines 20 to 23, that the proposed resolution authorizes the issuance of \$12,000,000 in commercial paper as interim project funding
- Amend the proposed resolution to state that BSCC grant proceeds of \$70,000,000 are subject to future Board of Supervisors appropriation approval.
- Approval of the proposed resolution is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Administrative Code Section 10.170(b) states that, for grants of \$5,000,000 or more, the department head shall submit a resolution articulating the grant application to the Board of Supervisors at least 60 days prior to the grant deadline for review and approval. Should the department fail to submit the resolution and/or supporting documents prior to the 60-day deadline, all funds received through the grant application shall be placed on reserve at the Board of Supervisors.

BACKGROUND

The City's Capital Planning Committee has determined that County Jail Nos. 3 and 4, located in the Hall of Justice (HOJ) at 850 Bryant Street, are seismically deficient and outdated. Replacing County Jail Nos. 3 and 4 has been a high priority in the City's Ten-Year Capital Plan since 2006.

In November 2015, the City received a conditional intent to award \$80 million of funds from the Board of State and Community Corrections (BSCC) and the State Public Works Board to partially fund the construction of a new jail to replace County Jail Nos. 3 and 4. The jail replacement project was estimated to cost approximately \$240 million. In December 2015, the Board of Supervisors rejected the proposal to replace County Jail Nos. 3 and 4 with a new facility adjacent to the HOJ.

In January 2016, the Board of Supervisors urged the Director of Health and the Sheriff to convene a working group to plan for the closure of County Jail Nos. 3 and 4, and corresponding investments in new mental health facilities and retrofits to other existing jails (Resolution No. 2-16). The working group met monthly from March through October 2016 and developed a set of recommendations, which included renovation of County Jail No. 2, located at 425 7th Street adjacent to the HOJ, to accommodate a portion of the incarcerated people that would be displaced by the closure of County Jail No. 4 (County Jail No. 3 is not currently in use). County Jails Nos. 3 and 4 have a combined total of 905 beds.¹ County Jail No. 2 has 466 beds and would need to be renovated to accommodate inmates who need to be housed in a facility with higher-security classifications.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

- Authorize the Sheriff's Department to submit a funding application to the Board of State and Community Corrections (BSCC) for \$70,000,000 to partially fund the renovation of County Jail No. 2;
- Outline the matching cash contribution of \$8,200,000 and additional funds of \$3,800,000 for a total of \$12,000,000 needed for the proposed project; and

¹ The Sheriff's Department has 2,515 beds in five county jails. Permanent closure of the 905 beds in County Jail Nos. 3 and 4 will reduce the total number of beds to 1,610, a reduction of 36 percent. Of the existing 2,515 beds, only 2,438 are deemed useable.

- Approve the form and execution of associated financing and construction documents.

Approval of the proposed resolution authorizes:

- San Francisco Public Works and the Sheriff's Department to proceed with the proposed renovation of County Jail No. 2;
- The Office of Public Finance to issue up to \$12,000,000 in commercial paper²; and
- San Francisco officials to execute construction and financing documents for the project.

Matching Funds

The BSCC funds of \$70,000,000 require a City match of \$8,200,000, and an additional \$3,800,000 is needed for the proposed renovation project. Commercial paper will be used for the \$12,000,000 in matching and other funds.

The Office of Public Finance expects to issue up to \$14,990,000 in Certificates of Participation (COPs) in FY 2019-20 to refinance the \$12,000,000 in commercial paper, costs of COPs issuance, and debt service reserve for the proposed renovation project.

Project Description

The City has identified a selective scope for a not-to-exceed budget of \$82 million to address some of the most pressing needs of the Sheriff's Department at County Jail No. 2 (Phase 1). According to the Sheriff's Department, full renovation to bring the building up to current code and detention grade is estimated to cost over \$200 million. The Phase 1 scope would improve and upgrade limited areas of County Jail No. 2, as follows:

- Replace existing commercial interiors with detention-grade elements in Pods A and D
- Perform selective alterations and structural strengthening to ensure code compliance
- Infill one atrium to provide inmate program and visiting space
- Rebuild existing non-operational kitchen
- Replace HVAC system and perform related roof repairs

Possible enhancements to the scope of Phase 1, if there is capacity in the fixed budget of \$82 million, include:

- Improvements to safety and isolations cells in Pod C and safety cells in County Jail No. 1
- Install suicide barriers in Pods B, E, and F
- Upgrade security systems in conformance with the Prison Rape Elimination Act
- Infill a second atrium to provide inmate program and visiting space

² Commercial paper is a form of interim financing for capital projects that permits the City to pay project costs as project expenditures are incurred. The City's \$250,000,000 Commercial Paper program was previously authorized by the Board of Supervisors. As of February 2017, the outstanding principal amount of commercial paper notes available to be issued is \$211,500,000.

Project Timeline

If the City is awarded the BSCC grant, the San Francisco Public Works expects to issue a Request for Qualifications (RFQ) for design services for jail renovations in August 2017 and award the contract by December 2017. San Francisco Public Works intends to issue an RFQ for construction management services in September 2017 and award the contract by January 2018, and issue an RFQ for a general contractor in January 2019 and award the contract by February 2020, as shown in Table 1 below.

Table 1: Proposed Timeline for RFQ Issuance and Contract Awards

Task	Issue RFQ	Award Contract
Design Services	August 2017	December 2017
Construction Management	September 2017	January 2018
General Contractor	January 2019	February 2020

Construction is expected to begin in mid-2020 and be completed by the end of 2021.

FISCAL IMPACT

The budget for Phase 1 of the County Jail No. 2 renovation project is \$82,000,000 as shown in Table 2 below.

Table 2: Sources and Uses of Funds for the Jail Replacement Project

	Total Budget
Sources of Funds	
BSCC Funds	\$70,000,000
COPs Proceeds (Includes repayment of prior appropriations) – See Table 3	12,000,000
Total Sources	\$82,000,000
Uses of Funds	
<i>Construction</i>	
Construction Contract Award (Estimated Bid)	\$38,300,000
Market Conditions Contingency (5%)	1,915,000
Current Code/Standards Compliance	5,227,950
Construction Contingency (15%)	6,032,250
Unknown Existing Conditions Contingency (10%)	4,021,500
Phased Construction Premium (13%)	5,026,875
Subtotal Construction (rounded)	\$65,300,000
<i>Project Control</i>	
Client Department Services	\$653,000
San Francisco Public Works Project Management	3,265,000
City Administrative Services	326,500
Regulatory Agency Approvals	1,306,000
Architecture/Engineering Services	6,530,000
Environmental Services	65,300
Construction Management Services	2,612,000
Commissioning Services	979,500
Geotech, Haz Mat, Surveys & Data	359,150
Project Control Contingency (1%)	653,000
Subtotal Project Control (rounded)	\$16,700,000
Total Uses	\$82,000,000

Sources: San Francisco Public Works, Office of Public Finance

\$70,000,000 in grant proceeds and \$12,000,000 in COPs proceeds, totaling \$82,000,000, are subject to future Board of Supervisors appropriation approval.

Certificates of Participation

If the City receives a conditional intent to award financing from the BSCC for the proposed renovation project, City staff will submit legislation to the Board of Supervisors to authorize the issuance of \$12,000,000 in COPs, as shown in Table 3 below.

Table 3: Certificates of Participation Uses

Project Costs	
Jail Renovation Costs	\$12,000,000
Controller's Audit Fund (0.2%)	24,000
<hr/>	
Subtotal Project Costs	\$12,024,000
Costs of Issuance	
Reserve/Capitalized Interest	\$893,154
Debt Service Reserve	1,366,025
Underwriter's Discount	104,930
Other Costs of Issuance	601,891
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Subtotal Costs of Issuance	\$2,966,000
<hr/>	
Total Project and Issuance Costs	\$14,990,000
Reserve for Market Uncertainty	\$1,010,000
<hr/>	
Total Required Appropriation	\$16,000,000

As noted above, if the City receives the grant award, the Office of Public Finance will issue commercial paper notes as interim financing. The commercial paper notes are to be reimbursed by the COPs proceeds, subject to appropriation approval from the Board of Supervisors.

Principal and Interest on the COPs

The Office of Public Finance estimates a 6.5 percent fixed interest rate for the COPs, resulting in approximately \$12,159,929 in interest payments over the 20-year term. The principal amount of \$14,990,000, as shown in Table 3 above, plus the estimated interest payments of \$12,159,929 would result in \$27,149,929 in total debt service payments over the life of the COPs, as shown in Table 4 below.

Table 4: Total Debt Service Payments, Certificates of Participation

COP Payment Type	Amount
Par Amount	\$14,990,000
Estimated Interest Payments	12,159,929
<hr/>	
Total	\$27,149,929

The Office of Public Finance estimates annual average debt service payments of \$1,357,496 and maximum annual debt service payment of \$1,366,025 over approximately 20 years.

The City's Debt Service Limit

The City's financial policies, previously approved by the Board of Supervisors, limit the City's annual General Fund-supported debt service to 3.25 percent of discretionary General Fund revenues. According to Mr. Vishal Trivedi, Office of Public Finance Senior Financial Analyst,

issuance of \$12,000,000 in COPs to partially fund the renovation of County Jail No. 2, is projected to be within this 3.25 percent limit.

POLICY CONSIDERATION

Number of Replacement Beds Needed

The proposed renovation project at County Jail No. 2 would retrofit existing beds to a higher-security classification and generate up to eight new jail beds to accommodate some of the inmate population that will be displaced by the closure of County Jail No. 4.

According to the Controller's most recent jail population forecast published in June 2015, the average daily population in 2014 was the lowest it has been since 1982. The Controller's report forecast a need for between 120 and 393 beds to replace County Jail Nos. 3 and 4. This forecast assumes that the existing County Jail No. 6, which is a minimum security dormitory-style jail, and which is currently closed, would not be reopened.³ Although there is a continued downward trend in the average daily inmate population in the County Jails, the proposed renovation project would not accommodate the low end of the forecast range of 120 replacement jail beds.

60-Day Notice for Grant Applications

For grant applications of \$5,000,000 or more, City Administrative Code Section 10.170(b) requires submittal of a resolution to the Board of Supervisors at least 60 days prior to the grant deadline for review and approval. If not submitted prior to the 60-day deadline, all funds received through the grant application shall be placed on reserve at the Board of Supervisors. The proposed resolution was submitted to the Clerk of the Board on January 23, 2017, which is less than 60 days prior to the grant proposal deadline of February 28, 2017. Therefore, the Budget and Legislative Analyst recommends that the proposed resolution be amended to state that BSCC grant proceeds of \$70,000,000 are subject to future Board of Supervisors appropriation approval.

RECOMMENDATIONS

1. Amend the proposed resolution to correctly state on page 2, lines 20 to 23, that the proposed resolution authorizes the issuance of \$12,000,000 in commercial paper as interim project funding.
2. Amend the proposed resolution to state that BSCC grant proceeds of \$70,000,000 are subject to future Board of Supervisors appropriation approval.
3. Approval of the proposed resolution as amended is a policy matter for the Board of Supervisors.

³ The Controller's June 2015 report identified limitations to re-opening County Jail No. 6, including the Sheriff's Department's transportation costs between San Mateo County where the jail is located and the City, lack of public transit to the jail, lack of access to in-custody programs, and lack of appropriate space for mental health and other services.



SENATE BILL 844, ADULT LOCAL CRIMINAL JUSTICE FACILITIES CONSTRUCTION FINANCING PROGRAM PROPOSAL FORM

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SECTION 1: PROJECT INFORMATION

A. APPLICANT INFORMATION AND PROPOSAL TYPE				
COUNTY NAME San Francisco		STATE FINANCING REQUESTED \$ 70,000,000		
SMALL COUNTY (Below 200,000 GENERAL COUNTY POPULATION) <input type="checkbox"/>	MEDIUM COUNTY (200,000 - 700,000 GENERAL COUNTY POPULATION) <input type="checkbox"/>	LARGE COUNTY (700,001 + GENERAL COUNTY POPULATION) <input checked="" type="checkbox"/>		
TYPE OF PROPOSAL – INDIVIDUAL COUNTY FACILITY /REGIONAL FACILITY PLEASE CHECK ONE (ONLY):				
INDIVIDUAL COUNTY FACILITY <input checked="" type="checkbox"/>		REGIONAL FACILITY <input type="checkbox"/>		
B: BRIEF PROJECT DESCRIPTION				
FACILITY NAME 425 7 th Street Facilities (County Jail #2)				
PROJECT DESCRIPTION Renovation of current County Jail #2. Improvements will be made to inmate housing that maximizes facility safety, security and expands inmate programming and treatment services.				
STREET ADDRESS 425 Seventh Street				
CITY San Francisco		STATE CA	ZIP CODE 94013	
C. SCOPE OF WORK – INDICATE FACILITY TYPE AND CHECK ALL BOXES THAT APPLY.				
FACILITY TYPE (II, III or IV) II	<input type="checkbox"/> NEW STAND-ALONE FACILITY	<input checked="" type="checkbox"/> RENOVATION/ REMODELING	<input type="checkbox"/> CONSTRUCTING BEDS OR OTHER SPACE AT EXISTING FACILITY	
D. BEDS CONSTRUCTED – Provide the number of BSCC-rated beds and non-rated special use beds that will be subject to construction as a result of the project, <u>whether remodel/renovation or new construction.</u>				
	A. MINIMUM SECURITY BEDS	B. MEDIUM SECURITY BEDS	C. MAXIMUM SECURITY BEDS	D. SPECIAL USE BEDS
Number of beds constructed, remodeled	0	0	48	8
	E. BEDS REMOVED/ DECOMMISSIONED		F. NET BEDS AFTER COMPLETED PROJECT	
TOTAL BEDS (A+B+C+D)	56		0	
			400	

E. APPLICANT'S AGREEMENT			
By signing this application, the authorized person assures that: a) the County will abide by the laws, regulations, policies, and procedures governing this financing program; and, b) certifies that the information contained in this proposal form, budget, narrative, and attachments is true and correct to the best of his/her knowledge.			
PERSON AUTHORIZED TO SIGN AGREEMENT			
NAME Vicki Hennessy		TITLE Sheriff	
AUTHORIZED PERSON'S SIGNATURE		DATE	
F. DESIGNATED COUNTY CONSTRUCTION ADMINISTRATOR			
This person shall be responsible to oversee construction and administer the state/county agreements. (Must be county staff, not a consultant or contractor, and must be identified in the Board of Supervisors' resolution.)			
COUNTY CONSTRUCTION ADMINISTRATOR			
NAME Jumoke Akin-Taylor		TITLE Project Manager	
DEPARTMENT San Francisco Public Works		TELEPHONE NUMBER (415) 557-4751	
STREET ADDRESS 30 Van Ness Street, Suite 4100			
CITY San Francisco	STATE CA	ZIP CODE 94102	E-MAIL ADDRESS jumoke.akin-taylor@sfdpw.org
G. DESIGNATED PROJECT FINANCIAL OFFICER			
This person is responsible for all financial and accounting project related activities. (Must be county staff, not a consultant or contractor, and must be identified in the Board of Supervisors' resolution.)			
PROJECT FINANCIAL OFFICER			
NAME Crispin Hollings		TITLE Chief Financial Officer	
DEPARTMENT Sheriff's Department		TELEPHONE NUMBER (415) 554-4316	
STREET ADDRESS 1 Dr. Carlton B. Goodlett Pl; City Hall, Rm. 456			
CITY San Francisco	STATE CA	ZIP CODE 94102	E-MAIL ADDRESS crispin.hollings@sfgov.org
H. DESIGNATED PROJECT CONTACT PERSON			
This person is responsible for project coordination and day-to-day liaison work with the BSCC. (Must be county staff, not a consultant or contractor, and must be identified in the Board of Supervisors' resolution.)			
PROJECT CONTACT PERSON			
NAME Jumoke Akin-Taylor		TITLE Project Manager	
DEPARTMENT San Francisco Public Works		TELEPHONE NUMBER (415) 557-4751	
STREET ADDRESS 30 Van Ness Street, Suite 4100			
CITY San Francisco	STATE CA	ZIP CODE 94102	E-MAIL ADDRESS jumoke.akin-taylor@sfdpw.org



**Senate Bill 844
Adult Local Criminal Justice
Facilities Construction**

REQUEST FOR PROPOSALS

APPLICATION PACKET

Released December 30, 2016

Eligible Applicants:

California Sheriffs' Departments

Proposals due by February 28, 2017 at 5:00 PM

BOARD OF STATE AND COMMUNITY CORRECTIONS

2590 Venture Oaks Way Suite 200 ♦ SACRAMENTO CA 95833

Phone: 916.445.5073 ♦ Fax: 916.327.3317 ♦ www.bscc.ca.gov

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**BOARD OF STATE AND COMMUNITY CORRECTIONS
13-MEMBER BOARD**

Chair, Board of State and Community Corrections **Linda M. Penner**

Secretary, Department of Corrections and Rehabilitation **Scott Kernan**

Director, Division of Adult Parole Operations **Guillermo Viera Rosa**
Department of Corrections and Rehabilitation

County Sheriff in charge of a local detention facility **Dean Growdon**
which has a jail rated capacity of 200 or less inmates Lassen County

County Sheriff in charge of a local detention facility **Geoff Dean**
which has a jail rated capacity of over 200 inmates Ventura County

County Supervisor or County Administrative Officer **Leticia Perez**
Kern County

Chief Probation Officer **Michelle Brown**
from a county with a population over 200,000 San Bernardino County

Chief Probation Officer **Michael Ertola**
from a county with a population under 200,000 Nevada County

Judge **Ramona J. Garrett**
Solano County (retired)

Chief of Police **David Bejarano**
City of Chula Vista Department

Community provider of rehabilitative treatment or services **Scott Budnick**
for adult offenders Anti-Recidivism Coalition

Community provider or advocate with expertise in effective **David Steinhart**
programs, policies, and treatment of Commonweal – Juvenile Justice Program At-Risk
Youth and Juvenile Offenders

Public Member **Francine Tournour**
Office of Public Safety Accountability-City of Sacramento

**EXECUTIVE STEERING COMMITTEE MEMBERS
SENATE BILL 844, CONSTRUCTION OF
ADULT LOCAL CRIMINAL JUSTICE FACILITIES**

- Chair**..... **Geoff Dean**
Board Member, Board of State and Community Corrections
Sheriff, Ventura County
- Commander (retired) Santa Clara County Sheriff..... **Toby Wong**
- Chief Probation Officer (retired), Alameda County..... **LaDonna Harris**
Captain, Riverside County Sheriff..... **Misha Benjamin**
- Supervisor, Sutter County..... **Dan Flores**
- Chief Administrative Officer, Colusa County..... **Wendy Tyler**
Mental Health, Fresno County..... **Caroline Ahlstrom**
- Jail Nurse Manager, Solano County **Tom Norris**
- Community Based Organization, Santa Cruz County **Karen Delaney**
- Capital Improvement Project Manager, Butte County..... **Barbara Norman**

The BSCC Board appointed a chair and approved to convene the identified ESC to develop recommendations on elements of the Request for Proposal and proposal evaluation criteria; review and rate proposals; and make conditional award recommendations to the BSCC Board. The ESC's role is advisory to the BSCC Board, which makes all policy and conditional award decisions. A letter of Intent to award conditional financing will be sent to each of the selected counties. Projects that are given a conditional award will be required to be certified by the BSCC, comply with the state's capital outlay process as overseen by the Department of Finance (DOF) and State Public Works Board (SPWB), including obtaining and maintaining final approval of financing eligibility (ability to participate in the sale of lease-revenue bonds in connection with the project) as determined by the DOF for the SPWB. The timeline and process may be changed at any time by the BSCC Board. Counties will be notified if changes or modifications occur. In order to maintain objectivity and impartiality, members of the ESC and the BSCC Board request that applicants do not contact them about proposals at any time during this process. A county may not apply if a member of the Board of Supervisors or county sheriff's department is on the ESC.

PURPOSE AND CONTACT INFORMATION

This Request for Proposals (RFP) provides the information necessary to prepare a proposal to the Board of State and Community Corrections (BSCC) for a conditional award as authorized by Senate Bill (SB) 844 for the construction of adult local criminal justice facilities (ALCJF). This legislation provides up to \$250 million in state lease-revenue bond financing authority for the acquisition, design and construction of adult local criminal justice facilities in California.

Prior to developing and submitting a proposal, applicants should carefully review the entire RFP application package. Applicants are encouraged to access the BSCC website (<http://www.bscc.ca.gov>) for information related to Frequently Asked Questions, standards, and construction issues.

BSCC staff cannot assist applicants with the actual preparation of the proposal. Any questions concerning the RFP, the proposal process, or programmatic issues must be submitted in writing, fax 916.327.3317, or email to:

Lindsay Tu, Associate Capital Outlay Analyst
lindsay.tu@bscc.ca.gov

John Prince, Deputy Director (A)
john.prince2@bscc.ca.gov

Facilities Construction Division
2590 Venture Oaks Way Suite 200
Sacramento, CA 95833

BSCC staff will be assigned to county projects when the rank ordered list is approved by the BSCC board.

PROPOSAL DUE DATE

Submit 1 original paper version of the proposal with the "wet signature", plus 1 electronic, read-only copy in Adobe Acrobat file (pdf). Please provide one (1) "redacted" copy of the proposal and needs assessment in Adobe file. Counties should redact information that, if disclosed, would compromise the safety and security of jail operations. (See 73 Ops. Cal. Atty. Gen 236.)

The proposal must be received by the BSCC's County Facilities Construction (CFC) Program by **5:00 p.m., February 28, 2017, at:**

Board of State and Community Corrections
County Facilities Construction Program
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Attn: John Prince, Deputy Director (A)

Proposals received after 5:00 p.m., February 28, 2017, will be deemed ineligible and will not be considered.

The electronic copy may also be submitted via compact disk, flash drive or email to ConstructionProgram@bscc.ca.gov. (After the technical review is complete, the county must provide 12 additional copies of the technically- reviewed proposal.)

TIMELINE OF KEY EVENTS

Activity	Tentative Timeline
Present ESC agenda item to Board	September 22, 2016
ESC meetings for Regulations and RFP development	October 20 - November 10, 2016
Regulations presented to Board for approval to move forward for adoption and release the RFP to public	November 17, 2016
Bidder's Conference(s)	January 25, 2017
RFP responses due to the BSCC	February 28, 2017
BSCC technical review/ESC rater training	February 28- March 14, 2017
Scoring process and funding recommendations by ESC	May 17, 2017
Present funding recommendations to Board	June 2017

BIDDERS' CONFERENCE

BIDDERS' CONFERENCE SENATE BILL 844 CONSTRUCTION OF ADULT LOCAL CRIMINAL JUSTICE FACILITIES

January 25, 2017
9:30 am – 12:30 pm
BOARD OF STATE AND COMMUNITY CORRECTIONS
2590 VENTURE OAKS WAY, SUITE 200
SACRAMENTO, CA 95833 – OR OTHER LOCATION AS NOTIFIED

A Senate Bill (SB) 844 Bidders' Conference will be held at the Board of State and Community Corrections **January 25, 2017 from 9:30 am – 12:30 pm**. The intent of the bidders' conference is to provide counties and other interested parties with the opportunity to ask questions regarding the RFP and receive clarification on the RFP process. Attendance is optional. Following the conference, questions and answers from the session will be posted on the BSCC website.

Pre-registration for the conference is required. Please register for the conference by contacting BSCC staff via email at: ConstructionProgram@bscc.ca.gov.

Please reference SB844 Bidders' Conference in the subject line, and in your e-mail, please include the following information:

- county name
- number of persons attending
- name of county contact person and title
- mailing address
- city, state, and zip code
- telephone and fax numbers
- e-mail address

Indicate any specific questions you have about information in the RFP or other questions about the RFP process. Your questions will be used to assist BSCC staff in preparing for the Bidder's Conference.

For general questions concerning the Bidders' Conference, contact Lindsay Tu at (916) 324-1959. Information may also be found at www.bscc.ca.gov

BACKGROUND INFORMATION

On June 27, 2016, Senate Bill (SB) 844 (Chapter 34, Statutes of 2016) became law, authorizing state lease-revenue bond financing for the acquisition, design and construction of ALCJFs. **Up to \$270,000,000 in financing is conditionally available setting aside \$20,000,000 for a conditional award to Napa County.** This RFP is intended to solicit proposals to establish a rank-ordered list of projects, and to conditionally allocate this financing to projects for the design and construction, including expansion or renovation of criminal justice facilities.

In the findings and directions of SB 844, the Legislation stated: California's current challenges in managing jail populations follow decades of overcrowded and aging jails, and piecemeal, erratic, and incomplete responses to dealing with these problems. Reversing course will require sustainable solutions that must include sound planning and implementation, and must be grounded in the principle that jail resources must be well planned and employed efficiently and effectively to prevent overcrowding and promote public safety through the broader use of evidence based practices and policies in the criminal justice system. California needs a long-term, statewide strategy to effectively manage its jail population and jail resources. Without an ongoing analytical framework for taking into account factors such as population growth, criminogenic needs of the current and future jail populations, crime rates, custodial housing needs, and additional changes to realignment or sentencing laws and practices, California will continue to resort to reactive, fragmentary fixes to its jail condition and capacity problems instead of being fully prepared to develop an effective and sustainable system of local custodial facilities. The county adult criminal justice system needs improved housing with an emphasis on expanding program and treatment space to manage the adult offender population under its jurisdiction. Improved county adult criminal justice housing with an emphasis on expanding program and treatment space will enhance public safety throughout the state by providing increased access to appropriate programs and treatment. By improving adult criminal justice housing with an emphasis on expanding program and treatment space, this financing will serve a critical purpose by promoting public safety. (Gov. Code, § 15820.943, subds. (a) - (e))

SB 844 authorizes state lease revenue bond financing for the acquisition, design and construction of ALCJFs. As part of this construction financing program, the State Public Works Board (SPWB), California Department of Corrections and Rehabilitation (CDCR), and the BSCC are authorized to enter into agreements with participating counties to acquire, design, renovate, or construct ALCJFs.

The Senate Bill 844 adult local criminal justice facility financing is not a grant program; lease revenue bonds are issued for the construction of facilities and cannot be used to finance "programs" per se or operating costs. A county's receipt of a conditional award for financing, as described here, does not guarantee the awarded county will receive any reimbursement or that the state will obtain interim financing, or that bonds will be issued. The conditional award is merely an expression that the county is qualified, at the point in time, to move forward in the process.

STATE LEASE REVENUE BOND FINANCING

Lease Revenue Bond Financing

ALCJF financing will be administered by the DOF and SPWB in connection with the issuance of lease-revenue bonds. This financing mechanism requires the SPWB to hold property rights, on behalf of the State of California, the ALCJF that is acquired, designed, renovated, and/or constructed with lease revenue bonds, subject to the bonds being sold and paid off (approximately 25-35 years). The SPWB will lease the ALCJF to the BSCC or CDCR, which will in turn sublease the ALCJF to the participating county for its use and operation in the care, custody, and rehabilitation of local adult offenders during the period of bond indebtedness. Once the bonds are paid in full, the participating county will own the ALCJF.

Counties that receive notice of a conditional award are responsible for the site acquisition, environmental determinations/mitigation measures, design, construction, staffing, operation, repair, and ongoing maintenance of the facility in accordance with applicable laws, regulations, and any terms and conditions in the financing and BSCC/participating county agreements. Some, but not all, of these costs may be included as part of a county's local match requirement (see Budget Consideration section). Counties are obligated to successfully complete the acquisition, design, renovation, or construction project (e.g., proposed scope, including the number of beds to be added, if applicable) within agreed upon timelines, build to code and standards, and remain within budget. Counties are also responsible to safely staff and operate the facility within 90 days after construction completion (Gov. Code, §15820.945, subd. (c)(4)). Counties must acquire, design, renovate, or construct the ALCJF in conformance with operational, fire and life safety, and physical plant standards in Titles 15 and 24 of the California Code of Regulations. Counties must also complete the ALCJF in compliance with the state's capital outlay process including the oversight of finance and the SPWB.

It is anticipated that counties selected for financing through this RFP process will be issued a conditional intent to award by the BSCC at the June 2017 Board meeting. These awards are "conditional" in that they are predicated, at a minimum, on the requirements that: 1) each county's project be approved by the BSCC, DOF and the SPWB at various stages throughout planning, design, and construction, as defined in this RFP; 2) each selected county enters into the state/county agreements as required; and 3) lease revenue bonds are sold for each selected project. The lease revenue bonds provide the necessary long-term financing mechanism to repay all state debt in interim financing for the selected ALCJF projects. Participating counties are not responsible to the state for debt service or rent payments in connection with the lease revenue bonds.

Accurate project scope, cost, and schedule estimates must be prepared before a county responds to the RFP. After receiving a conditional award notification, successful applicant counties must translate the proposal into formal architectural plans and specifications that are submitted to, and approved by, the SPWB, DOF and BSCC (see the State Public Works Board/Board of State and Community Corrections Processes and Requirements section). Counties that proceed with architectural plans and specifications prior to SPWB establishment of their project's scope, costs, and schedule do so at their own financial risk. In addition, counties that proceed with working drawings prior to obtaining SPWB and DOF approval of preliminary plans cannot obtain reimbursement for any preliminary plans

expenditures. In short, **counties cannot obtain reimbursement for funds expended prior to SPWB establishment of their project scope, cost, and schedule.**

For planning purposes, please note counties cannot proceed with advertising their projects for construction, contract bids or solicit design-build proposals until after obtaining DOF approval to proceed to bid. In addition, counties cannot award a construction or design-build contract until after obtaining DOF approval to award the contract. Additionally, each project must achieve construction completion and be available for use and occupancy within thirty-six (36) months from the start of construction.

The BSCC will not increase financing amounts after a conditional award notification, or approve a reduction in the proposed and accepted scope of work, if counties receive higher than expected construction bids. Counties are solely responsible for the payment of higher than anticipated project costs.

ELIGIBLE PROJECTS

As defined in SB 844, \$270 million dollars is available in lease revenue bond financing with \$20,000,000 set aside for Napa County, to acquire, design, renovate, or construct ALCJFs. An ALCJF must be consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code, under the jurisdiction of the sheriff or county department of corrections and may include:

1. Improved housing with an emphasis on expanding program and treatment space as necessary to manage the adult offender population.
2. Custodial housing, reentry, program, mental health or treatment space necessary to manage the adult offender population.

(Gov. Code, § 15820.94)

A reentry facility may include: construction of a secure and/or non-secure facility that may include housing, programming or other treatment space to facilitate a continuum of care for offenders under the jurisdiction of the Sheriff or County Department of Corrections. All facilities must comply with the requirements of Titles 15 and 24, of the California Code of Regulations and shall be a Type II, III or IV facility.

The BSCC shall determine the funding and scoring criteria consistent with requirements in SB 844 Chapter 34. A county must meet the following criteria to qualify to compete for the SB 844 financing:

1. Any locked facility constructed or renovated with state funding awarded under this program shall include space to provide onsite, in-person visitation capable of meeting or surpassing the minimum number of weekly visits required by state regulations for persons detained in the facility. (Gov. Code, § 15820.946, subd. (f).)
2. Any county applying for financing authority under this program shall include a description of efforts to address sexual abuse in its adult local criminal justice facility constructed or renovated. (Gov. Code, § 15820.946, subd. (g).)
3. Financing shall be awarded only to those counties that have previously received only a partial award or have never received an award from the state within the financing programs authorized in Chapters 3.11 (commencing with Section 15820.90), to 3.131 (commencing with Section 15820.93), inclusive.

As a mandatory criterion, counties are required to submit documentation of the percentage of pretrial inmates in the county jail from January 1, 2015 to December 31, 2015, inclusive, and a description of the county's current risk-assessment- based pretrial release program. (Gov. Code, § 15820.942, subd. (b).)

Funding preference shall be given to counties that are most prepared to proceed successfully with this financing in a timely manner, which includes a Board of Supervisors Resolution and documentation of California Environment Quality Act (CEQA)

compliance.(Gov. Code, § 15820.946, subd. (b)(1) & (2)). See "Proposed Project and Evaluation Factors" section on page 14 of this RFP.

Funding consideration shall be given to counties that are seeking to replace compacted, outdated, or unsafe housing capacity that will also add treatment space or are seeking to renovate existing or build new facilities that provide adequate space for the provision of treatment and rehabilitative services, including mental health treatment. (Gov. Code, §15820.946, subd. (c).)

Proposed projects may include replacing existing housing capacity, realizing only a minimal increase in capacity, using this financing authority, if the requesting county clearly documents an existing housing capacity deficiency. (Gov. Code, § 15820.946 subd. (d).)

A participating county with a request resulting in any increase in capacity using this financing authority shall be required to certify and covenant in writing that the county is not and will not be leasing housing capacity to any other public or private entity for a period of 10 years beyond the completion date of the adult local criminal justice facility (Gov. Code, § 15820.946, subd. (e).)

It's important to recognize that SB 844 authorizes state funded lease revenue bond financing for the acquisition, design, renovation, or construction of county adult local criminal justice facilities for offenders under the jurisdiction of the sheriff or county department of corrections.

Any reference to "beds" means BSCC-rated beds that are dedicated to housing offenders in a local detention facility's single and double occupancy cells/rooms or dormitories. Beds can also include special use beds for medical, mental health and disciplinary purposes. All beds must be planned and designed in conformance with the standards and requirements contained in Titles 15 and 24 of the California Code of Regulations.

Renovation projects or new construction proposed through SB 844that are physically attached to an existing facility, requires that the scope of the proposed project include all work necessary for the existing facility to meet current fire and life safety standards, and meet or exceed a seismic level 3 performance standard (State Administrative Manual-FEMA section 301). These improvements may qualify as necessary renovation. This, together with all other aspects of each awarded project will be carefully reviewed and considered throughout the state capital outlay process.

Compliance with Titles 15 and 24, California Code of Regulations

Housing, programming and treatment space must be planned and designed in conformance with the standards and requirements contained in Titles 15 and 24, of the California Code of Regulations. The BSCC will adhere to its duly adopted regulations for the approval or disapproval of proposed ALCJFs, (Gov. Code, §15820.945, subd. (a)) court and temporary holding facilities may not be constructed under state bond financing. (Proposed Cal. Code Regs., tit. 15, § 1712.4, subd. (c)(1).)

In addition, counties must ensure that the construction plans for any eligible project include all necessary ancillary space to enable the facility to comply with operational, fire and life safety, and physical plant standards as contained in Titles 15 and 24, (e.g., dayrooms, education classrooms, dining, space for showers, recreation, medical exam, visiting, attorney visitation, mental health conferences). Ancillary space financed, in whole or in part,

through state lease revenue bonds and/or county matching funds must be reasonable and necessary for facility operations, including administrative support and rehabilitative program space.

Limit on Number of Projects/Set Asides

The state intends to provide conditional awards to as many meritorious projects as possible not to exceed the total \$250 million dollars in bond financing authorized. **Each county is restricted to submitting one project proposal for one designated facility project** (with the exception of one additional regional project proposal). Further, the county project proposal submitted is limited to one site location. Multiple site locations are considered multiple projects for the purpose of this program.

Regional Project Proposal- Regional Projects shall include only those counties that have previously received only a partial award or have never received an award from the state within the financing programs authorized in Chapters 3.11 (commencing with Section 15820.90), to 3.131 (commencing with Section 15820.93), inclusive.

Counties that submit a proposal for a project in their county may also participate in one regional project proposal. If a county submits more than one proposal (e.g., individual county project and lead county for a regional project), the county will be required to construct both of the projects if awarded, and to do so within both project timeline requirements referenced in this RFP. The county shall identify a distinct parcel of land for each project if the county is submitting an individual and regional proposal. Additionally, counties must be able to justify the need for both projects as required by this RFP.

Counties desiring to construct a regional ALCJF for the purpose of housing adult local offenders from multiple counties must submit one single proposal from the lead county in which the project is being constructed. The proposal must include a county Board of Supervisors' resolution from the lead county authorizing the construction and operation of the joint project with partner counties and a copy of the Memorandum of Understanding (MOU) or Joint Power Authority (JPA) between and among all of the partner counties. The MOU or JPA must clearly identify the terms, conditions, rights, responsibilities, and financial obligations of all parties in sufficient detail to demonstrate that the regional facility will provide dedicated housing to adult local offenders from all partner counties.

For regional/multi-county proposals, applicants must attach their MOUs. All partners in the regional application must provide a board resolution. To be considered as a regional facility for the purposes of this financing program, the MOU or JPA must justify need for the facility which is not based on the use of vacant beds on a per diem, space-available basis.

For regional projects, partnering counties must enter into an MOU or JPA. The state will consider the lead county to be the operator of the site/facility and that county will be the designated recipient of state financing with the obligation to complete the project.

Counties that are parties to a regional project will also be subject to all state lease revenue bond financing requirements, including but not limited to state contracts and leases pursuant to the lease-revenue bond process administered by the SPWB. The lead county may enter into agreements, as it deems appropriate, to ensure that its regional partners contribute cash in an amount necessary to meet its match requirements of this program, as provided in the MOU or JPA. The failure of any partner county to provide cash to the

lead county does not relieve the lead county from its construction and match performance obligations under any state agreements.

The SB 844 ESC found that the regional facility concept is not intended for counties choosing to: 1) overbuild their current needs (beyond 2019); and/or 2) lease beds or other facility space to other entities for financial gain.

Set Asides

To ensure that large, medium, and small counties each have the opportunity to share in the available financing (see following population chart), the disbursement schedule for the available \$250 million has been set as follows:

- up to \$70 million has been set aside for one large county- one (1) full award;
- up to \$30 million has been set aside for one medium county -one (1) full award;
- up to \$150 million has been set aside for small counties - six (6) full awards.

The maximum amount that can be requested for a project proposal by one county in each county category is:

- \$70 million for proposals in large counties,
- \$30 million for proposals in medium-sized counties
- \$25 million for proposals in small counties.

For the purpose of regional proposed projects, the size of the lead county determines the maximum amount of funds that can be requested for the entire project. If the lead county is in the small county category, the lead county may request up to an additional 10% of the maximum amount (i.e., \$27.5 million total) as an incentive to build a regional facility. Any use of beds outside of the proposed project must be approved by the SPWB.

Counties eligible to participate is the SB 844 financing opportunity as shown below.

Eligibility is subject to change based on a county's acceptance of a full award under prior adult facility construction programs.

Population Chart		
Large Counties (pop. 700,001 +)	Medium Counties (pop. 200,001-700,000)	Small Counties (pop. below 200,000)
<p>Contra Costa San Francisco San Joaquin San Mateo</p>	<p>Marin Placer</p>	<p>Alpine Del Norte El Dorado Glenn Inyo Lassen Mariposa Mendocino Modoc Mono Nevada Plumas Sierra Tehama Lake</p>
<p><i>Department of Finance, Population Estimates, May 2016</i> http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/view.php</p>		

TECHNICAL REQUIREMENTS REVIEW

The proposal must be made and formatted using the Senate Bill 844 Adult Local Criminal Justice Facility Construction Financing Program Proposal Form, including attachments, complete with signature on page 2 section E. of the Proposal Form from a designated county official, along with the proposal narrative to be attached as described in Section 5 of the instructions to the Proposal Form. For a checklist of the submittal requirements, please see page 16 of the instructions to the Proposal Form.

Project proposals must be received at the BSCC offices, 2590 Venture Oaks Way, Suite 200 Sacramento, CA 95833 **no later than 5:00 PM on February 28, 2017**. Late proposals will not be considered. For counties dropping off the project proposal application at the BSCC office, a time-stamped copy of the first page of the proposal will be provided as a receipt.

All proposals received under this program will be: 1) reviewed by BSCC staff for technical compliance with BSCC proposal submittal requirements (with opportunity given to counties to correct technical compliance deficiencies before proposals are sent to the ESC for review); 2) reviewed and rated by the ESC; and, 3) ranked by the ESC with award recommendations provided to the BSCC Board. The BSCC Board may accept, reject, or change any ESC recommendations before making conditional awards to counties.

BSCC staff will conduct a **technical review of the project proposals**. Staff is unable to provide advice or judgment as to the merit of draft proposals or how proposals will be evaluated or ranked by reviewers.

BSCC staff's review of the technical compliance requirements will include verifying the following:

- Certification by the county of control of the ALCJF site (either fee simple ownership or comparable long-term possession of the site)
- Project eligibility (identified county has not received a prior full award for a adult facility, includes in person visitation and a description of the county's sexual abuse efforts)
- Project timetable (including staffing and occupancy within 90 days of construction or renovation completion)
- State financing requested is within set-aside limits
- State financing requested does not exceed 90 percent of total eligible project costs (unless proposal indicates a match reduction petition for counties with a general population below 200,000))
- Minimum match percentage requirements are met
- Cost and budget summaries and net gain or loss in bed computations (if applicable) are free of mathematical errors
- Line item budget description table is filled out.

- Proposal Form is in original format, signed on page 2 section E., and each section is addressed as applicable
- Arial font size (12), number of narrative pages, including budget summary narrative (35 pages (not including Budget Summary Table)), margins (one inch), and spacing (double) format is consistent with requirements
- Board of Supervisors' resolution contains necessary components, including the authorization of matching funds (see page 14 of the proposal form)
- A needs assessment (through 2019) study is submitted with the proposal, if required.
 - A needs assessment is not required if a proposed facility will have less than 25 new beds
 - If a county previously submitted a needs assessment pursuant to the SB 863 competitive process (as described in Chapter 3.131 commencing with Section 15820.93 of the Government Code), the county may submit the prior needs assessment to satisfy this requirement. (Gov. Code, § 15820.945, subd. (c) (2).)
- For regional facilities, a Memorandum of Understanding (MOU) or Joint Powers Agreement (JPA) is submitted
- Documentation evidencing compliance with California Environmental Quality Act (CEQA) or status of CEQA certification, including a "Notice of Determination" or "Notice of Exemption", and letter from county counsel, as appropriate (see proposed project and evaluation section for further definition) is attached to the proposal
- One (1) additional attachment, maximum of four (4) pages, which only consists of schematics, graphs or charts

After the technical review is complete, the county must provide 12 additional copies of the technically- reviewed proposal no later than **5:00 pm March 10, 2017**.

PROPOSED PROJECT AND EVALUATION FACTORS

Counties that apply and participate in the competitive process must include in person visitation space and a description of efforts to address sexual abuse in its facilities as described below:

1. Any locked facility constructed or renovated with state funding awarded under this program shall include space to provide onsite, in-person visitation capable of meeting or surpassing the minimum number of weekly visits required by state regulations for persons detained in the facility. (Gov. Code, § 15820.946, subd. (f).)
2. Any county applying for financing authority under this program shall include a description of efforts to address sexual abuse in its adult local criminal justice facility constructed or renovated. (Gov. Code, § 15820.946, subd. (g).)

A Proposal will not be rated if it does not include the two components above.

The Proposal structure is designed to allow county applicants to demonstrate how their proposed project meets the need for ALCJFs as stated in SB 844, and how proposed expenditures of public funds meet the identified need and are justified. The presentation of information about the proposed project should allow both applicants and raters to make a step-by-step connection between the need addressed by the project and its associated budget request.

The raters will ask many questions about the proposed project as they evaluate, including but not limited to:

- What need is the project designed to meet?
- What construction work does the county propose is necessary to meet this need?
- How will offender programming and/or treatment be served in the proposed new or renovated facility?
- What is the county plan of action to accomplish the legal, design, and build steps required for this project?
- What is the total project cost, what are the funding sources, and how will the county allocate expenditures of these funds?
- Will the county be prepared to proceed with the project in a timely manner if financing is approved?

SB 844 describes the purpose for which ALCFJ construction financing is to be awarded. Additionally, the legislation states specific factors to be considered in assessing how well a proposal suits those purposes. In each section of the proposal, the rater (1) assesses how well the narrative addresses the general merit factors that apply to this section, and (2) assesses special factors mentioned in the SB 844 legislation as criteria for funding.

- a. General merit is assessed on a 13-point scale:
 - 0 Fails to meet minimum standards for financing
 - 1-3 Reaches minimum standards despite deficiencies

- 4-6 Generally adequate
- 7-9 Good
- 10-12 Excellent

- b. Special merit factors are scored from 0 to 4; depending on the factor, it may be scored on a 0-4 range, or as yes/no (0/4).

For an ALCJF construction project, county applicants must answer the following questions:

- 1. Statement of Need: What are the safety, efficiency, and offender programming and/or treatment needs addressed by this construction proposal? Please cite findings from the needs assessment (through 2019) submitted with this proposal.**

General Merit Factors

- A. To what extent does the need described in the proposal match the legislative intent of SB844?
 - B. Does the applicant provide a compelling case for the use of state financing to meet this need?
 - C. How well is the description of need supported by evidence provided by the applicant?
- 2. Scope of Work: Describe the areas, if any, of the current facility to be replaced or renovated, and the nature of the renovation, including the number of cells, offices, classrooms or other programming/treatment spaces to be replaced or added and the basic design of the new or renovated units.**

General Merit Factors:

- A. How will the planned replacement, renovation, or new construction meet the needs described in Question 1 (Statement of Need)?
- B. How well does the proposed project plan suit general operational requirements for the type of facility in the proposal, including factors such as safety, security and efficiency?
- C. Where applicable, how well does the proposed project meet specific needs for programming and treatment space?

Special Factors Funding Consideration (Gov. Code, § 15820.946, subd. (c)):

- A. Does the county plan for seeking to replace compacted, outdated, or unsafe housing capacity that will also add treatment space; or,
- B. Does the county plan for seeking to renovate existing or build new facilities that provide adequate space for the provision of treatment and rehabilitation services, including mental health treatment.

- 3. Programming and Services: Describe the programming and/or treatment services currently provided in your facility. Provide the requested data on pretrial inmates and risk-based pretrial release services. Describe the facilities or services to be added as a result of the proposed construction; the objectives of the facilities and services; and the staffing and changes in staffing required to provide the services.**

General Merit Factors:

- A. How clearly described are the facility's current programming and/or treatment services?
- B. If improvements to programming and/or treatment services are expected as a result of the planned construction project:
 - Are the improvements to programming and/or treatment services clearly described?
 - How strong is the evidence provided by the applicant that the programming and/or treatment services planned for inmates upon project completion will help reduce recidivism or meet inmates' health and treatment needs while incarcerated?
 - What are the applicant's current efforts and the plan to provide a post-release continuum of care? Describe the applicant's efforts to collaborate with community based partners in this effort.
- C. If improvements are designed to replace compacted, outdated, or unsafe housing capacity:
 - How are the program and treatment service needs of the facility population expected or planned to be met?
 - Are the improvements to housing deficiencies clearly described?
 - To what extent will the deficiencies be remedied by the proposed construction?
- D. How thoroughly does the staffing plan and lines of authority (including interagency partnerships, if relevant) in program and treatment management meet operational objectives?

Special Factors Mandatory Criterion (Gov. Code, § 15820.946, subd. (b)):

- A. The county provided documentation that states the percentage of its inmates on pretrial status between January 1, 2015 and December 31, 2015 in the narrative of question 3.
- B. Provided a description of the county risk-assessment-based pretrial release program in the narrative of question 3.

4. Administrative Work Plan: Describe the steps required to accomplish this project. Include a project schedule, list the division/offices including personnel that will be responsible for each phase of the project, and how it will be coordinated among responsible officials both internally and externally.

General Merit Factors:

- A. How clearly described are the elements of the work plan: timeline, assigned responsibilities, and coordination?
 - B. Can the scope of work described in Question 2 (Scope of Work) feasibly be accomplished within the time allotted?
- 5. Budget Narrative: Describe the amounts and types of funding proposed and why each element is required to carry out the proposed project. Describe how the county will meet its funding contribution (match) requirements for all project**

costs in excess of the amount of state financing requested and how operational costs (including programming costs) for the facility will be sustained.

General Merit Factors:

- A. Is the allocation of effort in the budget appropriately matched to the objectives described under project need, scope of work, offender treatment and programming, and administrative work plan?
- B. Are the budgeted costs an efficient use of state resources?
- C. Rate the applicant's plan for sustaining operational costs, including programming over the long term.

6. Readiness to Proceed (Gov. Code, § 15820.946, subds. (b)(1) & (2)) Funding Preference:

- A. Did the county provide a board resolution: 1) authorizing an adequate amount of available matching funds to satisfy the counties' contribution 2) approving the forms of the project documents deemed necessary, as identified by the board (SPWB) to the BSCC, to effectuate the financing authorized by the legislation, 3) authorizing the appropriate signatory or signatories to execute those documents at the appropriate times. The matching funds mentioned in the resolution shall be compatible with the state's lease revenue bond financing. See page 2 of the Proposal Form and Instructions for more information regarding "compatible funds".

Note: Finance and the SPWB will ultimately make the final determination of any fund sources compatibility with the SPWB's lease revenue bond financing. For regional/multi-county proposals, applicants must attach their MOUs. All partners in the regional application must provide a board resolution.

- B. Did the county provide documentation evidencing CEQA compliance has been completed? Documentation of CEQA compliance shall be either a final Notice of Determination or a final Notice of Exemption, as appropriate, and a letter from county counsel certifying the associated statute of limitations has expired and either no challenges were filed or identifying any challenges filed and explaining how they have been resolved in a manner that allows the project to proceed as proposed.

The evaluation factors to be used and the maximum points that will be allocated to each factor are shown in the table below.

EVALUATION FACTOR		Scoring Method	Percentage	Weighted Score
1.	Statement of Need	0-12	15%	18
2.	Scope of Work	0-12	15%	18
	SF A/B: Feasible plan to replace compacted housing/expand program/treatment space	0-4		4
3.	Programming and Services	0-12	25%	30
	SF A: Documents pretrial inmate percentage	0/4		4
	SF B: Describes risk assessment-based pretrial release process	0/4		4
4.	Administrative Work Plan	0-12	10%	12
5.	Budget Narrative	0-12	10%	12
6.	A. Readiness: Board Resolution	0/12	10%	12
	B. Readiness: CEQA Compliance	0/12	15%	18
TOTAL POINTS		96	100%	132

Notes:

SF Special Factor
0-12 Scored on a 0 to 12 pt. range
0-4 Scored on a 0 to 4 pt. range
0/4 Scored 4 if pass, 0 if fail
0/12 Scored 12 if pass, 0 if fail

ADDITIONAL INFORMATION

Program and Treatment Services Funding and Technical Assistance

The BSCC strongly supports the research that indicates supportive, rehabilitative services in a community-based setting promotes rehabilitation with great success; however, the SB 844 legislated financing program is limited to state lease-revenue bond financing for the acquisition, design, renovation, or construction of county ALCJFs in California. The BSCC also recognizes the importance of the sheriff partnering with the community to enhance services that are provided to offenders while under the sheriff's jurisdiction or county department of corrections.

It may be helpful for applicants who are particularly interested in additional funding and/or technical assistance focused on a continuum of services for treatment and programs to explore funding streams administered by the BSCC's Corrections Planning and Programs (CPP) division. CPP's focus includes development and administration of programs related to services to integrate offenders back into the community and programs to reduce recidivism. CPP's responsibilities are comprised of the following:

- ensure the fair, prudent, and efficient distribution of state and federal funds
- prevent and reduce crime by encouraging use of evidence-based practices
- engage in collaborative planning, ongoing research, and information-sharing
- provide training and other technical assistance to facilitate grant compliance
- local adult and juvenile detention facility construction financing

For more information please visit the BSCC [CPP Website](#).

"Green" Building

"Green" Building is encouraged. However, no additional points shall be awarded for "green" building. Sustainable or "green" building is the practice of designing, constructing, operating, maintaining, and removing buildings in ways that conserve natural resources and reduce their overall impact on the environment. For more information on green building, visit the [BSCC website](#), as well as consider the information provided by the following sources:

[California's Integrated Waste Management Board](#)

[U.S. Green Building Council](#)

[Green California DGS](#)

[American Institute of Architects](#)

Needs Assessment Study/Letter of Intent

If a county intends to construct a new ALCJF or add beds (25 beds or more) to an existing facility, one copy of a needs assessment study, containing all elements listed in Section 13-102(c)(2) of Title 24 of the California Code of Regulations must be submitted concurrently with the funding Proposal Form and proposal narrative.

The needs assessment study must reflect current needs and needs through 2019 but can be an update of a previous needs assessment study. However, a county shall not be required to complete a new needs assessment if the county previously submitted a needs assessment as part of a response to the SB 863 RFP as part of a request under the financing described in Chapter 3.131 (commencing with section 15820.93) (i.e., Senate Bill 863 (Chapter 37, Statutes of 2014)).(Gov. Code, § 15820.945, subd. (c)(2).)

If a county previously submitted a needs assessment pursuant to the SB 863 competitive process (as described in Chapter 3.131 commencing with Section 15820.93 of the Government Code), the county may submit the prior needs assessment to satisfy this requirement. (Gov. Code, § 15820.945, subd. (c) (2).)

Except as provided above, proposals submitted without a needs assessment study will be rejected.

Projects for renovation or program space only do not require a separate needs assessment study; however, a comprehensive documentation of need must be provided in the proposal narrative (see Section 5 of the Proposal Form).

Proposals submitted to the BSCC will suffice as a Letter of Intent to build, expand, or remodel a facility as required by Section 13-102(c)(1) of Title 24 of the California Code of Regulations.

Site Assurance for Adult Local Criminal Justice Facility

Counties must possess a suitable project site (fee simple land title or comparable long term possession, adequately documented through a recorded lease) and provide assurance by a Board of Supervisors' resolution at the time a proposal is submitted, or no later than 90 days following the date of notification by the BSCC of the conditional Intent to Award financing (expected to be made at the June 2017 BSCC Board meeting). This means that any land purchase options must be exercised (and escrow closed) within 90 days following the notification of conditional Intent to Award. County land subject to this project must meet the approval of the SPWB.

If land is used for an in-kind match, the current fair market value must be supported by an independent appraisal of (on-site land value only) of new facility construction, or on-site land value of a closed facility that will be renovated and reopened, and/or on-site land used for expansion of an existing facility. "On-site" refers to only the land upon which the improvements in the proposed project will be located which can be used as in-kind match. Land value cannot be claimed for land that is under an existing operational local jail facility. Multiple appraisals may be required during the course of a project and the county is responsible for any and all appraisals and/or land valuation fees and services.

Real Estate Due Diligence

The state will conduct its own real estate due diligence review of a county's proposed project site. This includes, but is not limited to, all work related to establishing site ownership and clean title (i.e., without liens, encumbrances, easements, etc.); appraisal review, ground/soil analysis, topography, hydrography, environmental impacts and other identified site-related issues. This review will confirm that the county's property interest in the site is sufficient to support the states lease revenue bond financing and that no exceptions or limitations (either recorded or unrecorded) exist that would interfere with the state's right to beneficial use and occupancy of the facility so long as the bonds are outstanding. Any necessary costs incurred by the state for appropriate title and appraisal reviews will be charged to and paid by the county. The state will collect any costs through a Department of General Service's Customer Requests: Upgraded Information Sharing Environment (CRUISE) request from the county.

Environmental Requirements

For purposes of this financing, the county is the lead or responsible agency for ensuring that the project complies with the California Environmental Quality Act (CEQA) (Division 13 commencing with Section 21000 of the Public Resources Code). (Gov. Code, § 15820.940, subd. (f).)

CEQA shall be filed with both the Governor's Office of Planning and Research, State Clearinghouse and the County Clerk.

Commitment to Staff and Operate the Facility

Consistent with Government Code section 15820.945, subdivision (c) (4), counties must commit to staffing, including program and treatment staff, and operating the facility in accordance with state standards, within 90 days of construction or renovation completion. The county must operate the facility continuously until the lease revenue bonds repayment period is expired.

State Fire Marshal (SFM)

State Fire Marshal Review

Penal Code section 15820.945 requires the submission of architectural drawings to the State Fire Marshal for compliance with fire safety and life safety requirements. Counties are responsible for the payment of all fees charged by the State Fire Marshal for this compliance review. These fees may be used as part of the county cash contribution (match), but must be captured in the county cash contribution (match) within the Budget Summary Table in the Proposal Form (see State Agency Fees line item).

It is recommended that between .05% and 1% of the total project cost be budgeted for State Fire Marshal fees. Fees are charged at an hourly rate (currently \$213.72/hr.) and may exceed the budgeted amount. Counties remain responsible for all fees charged in excess of the budgeted amount. The number of hours required for review will vary depending on the quality of submitted documents and the complexity of the project plans and specifications.

Please note: The State Fire Marshal will not issue the Certificate of Occupancy until all State Fire Marshal fees are paid in full.

County State Fire Marshal Payment Account Establishment

Prior to the submittal of any documents for review by the State Fire Marshal, the county shall be required to create an account with the State Fire Marshal for the payment of all State Fire Marshal fees.

CONTACT:

Office of the State Fire Marshal
1131 S Street
Sacramento, CA 95811
(916) 324-2493

BUDGET CONSIDERATIONS

Total Project Costs

The total project costs include all costs specifically attributable to activities directly necessary to complete the acquisition, design and construction of the ALCJF project, including all costs directly necessary to satisfy the requirements of this financing program. Eligible project costs consist of items identified in this RFP that may be reimbursed through state financing, county matching funds and those costs that are directly related to the proposed scope of work, as detailed below. All necessary ancillary, administrative and program facility space may be included; spaces shall be sized to state minimum standards. (Cal. Code. Regs., tit. 24, §§ 1231*et seq.*) These costs are defined as the total project costs for purposes of this financing program. Items not identified as eligible, known to be ineligible, or that are outside the proposed scope of work cannot be claimed for state dollar reimbursement or as county matching funds.

Each proposal submitted must include the total project costs, detailed within the appropriate cost categories: state reimbursement, county cash contribution and county in-kind contribution. All amounts for the types of costs identified as eligible for state reimbursement, as well as for county cash contribution, must be reported as total project costs in the Budget Summary Table within the Proposal Form.

Spaces shall be sized to state standards (Title 24) and all reasonable and necessary ancillary and administrative facility space may be included. If a county is not reporting land value as part of its in-kind contribution, a land appraisal is not needed for purposes of this financing program.

Eligible Costs for State Reimbursement

State financing can be used for design and construction activities that occur after the SPWB has established (by DOF and SPWB) the project's scope, cost, schedule, and the BSCC has approved the project's final architectural plans and specifications. Project costs eligible for this state financing are:

1. Costs for the design and construction of the BSCC-approved ALCJF project, incurred after establishment of the project by the Board, including site preparation, fixed equipment and fixed furnishings, installation of fixed equipment and fixed furnishings necessary for the operation of the facility.
2. Costs for real estate due diligence review, preparation of full or focused environmental reports necessary for compliance with CEQA by consultants or contractors.
3. Moveable equipment, and moveable furnishings necessary for the activation and operation of the facility.

Costs attributed to these reimbursable costs must be identified on the funding Proposal Form. Reimbursable costs cannot exceed ninety percent (90%) of the total project costs or the county's award amount. Costs in excess of 90%, including higher than expected construction bids, unanticipated costs, and cost overruns, shall be funded by the county.

Ineligible Costs

Project items or costs not eligible for state reimbursement shall include but are not limited to, the following:

1. Temporary holding or court holding facilities.
2. Local jail facilities or portions thereof operated by jurisdictions other than counties. City, state and federal facilities are not eligible for SB 844 financing.
3. Purchase, lease, or rent of land; personnel or operational costs; excavation of burial sites; public art; off-site costs (outside of the encumbered project area) including access roads, power generation and utilities development; supplies; bonus payments; and debt service or interest payments on indebtedness required to finance the county's share of project costs.

County Matching Funds/ County Contributions

Counties with a general population of 200,000 and above shall provide a minimum of ten percent (10%) of the total project costs in matching funds. Upon petition to the BSCC, counties with a general population below 200,000 may request to reduce the required match to an amount not less than the total non-state reimbursable project costs as provided in proposed subdivision (a)(1) & (2) of Section 1714.4 of Title 15 of the California Code of Regulations. Counties with a population below 200,000 intending to request BSCC Board approval of a reduction of in-kind match must indicate this on the funding Proposal Form, which shall be considered as the petition to reduce contribution requirements as allowed by Government Code section 15820.946, subdivision (a).

Cash (Hard) Match: As provided in proposed subdivision (b) of Section 1714.4 of Title 15 of the California Code of Regulations, cash match must be identified in the proposal and must be a minimum of 10 percent of the total project cost. Cash match cannot be used to replace funds otherwise dedicated or appropriated by counties for construction activities. Cash match cannot be claimed for salaries/benefits of regular employees of the county workforce, but may be claimed for the services of consultants or contractors engaged to perform project-related services as described below. Eligible cash match expenditures only include the following costs:

1. Items eligible for state financing;
2. Project and construction management by consultants or contractors, prior to the establishment of the project by the Board;
3. Architectural programming and design by consultants or contractors, prior to the establishment of the project by the Board;
4. Preparation of full or focused environmental reports necessary for compliance with CEQA by consultants or contractors, prior to the establishment of the project by the Board;

5. Off-site costs (outside of the encumbered project area), including access roads, power generation and utilities development, outside of a reasonable buffer zone surrounding the perimeter of the project facility building and parking lot;
6. Public art;
7. Real estate due diligence review costs, prior to the establishment of the project by the Board;
8. State Fire Marshal fees as billed to the county by the state;
9. Costs for appraisals and/or land valuation fees and services by consultants or contractors, prior to the establishment of the project by the Board;
10. Audit of state interim or permanent financing at the conclusion of the project by a contracted auditor;
11. Needs assessments performed by consultants or contractors;
12. Transition planning performed by consultants or contractors after June 27, 2016.

In-Kind (Soft) Match: As provided in proposed subdivision (c) of Section 1714.4 of the California Code of Regulations, in-kind match must be identified in the proposal. In-kind match may be kept at allowable maximum of 10percent or reduced for each dollar that cash match is increased beyond the required minimum (see Cash Match section above). In-kind match may be claimed for project-related costs for activities performed by regular employees of the county directly for the SB 844 project.

Expenditures eligible as in-kind match for Adult Local Criminal Justice Facilities shall be limited to any of the following:

1. Audit of state interim or permanent financing at the conclusion of the project as performed by an independent county auditor;
2. A needs assessment study as performed by county personnel;
3. Current fair market value supported by an independent appraisal of on-site land value only of new facility construction, or on-site land value of a closed facility that will be renovated and reopened, and/or on-site land used for expansion of an existing facility. Land value cannot be claimed for land that is under an existing operational local jail facility. Multiple appraisals may be required during the course of a project and the county is responsible for any and all appraisals and/or land valuation fees and services, additional services may be used as in-kind match;
4. County administration costs for staff salary/benefits associated only with staff work directly related to the design and construction of the project, for activities after June 27, 2016. These costs may only be claimed as a project cost if all applicable county administration costs are claimed. Staff must have been hired specifically for the SB 844 project. Existing staff salary/benefits may be eligible as match if the county reports information such as the number of positions, salaries, and benefit costs.

Detailed, itemized back-up documentation must be provided to support these costs if they are claimed as in-kind match, and;

5. Transition planning, including staff salary/benefits directly related to the design and construction of the project, for activities after June 27, 2016. Staff must have been hired specifically for the SB 844 project. Existing staff salary/benefits may be eligible as match if the county reports information such as the number of positions, salaries, and benefit costs. Detailed, itemized back-up documentation must be provided to support these costs if they are claimed as in-kind match.

To qualify as match, all local expenditures must be directly for the SB 844 project.

Costs that may not be attributed to local matching requirements include, but are not limited to, construction or building of space for future capacity needs beyond the year 2019 (e.g., unused space or “shelled” space). If applicants are unsure if an item is eligible as match, please contact BSCC staff before submitting a proposal.

REQUIREMENTS AFTER NOTIFICATION OF INTENT TO AWARD

All construction, including renovation, proposed to be financed within this program must meet all of the requirements as identified in this RFP and must enable facilities to: maintain compliance with safety and security considerations in facility operational standards as contained in Title 15 of the California Code of Regulations; fire and life safety standards and physical plant requirements contained in Title 24 commencing with Section 1231 of the California Code of Regulations. If for any reason the proposed project is claimed to be exempt from any state or local laws, regulations, ordinances, standards, or requirements, counties must provide the BSCC with a statement citing the appropriate exemption.

In addition to the BSCC and SFM reviews and requirements, all projects financed within this program must comply with the state's capital outlay process. DOF and SPWB administrative oversight and approvals are required throughout the state capital outlay process and to facilitate the authorized state financing for this program. This is addressed in detail in the following State Capital Outlay/ State Public Works Board/Board of State and Community Corrections Processes and Requirements section.

Board of State and Community Corrections Staff

A designated BSCC staff person will be assigned to each county/project after counties receive notice of Intent to Award conditional financing. The assigned BSCC staff is the primary point of contact for county officials and is responsible for addressing questions or coordinating state responses to issues. The BSCC requires that all county communication with the BSCC staff be conducted by county-designated officials, not county contractors or consultants, since the state's relationship is with the participating county and its designated project officials as identified in the Proposal Form and by the Board of Supervisors' project resolution.

Pre-Design Meeting

After conditional award notification, county officials and their design team are required to meet with BSCC and SFM staff at the BSCC offices in Sacramento for a pre-architectural design meeting in order to review the state's requirements and answer any questions specific to the county's proposed project.

Design-Bid-Build Plan Submittals

Preliminary plans are referred to as drawings through the design development phase. Working drawings are referred to as drawings through the construction document phase. For projects constructed via the design-bid-build method, sets of full-size (at least 1/8" scale) architectural drawings must be submitted to the BSCC for review at three sequential stages:

- 1) Two sets at schematic design one sent to the BSCC and one sent to the SFM (30 percent complete and accompanied by an operational program statement): the schematic design submittal (with operational program statement) is the first formal, official review point of construction or renovation plans. Any response to general or conceptual inquiries before the schematic design and program statement submittal and review do not constitute formal plan review or official acceptance by the BSCC.)

- 2) Two sets at design development (50 percent complete and accompanied by a preliminary staffing plan and operational and staffing cost statement) one set sent to the BSCC and one set sent to the SFM; and
- 3) Two sets at construction documents (100 percent complete) one set sent to the BSCC and one set sent to the SFM.

After the BSCC Title 24 review and approval and the SFM fire and life safety review and approval, a SFM-signed set of drawings must be submitted to the SFM's office for retention.

For projects utilizing the design-bid-build project delivery method, if the project budget includes state reimbursements for preliminary plans/design development drawings phase costs, the SPWB must approve project establishment before the county can commence work on the preliminary plans/design development drawings phase. For any project that includes any state reimbursement of the working drawings/construction documents phase costs, if the county commences any working drawings/construction documents phase activities before obtaining approval of preliminary plans/design development drawings from the SPWB, the entire state portion of the project financing will be forfeited and the state will not reimburse any county project costs.

Design-Build Plan Submittals

Performance criteria and concept drawings are documents that establish the general design concept which is utilized by a design-build architect/contractor team to design and construct the project. Construction documents are prepared by the design-build architect/contractor team and submitted to the State Fire Marshal (SFM) for review and approval. For projects constructed via the design-build method, one set of full-size (at least 1/8" scale) architectural drawings and other documents must be submitted to the BSCC (please see, generally, Title 24 of the California Code of Regulations).

- 1) Two sets of performance criteria and concept drawings accompanied by an operational program statement, one set sent to the BSCC and one set sent to the SFM for fire life and safety review.
- 2) A preliminary staffing plan and operational and staffing cost statement, and
- 3) Two sets set of construction documents, one set sent to the BSCC and one set sent to the SFM.

At each design-build submittal stage, BSCC conducts a Title 24 review and SFM staff will conduct a fire and life safety review. Counties are encouraged to meet with BSCC and/or SFM staff for on-site review meetings following each plan submittal phase. BSCC sends written Title 24 plan review responses to the county after each submittal.

Counties may be required to make design changes necessary to comply with regulations or to remedy safety or security deficiencies. The BSCC may also recommend changes in construction materials to enhance facility safety and security.

For projects utilizing a design-build project delivery method, if the project budget includes any state reimbursements for performance criteria or performance criteria and concept drawings phase costs, the SPWB must approve project establishment before the county can commence work on the performance criteria or performance criteria and concept drawings phase. For any project that includes any state reimbursement of the design-build phase costs, if the county commences any design-build phase activities before obtaining

approval of performance criteria or performance criteria and concept drawings from the SPWB, the entire state portion of the project financing will be forfeited and the state will not reimburse any county project costs.

SPWB staff will review preliminary plans (design development) and working drawings (construction documents) or performance criteria for consistency with the SPWB's previously approved project scope and cost. Any SPWB concerns will be relayed to the counties by BSCC staff for correction as necessary to comply with previously approved project scope and cost.

Project Bids

Counties must obtain DOF approval to proceed to bid prior to advertising for construction bids or soliciting design-build proposals. All costs in excess of the amount of state financing that the county is eligible to receive must be borne by the county, including all cost overruns resulting from higher than estimated bid results or any other unforeseen circumstances. No additional state financing will be made available. The county may choose to cancel the project once initial bids of proposals have been received, but before a construction or design-build contract has been awarded. If the county determines to cancel the project as outlined above, it will not be reimbursed for any prior costs and its conditional award in this financing program must be relinquished.

As part of the required project milestones, Counties must obtain SPWB/DOF approval to award a construction/design-build contract, and subsequently issue a Notice to Proceed for construction, within 42 months of conditional award by the BSCC.

State/County Relationship Regarding Construction

The state's relationship with the county is in the form of the agreements stipulated in the State Public Works Board/Board of State and Community Corrections Processes and Timing Requirements section. The county's relationship with its construction contractor is in the form of a county Agreement for Construction contract. The state does not contract for project design, construction or construction management. Counties are responsible for compliance with the requirements established by the local contracting authority, as well as compliance with county bidding and construction contracting rules and procedures. Resolution of bid disputes, or subsequent construction contract or consultant disputes, are the sole responsibility of the county.

Payment and Performance Bonding and Cost Scheduling

Counties that receive conditionally awarded state financing shall require the construction contractor to post payment and performance bonds, each of which shall be in an amount not less than 100 percent of the construction contract price. Construction costs breakdown and accounting shall be arranged by Construction Specifications Institute (CSI) divisions. Contractor profit and cost escalation factors must be included within the CSI divisions. Any construction contract contingency amount will be limited to no more than 10 percent of the approved construction contract amount. If applicable, in all requests for payment, the county must identify eligible costs and the contractor shall separately list work not eligible for payment with this state financing and matching funds, and the county construction administrator shall identify such work for the contractor.

Payment of State Funds

Payment will be made to counties in arrears (reimbursement) based on invoices (which may include progress reports) submitted to the BSCC on a monthly, every other month or quarterly basis. Counties will pay the construction contractor first and then submit reimbursement requests to the BSCC. Invoices are processed by the BSCC upon receipt, and then forwarded to the appropriate state agencies for payment. The typical turn-around time for payment to counties after submittal of an invoice is approximately 30-60 days. Counties should plan for needed cash flow to support the project on a monthly, every other month or quarterly reimbursement basis.

At such time as the balance of state remaining funds reaches 5 percent, of the total amount of reimbursement that the county is eligible for at the time, the state shall withhold this amount as security, to be released to counties upon compliance with all state/county agreement provisions. Requests for release of this state retention will only be considered after:

1. Completion of final inspection and approval by appropriate state and local officials;
2. The county has staffed and operated the facility within 90 days of construction completion, and
3. The state has received and approved the final fiscal audit report.

Accounting and Audit Requirements

Adequate supporting project documentation must be maintained in accordance with generally accepted accounting principles (see *Accounting Standards and Procedures for Counties*, State Controller's Office, and Division of Local Government Fiscal Affairs) and in such detail as will permit the tracing of transactions, from support documentation, to the accounting records, to the financial reports and billings.

Counties that receive state financing must perform a fiscal audit of the project within 90 days following receipt of the SFM Certificate of Occupancy. The audit must be performed under the direction of a certified public accountant or a county internal auditor who is organizationally independent from the county's project financial officer and its project management and accounting functions

The audit must be performed in accordance with *Generally Accepted Auditing Standards*, as promulgated by the American Institute of Certified Public Accountants, *Government Auditing Standards* (the "Yellow Book"), as promulgated by the Comptroller General of the United States and with all California state auditing requirements. The auditor shall advise the county of any findings and recommendations. The final audit report shall be sent to the Board of Supervisors of the county and shall incorporate the county's response to findings of the audit, and, if applicable, the county's plan for corrective action.

Two copies of the final audit report, including management letters and corrective action plans (if applicable) must be submitted to the BSCC. The BSCC may disallow (that is, deny both use of this state financing and any applicable matching credit) for all or part of the cost of the activity or action determined to be ineligible and not in compliance with the terms and conditions of the state financing agreements.

**STATE CAPITAL OUTLAY/STATE PUBLIC WORKS BOARD
BOARD OF STATE AND COMMUNITY CORRECTIONS
PROCESSES AND REQUIREMENTS**

The SPWB and DOF are the principal state entities responsible for the approval and oversight of most capital outlay projects of the state. The SPWB is empowered to issue lease-revenue bonds to finance and refinance the acquisition, design and construction of public buildings that have been authorized by the state Legislature. In SB 844, the Legislature authorized SPWB to issue lease-revenue bond financing for these county ALCJF projects, subject to SPWB and DOF project approval and oversight. This section details the SPWB approval and oversight process. Counties must comply with state capital outlay process requirements. Counties must also be familiar with the various agreements that will be required between the county and state and be authorized to execute these agreements as a condition of receiving state financing. Counties may be required to participate in key SPWB meetings and must provide supporting project documentation as requested by BSCC staff at various times throughout the duration of the project.

Project Scope

Counties will be required to incorporate state seismic and fire and life safety requirements into the scope of their projects. For projects attaching new construction to an existing facility, or remodeling an existing facility or building, both the new construction portion and the existing facility or building must be brought up to current fire and life safety standards and meet or exceed a seismic Level 3 performance standard as evaluated and determined by qualified licensed structural engineers. The following information should be considered when determining project scope:

A fundamental concept in lease-revenue bond financing is the beneficial use and occupancy of the facility for its intended governmental purpose. The financed facility is identified, in part, through a "metes and bounds" legal description. Generally, in SPWB financings there is a 5 to 15 foot "buffer" that is part of the legal description of the proposed project. This is usually the distance between the financed facility and other adjacent property buildings on the site. This buffer is unrelated to any building code requirement, and may be altered given particular site conditions. A proposed project with less than a 5 to 15 foot buffer will be evaluated on a case-by-case basis.

In addition to a "clean footprint" for inclusion in the financing leases, the issue of shared infrastructure may be a factor, e.g., electrical, water, sewer, HVAC, common areas, phone, etc. If a state-financed ALCJF is proposed to be "physically attached" to another structure by, for example, a corridor, there may be an issue of shared infrastructure with an adjacent building. Generally, all infrastructure components needed for the financed facility to fully function should be included in the footprint (i.e., the legal description should include a fully integrated facility).

Project Timelines

Throughout the project, counties will be required to submit documents and plans to the BSCC for processing and approval through the BSCC, DOF and SPWB. This chart provides counties with an overview of activities, including review and approval processes required of the various state agencies, combining typical BSCC activities with those of the DOF and SPWB. To the extent possible, counties should build into their project schedules (and proposal timetable) adequate time for these activities and reviews to occur. All timeframes are approximate (dates are subject to change) and will vary based upon the circumstances of each county's unique project. For activities that require SPWB approval, the SPWB meets monthly and agenda items must be submitted to finance at least 30 calendar days in advance of the scheduled meeting. Consequently, the activities that require SPWB approval must be submitted to the BSCC in advance for its review.

PROJECT TIMELINE - Design Bid-Build

ACTIVITY	APPROXIMATE DURATION
Project Start-Up – Notices and Activities	4 months
BSCC notifies county of conditional award for project financing.	
County to submit site assurance to BSCC within 90 days of the conditional award.	
County to submit real estate due diligence package within 120 days of the conditional award.	
Task 1: SPWB Meeting – Project establishment (scope, cost and schedule) (to be completed within 18 months of the conditional award)	4 months
State drafting of project scope (description based on county submittal).	
County development of project schedule.	
County development of detailed cost estimate by phase (3-page estimate).	
Statement describing status of CEQA & status of any litigation.	
Real estate due diligence letter from Department of General Services.	These activities are not necessarily completed as part of Task 1, but can be. They must be completed in concert with Task 2 and before Task 3.
Cash match approval.	
In-kind match approval.	
County signs Certifications of Matching Funds.	
County signs PDCA and BSCC Agreement.	
BSCC Plan Review Submittal (within 24 months of award)	BSCC/SFM 8 weeks
County submits schematic design drawings & specifications to BSCC/SFM (with operational program statement for BSCC only).	
BSCC Plan Review Submittal	BSCC/SFM 8 weeks
County submits design development drawings & specifications/preliminary plans to BSCC/SFM (with staffing plan and analysis of anticipated operating costs for BSCC only).	

Task 2: SPWB Meeting – Preliminary Plan Approval (occurs after BSCC/SFM review)	8 weeks
Review of project scope.	
Review project schedule.	
Development of preliminary plan and review of cost estimate (3-page estimate).	
Documentation that CEQA is complete.	
Preliminary plans (design development) submittal.	
Task 3: Consent to Ground Lease / Right of Entry	2 months
Meeting with DOF, SPWB Counsel, BSCC, DGS & county scheduled.	
County signs Ground Lease/Easement Agreement/Right of Entry.	
BSCC Plan Review Submittal	BSCC/SFM 8 weeks
County submits construction document drawings & specifications (working drawings), to BSCC/SFM for plan check/review and approval.	
Task 4: Finance Action to Approve Working Drawings and Proceed to Bid	8 weeks
Development of scope of bid package.	
Working drawings estimate reconciliation.	
Development of project milestone schedule.	
Review of project scope.	
Review of project schedule.	
Review of cost estimate (3-page estimate).	
Working drawings & specifications submittal.	
Task 5: SPWB Meeting – Resolution Authorizing Interim Financing and Pooled Money Investment Board – Loan Request	4 months
Certification that the County has satisfied all of the requirements set forth in statute for the financing of the project.	
Twelve month cash flow projection.	
Task 6: Finance Action to Approve Award of a Construction Contract (NTP within 42 months of award)	5 weeks
Updated cost estimate (3-page estimate).	
Bid tabulations.	
Updated project schedule.	
Board of Supervisors approval.	
Notice to Proceed/NTP (milestone – within 42 months of award)	

PROJECT TIMELINE – Design-Build

ACTIVITY	APPROXIMATE DURATION
Project Start-Up – Notices and Activities	4 months
BSCC notifies county of conditional award for project financing.	
County to submit site assurance to BSCC within 90 days of award.	
County to submit real estate due diligence package within 120 days of award.	
Task 1: SPWB Meeting – Project Establishment (scope, cost and schedule) (to be completed within 18 months of award)	4 months
State drafting of project scope. (description based on county submittal)	
County development of project schedule.	
County development of detailed cost estimate by phase (3-page estimate).	
Statement describing status of CEQA & status of any litigation.	
Real estate due diligence letter from Department of General Services.	These activities are not necessarily completed as part of Task 1, but can be. They must be completed in concert with Task 2 and before Task 3.
Cash match approval.	
In-kind match approval.	
County signs Certifications of Matching Funds.	
County signs PDCA and BSCC Agreement.	
Task 2: SPWB Meeting – Approval of Performance Criteria or Performance Criteria and Concept Drawings and Resolution Authorizing Interim Financing (occurs after BSCC/SFM review)	8 weeks
Review of project scope.	
Updated project schedule.	
Updated cost estimate (3-page estimate).	
Development of preliminary estimate.	
Documentation that CEQA is complete.	
Performance criteria/concept drawings submitted.	
BSCC Plan Review Submittal (within 30 months of award)	BSCC/SFM 8 weeks
County submits performance criteria or performance criteria and concept drawings to BSCC/SFM (with operational program statement, staffing plan and analysis of anticipated operating costs for BSCC only).	
Task 3: SPWB Meeting – Consent to Ground Lease / Right of Entry	2 months
Meeting with DOF, SPWB Counsel, BSCC, DGS & county scheduled.	
County signs Ground Lease/Easement Agreement/Right of Entry.	

Task 4: Finance Action to Approve Request for Proposals	8 weeks
Development of scope of request for proposals.	
Development of project milestone schedule.	
Review of project scope.	
Review of project schedule.	
Review of cost estimate (3-page estimate).	
Request for proposals submitted.	
Task 5: Pooled Money Investment Board – Loan Request	4 months
Certification that the County has satisfied all of the requirements set forth in statute for the financing of the project.	
Twelve month cash flow projection.	
Task 6: Finance Action to Approve Award of a Design-Build Contract (NTP within 42 months of award)	5 weeks
Review updated cost estimate (3-page estimate).	
RFP results.	
Review updated project schedule.	
Board of Supervisors approval.	
Notice to Proceed (NTP) for construction (milestone – within 42 months of award)	
BSCC Plan Review Submittal	8 weeks
County submits construction document drawings & specifications to BSCC/SFM for plan check/review and approval.	

LIST of AGREEMENTS

This section provides a list of the various agreements necessary involving county and state entities for the ALCJF construction/expansion/renovation project. The link to these contracts are provided for the counties' benefit in an effort to better inform counties of the expected contractual nature of the types of agreements that will be required. The contracts are located at the following link: http://www.bscc.ca.gov/s_cfcformofdocuments.php. Depending on the types of proposals and other unknowns (e.g., operation of a regional ALCJF), other individual, county-specific agreements may be necessary. Please review the listed contracts, each contract provides important information for the county applicants.

1. Project Delivery and Construction Agreement (PDCA)

An agreement between the SPWB, BSCC, and participating county. The PDCA sets forth the roles, responsibilities, and performance expectations of the parties for participation in and financing through the state's lease-revenue bond program for adult facilities.

2. BSCC Agreement

An agreement between BSCC and the participating county. The BSCC agreement sets forth the roles, responsibilities and performance expectations of the parties for the construction of the adult local criminal justice facility.

3. Ground Lease (includes Site Lease)

An agreement between the BSCC and participating county with the consent of the SPWB and the approval of the Department of General Services (DGS). The Ground Lease may require an associated Easement Agreement for Grants Access, Utilities and Repairs. The ground lease relates to the real property upon which the ALCJF will be constructed.

4. Right of Entry for Construction and Operation

An agreement between BSCC and participating county with consent of the SPWB and the approval of the DGS. The agreement relates to the site to be leased to the BSCC or CDCR via the Ground Lease for construction related activities.

5. Facility Lease

An agreement between the SPWB and BSCC. The agreement relates to the lease of real property to be used in connection with the state financing.

6. Facility Sublease

An agreement between the BSCC and participating county with the consent of the SPWB. The agreement relates to the same property referred to in No. 5, above.

Title 15 and 24 DEFINITIONS

“Adult local criminal justice facility” means a facility or portion thereof which may include any custodial housing, reentry, program, mental health, or treatment space necessary to manage the adult offender population consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code, under the jurisdiction of the sheriff or county department of corrections.

“BSCC-rated capacity” means the number of inmate occupants for which a facility's single- and double-occupancy cells or dormitories, except those dedicated for health care or disciplinary isolation housing, were planned and designed in conformance with the standards and requirements contained in Titles 15 and 24 of the California Code of Regulations.

“CCR” refers to the California Code of Regulations.

“Cash (hard) match” means cash dedicated to the project by the applicant for eligible expenditures as identified in the RFP and as listed in the state/county funding agreement.

“Concept drawings” means, with respect to a design-build project, any drawings or architectural renderings that may be prepared, in addition to performance criteria, in such detail as the participating county determines necessary to sufficiently describe the participating county's needs.

“Construction bid” means a construction bid price.

“Construction documents” means architectural plans and specifications that are one hundred percent (100%) complete and generally include: completed specifications with bid proposal documents; completed construction drawings, and special items (corrections, modifications, or additions made to the documents).

“Construction management” means a specialized, multi-disciplinary function provided by a firm or individual acting as the county's representative with the responsibility to guide the county through all phases of delivery of the construction project.

Design-bid-build means a construction procurement process independent of the design process and in which the construction of a project is procured and based on completed construction documents.

Design-build means a construction procurement process in which both design and construction of a project are procured from a single entity.

“Design Capacity” includes all housing areas, even those specialized units that are not included in the rated capacity. It does not, however, include temporary holding cells, such as those in the reception and booking areas of the facility. Design capacity is used in calculating costs per bed and square foot.

“Design development” means architectural plans and specifications that are fifty percent (50%) complete and generally include: outline specifications (detention hardware, equipment, and furnishings); floor plans (to scale with dimensions, room designation,

references, wall types, and ratings); building sections (heights and dimensions); interior elevations; and preliminary structural, mechanical, and electrical drawings.

“Detention alternatives” means programming efforts designed to reduce jail crowding as well as recidivism among local offenders.

“Fixed equipment and fixed furnishings” means furniture, fixtures, and equipment that are physically attached to an immovable object, such as a floor or wall.

“Ground lease” means a lease between a participating county and CDCR or BSCC with the consent of the Board, to place possession and control of the real property upon which the Board financed project will be constructed with CDCR or BSCC as described in Section 1752 of Title 15 of the California Code of Regulations.

“Hard match” and **“Cash match”** are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in proposed Sections 1714, 1714.1, 1714.2, and 1714.3 of Title 15 of the California Code of Regulations.

“In-kind and soft match” are used interchangeably and mean local funds in the form of property value or management/administrative services dedicated to the project by the applicant for eligible expenditures as defined in proposed Sections 1714, 1714.1, 1714.2, and 1714.3 of Title 15 of the California Code of Regulations.

“In-person visit” and **“In-person visitation”** means a visit or visitation during which an incarcerated person has contact with a visitor, is able to see a visitor through glass, or is otherwise in an open room without contact with a visitor.

“Moveable equipment and moveable furnishings” means furniture, fixtures, and equipment that are not fixed equipment and fixed furnishings, not including consumable items beyond those included in the initial construction contract.

“Net gain in beds” means the number of beds (rated capacity and special use beds) to be added, minus the number of existing beds (rated capacity and special use beds) to be eliminated in the county (if any) as a result of the project constructed through the Phase I of the Local Jail Construction Financing Program.

“Operational program statement” means a description of the intended operation of a local jail (see Cal. Code Regs., tit. 24, § 13-102(a) for further details) or Adult Local Criminal Justice Facility.

“Performance criteria” means, with respect to a design-build project, the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, and design character of the buildings and site; the required form, fit, function, operational requirements, and quality of design, materials, equipment, and workmanship; and any other information deemed necessary to sufficiently describe the participating county’s needs; including documents prepared pursuant to paragraph (1) of subdivision (a) of Section 22164 of the Public Contract Code.

“Preliminary plans” means a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate for each utility, site development, conversion, and remodeling project. The drawings shall be sufficiently descriptive to accurately convey the

location, scope, cost, and the nature of the improvement being proposed. See also “design development.”

“Program space” means space in which offenders receive services in the form of programming or treatment to reduce recidivism or as an alternative to incarceration.

“Schematic design” means architectural plans and specifications that are 30 percent (30%) complete and generally include: a site plan; floor plan; exterior elevations and cross sections; types of construction and actual gross floor area.

“Staffing plan” means an assessment and identification of staffing levels needed to operate the proposed project.

“Working Drawings” means a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project. See also “construction documents.”

For additional definitions please refer to the complete list in Titles 15 and 24 of the California Code of Regulations.



SAN FRANCISCO PLANNING DEPARTMENT

Notice of Exemption

Approval Date: [date of approval action]
Case No.: 2017-000401ENV
Project Title: 425 7th Street
Zoning: P [Public]
105-J Height and Bulk District
Block/Lot: 3759/042
Lot Size: 212,677 square feet
Lead Agency: San Francisco Planning Department
Project Sponsor: Jumoke Akin-Taylor, SFDPW
415-557-4751
Jumoke.akin-taylor@sfdpw.org
Staff Contact: Joy Navarrete
415-575-9040
joy.navarrete@sfgov.org

To: County Clerk, City and County of San Francisco
City Hall Room 168
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Pursuant to the California Environmental Quality Act (CEQA), the Guidelines of the Secretary for Resources, and San Francisco requirements, this Notice of Exemption is transmitted to you for filing. At the end of the posting period, please return this Notice to the Staff Contact with a notation of the period it was posted.

Attached fee: \$62 filing fee

PROJECT DESCRIPTION:

Renovation of County Jail #2 would entail: Selected demolition of the Heating Plant System, HVAC replacement, and roof repair; Interior HVAC upgrade, interior plumbing upgrades, fire-protection system upgrades; Electrical lighting, power, and communications systems upgrades, including light-fixture replacement; Main Point of Entry retrofit to cells' Trussbilt and related components; Pod upgrades – Visiting facilities, suicide barriers, inmate toilets and showers (antiligature); Kitchen rebuild and laundry; Facility-wide security-systems upgrades, including cameras, intercom, door controls for upgraded pods, Prison Rape Elimination Act of 2003 (PREA) upgrades; Infill atrium for inmate programs, inmate recreation, and screened visiting rooms; Basement works – wrapping of existing columns; and Upgrades to court holding and storage area; Re-entry offices (for displacement from existing workspaces, no additional capacity).

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DETERMINATION:

The City and County of San Francisco decided to carry out or approve the project on [DATE]. Building Permit No. _____. A copy of the document(s) may be examined at 1650 Mission Street, Suite 400, San Francisco, CA, 94103 in file no. 2017-0004ENV.

1. An Exemption from Environmental Review has been prepared pursuant to the provisions of CEQA under [CHECK ONE]:
 - Ministerial (Sec. 21080(b)(1); 15268)
 - Declared Emergency (Sec. 21080(b)(3); 15269(a))
 - Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
 - Categorical Exemption. State type and section number: Class 1
 - Statutory Exemption. State code number: _____
 - Community Plan Exemption (Sec. 21083.3; 15183)

2. This project in its approved form has been determined to be exempt from environmental review because it is the interior renovation of an existing building.

John Rahaim
Planning Director

By Lisa M. Gibson
Acting Environmental Review Officer

Date

cc: [Project Sponsor]
[other interested parties]



SAN FRANCISCO PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
DPW - 425 7th Street County Jail #2 Renovation		3759/042	
Case No.	Permit No.	Plans Dated	
2017-000401ENV			
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval.			
Renovation of County Jail #2 would entail: Selected demolition of the Heating Plant System, HVAC replacement, and roof repair; Interior HVAC upgrade, interior plumbing upgrades, fire-protection system upgrades; Electrical lighting, power, and communications systems upgrades, including light-fixture replacement; Main Point of Entry retrofit to cells' Trussbit and related components; Pod upgrades - Visiting facilities, suicide barriers, inmate toilets and showers (antiligature); Kitchen rebuild and laundry; Facility-wide security-systems upgrades, including cameras, intercom, door controls for upgraded pods, Prison Rape Elimination Act of 2003 (PREA) upgrades; Infill atrium for inmate programs, inmate recreation, and screened visiting rooms; Basement works - wrapping of existing columns; and Upgrades to court holding and storage area; Re-entry offices (for displacement from existing workspaces, no additional capacity).			

STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.	
<input checked="" type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions.; ; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class ____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an <i>Environmental Evaluation Application</i> is required.	
<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</i>
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.
<u>If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an Environmental Evaluation Application is required, unless reviewed by an Environmental Planner.</u>	
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional): Joy Navarrete <small>Digitally signed by Joy Navarrete DN: cn=Joy Navarrete, ou=Environmental Planning, email=joy.navarrete@sfgov.org, c=US Date: 2017.01.10 14:08:23 -0500</small> No expansion or intensification of existing use. No exterior modifications proposed. All interior renovations and upgrades.	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER**

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input checked="" type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

**STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input checked="" type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input checked="" type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

**STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):

<input type="checkbox"/>	<p>9. Other work that would not materially impair a historic district (specify or add comments):</p> <p><i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i> _____</p>
<input type="checkbox"/>	<p>10. Reclassification of property status. <i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p> <p style="padding-left: 40px;"><input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C</p> <p>a. Per HRER dated: _____ <i>(attach HRER)</i></p> <p>b. Other <i>(specify)</i>: _____</p>
<p>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</p>	
<input type="checkbox"/>	<p>Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.</p>
<input type="checkbox"/>	<p>Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.</p>
<p>Comments (optional):</p> 	
<p>Preservation Planner Signature: Joy Navarrete</p> <div style="text-align: right; font-size: small;"> Digitally signed by Joy Navarrete DN: cn=Joy Navarrete, ou=Environmental Planning, email=joy.navarrete@sfgov.org, c=US Date: 2017.01.10 14:07:44 -08'00' </div>	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	<p>Further environmental review required. Proposed project does not meet scopes of work in either <i>(check all that apply)</i>:</p> <p style="padding-left: 40px;"><input type="checkbox"/> Step 2 – CEQA Impacts</p> <p style="padding-left: 40px;"><input type="checkbox"/> Step 5 – Advanced Historical Review</p> <p>STOP! Must file an <i>Environmental Evaluation Application</i>.</p>	
<input checked="" type="checkbox"/>	<p>No further environmental review is required. The project is categorically exempt under CEQA.</p>	
	<p>Planner Name: Joy Navarrete</p> <hr/> <p>Project Approval Action:</p> <p style="padding-left: 20px;">Building Permit</p> <p style="font-size: small;">If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p>	<p>Signature:</p> <p style="font-size: 2em; font-weight: bold; margin-left: 20px;">Joy Navarrete</p> <div style="font-size: small; margin-left: 20px;"> Digitally signed by Joy Navarrete DN: cn=Joy Navarrete, o=Planning, ou=Environmental Planning, email=joy.navarrete@sfgov.org, c=US Date: 2017.01.10 14:07:44 -08'00' </div>
<p style="font-size: small;">Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p style="font-size: small;">In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</p>		

**STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT
TO BE COMPLETED BY PROJECT PLANNER**

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Case No.	Previous Building Permit No.	New Building Permit No.
Plans Dated	Previous Approval Action	New Approval Action
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required. CATEX FORM	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:

STATE OF CALIFORNIA

**BOARD OF STATE AND COMMUNITY CORRECTIONS
JAIL CONSTRUCTION AGREEMENT
FOR [REDACTED]**

This Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of _____, 20__ (“**Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an entity of the state government of the State of California (“**State**”), and [REDACTED] (“**Participating County**”), a Political Subdivision of the State. BSCC and Participating County are referred to collectively herein as the “**Parties**,” and individually as a “**Party**.”

RECITALS

WHEREAS, Participating County has proposed to build a jail facility as more particularly described in Exhibit B attached hereto (“**Project**”) located at [REDACTED] (“**Site**”) under Chapter 3.12, Part 10b of Division 3 of Title 2 of the California Government Code and the corresponding regulations set forth in Title 15, Division 1, Chapter 1, Subchapter 6 of the California Code of Regulations (collectively, the “**AB 900 Jail Financing Program**”).

WHEREAS, this Agreement is being executed concurrently with the execution of the Project Delivery and Construction Agreement (“**PDCA**”) entered into between the Participating County, BSCC, the State Public Works Board of the State of California (“**Board**”) and the Department of Corrections and Rehabilitation (“**Department**”). The Department, the Board and BSCC are referred to collectively herein as “**Agencies**.”

WHEREAS, the purpose of this Agreement is to set forth the roles, responsibilities and performance expectations of the Parties with respect to the Participating County’s construction of the Project under the authority of the BSCC and the procedures for reimbursement by the State of those Participating County costs eligible for reimbursement as provided for under the AB 900 Jail Financing Program. This Agreement is intended to be read in conjunction with the other agreements necessary for the construction and financing of the Project under the AB 900 Jail Financing Program including, without limitation, the PDCA and the other agreements described in the PDCA recitals. Nothing in this Agreement is intended to amend or modify the rights and obligations of the Parties under those other agreements including, without limitation, the PDCA.

WHEREAS, the Total Project Costs for the Project shall be defined in Article 3, Section 3.1(a) of the PDCA. The State will provide financing (“**State Financing**”) (up to a maximum of [REDACTED] dollars (\$ [REDACTED]) (“**Maximum State Financing**”) and the Participating County will provide the Cash (hard) Match (as defined in Article 6(C) below) and the In-Kind (soft) Match (as defined in Article 6(C) below) (with the Cash (hard) Match and the In-kind (soft) Match collectively referred to as “**Participating County Funding**” and together with the Maximum State Financing, the “**Total Eligible Project Costs**.”) Total Eligible Project Costs shall be used in determining Cash (hard) Match credit and In-kind (soft) Match credit to the Participating Counties as specified in Exhibit A to this Agreement. As stated in Article 1, Section 1.3 of the PDCA, the AB 900 Jail Financing Program is predicated on the Board’s ability

to issue bonds for the Project.

NOW, THEREFORE, in consideration of the promises and of the mutual agreements, provisions and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1. TERM AND TERMINATION

A. Term. This Agreement shall commence on the Effective Date and shall terminate upon the completion and State acceptance of the Final Audit (as defined below in Article 4(C)) unless terminated earlier as provided in Article 1(C) below.

B. Survival. The provisions of Articles 1(C)(3), 1(C)(4), 3(D), 4(C), 4(D), 6(B)(5), 6(B)(6), 9, 10 and 11, and Articles 3, 4, 5, 6, 7, 8, and 10, 11 of Exhibit A shall survive termination of the Agreement.

C. Termination.

1. BSCC in consultation with the other Agencies may terminate this Agreement in the event any of the following events or conditions occurs:

(a) Participating County's breach of a material term of this Agreement, any Project Document or any Applicable Laws provided Participating County has not cured such breach in all respects within such thirty (30) day period, which cure period may be extended for a reasonable time with the consent of BSCC if the Participating County demonstrates that such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(b) Termination of the PDCA as provided for in Article 2, Section 2.2(a)(i)-(v) and (b) of the PDCA;

(c) Substantive alteration of the scope, cost or schedule of the Project without the prior written approval of BSCC and the Board as required under this Agreement and the PDCA; or

(d) Participating County's refusal or inability to complete the Project in a manner consistent with the Agreement, and the other Project Documents (as defined below in Article 3) including all timelines, plans, and specifications as approved by BSCC, or refusal or inability to comply with any Applicable Law.

2. The Participating County may, prior to the State providing any amount of financing, terminate this Agreement in the event any of the following occurs:

(a) The State's breach of a material term of this Agreement, any Project Document or any Applicable Laws provided the State has not cured such breach in all respects within thirty (30) days from notice of said breach, which cure period may be extended for a reasonable time with the consent of the Participating County if the State demonstrates that

such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(b) Termination of the PDCA as provided for in Article 2, Section 2.2(a)(i)–(v) and (b) of the PDCA;

(c) Failure of the State to execute the Ground Lease or the Right of Entry for Construction and Operation; or

(d) In the event the Board determines the Participating County is no longer eligible for Project financing under the AB 900 Jail Financing Program as set forth in Article 1, Section 1.2 of the PDCA.

3. In the event of termination as provided in Article I(C)(1), and unless the Parties agree in writing otherwise, Participating County shall, upon notification, refund to the Agencies an amount equal to all State Financing previously disbursed to the Participating County. Any State Financing so remitted to the Agencies may be subject to interest equal to the rate earned by the State Pooled Money Investment Account. Participating County shall not be required to refund any State Financing in the event of termination solely because, through no fault of Participating County, the Board determines it is not feasible or appropriate to issue bonds or is unable to issue bonds to finance the Participating County's Project.

4. Nothing in this Article 1 in any way alters or limits the authority of BSCC or the Agencies to withhold State Financing in accordance with Applicable Laws (as defined below) or any other right or remedy available to the State at law or in equity for breach of the Agreement.

ARTICLE 2. PROJECT OFFICIALS

A. BSCC Representative. The BSCC Executive Director or his or her designee shall be the State's representative ("**Agency Representative**") for administration of this Agreement. Any amendment to this Agreement, including any exhibit, schedule or attachment hereto, shall be binding on the State only if signed by the Agency Representative. This Article 2(A) shall not limit any requirements for amendment of any other agreement that is a Project Document.

B. Participating County Construction Administrator. The Participating County has appointed a County Construction Administrator as identified below. Participating County agrees that its County Construction Administrator shall be its representative for the administration of the Agreement and shall have full authority to act on behalf of the Participating County. Participating County agrees that all communications given to its County Construction Administrator shall be binding as if given to the Participating County. Participating County agrees that any documents required to be submitted to the Agencies, including but not limited to, quarterly progress reports and final project summary reports, shall be certified for accuracy by its County Construction Administrator in form reasonably acceptable to BSCC. Any Amendment to this Agreement and any other Project Document shall be binding on the Participating County only if signed or certified in form reasonably acceptable to BSCC by the County Construction Administrator.

County Construction Administrator: [redacted]
Title: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
Telephone: [redacted]
Facsimile: [redacted]
Email: [redacted]

C. Participating County Project Financial Officer. The Participating County has appointed a Project Financial Officer as identified below. Participating County agrees that its Project Financial Officer shall be responsible for establishing an official project file and a separate account for depositing of funds paid under this Agreement, and ensuring that project accounting procedures and practices are in accordance with generally accepted government accounting principles and practices (see Accounting Standards and Procedures for Counties, California State Controller, Division of Local Government Fiscal Affairs) with adequate supporting documentation maintained in such detail so as to provide an audit trail which will permit tracing transactions from support documentation, to the accounting records, to the financial reports and billings. Participating County agrees that all fiscal documents, including all invoices and expenditure statements, required to be submitted to BSCC shall be certified for accuracy by its Project Financial Officer.

Project Financial Officer: [redacted]
Title: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
Telephone: [redacted]
Facsimile: [redacted]
Email: [redacted]

D. Participating County Project Contact Person. The Participating County has appointed a County Project Contact Person as identified below. Participating County agrees that its County Project Contact Person shall be responsible for coordinating and transmitting information to BSCC and receiving and disseminating information from BSCC. Participating County agrees that all communications given to its County Project Contact Person shall be binding as if given to the Participating County.

County Project Contact Person: [redacted]
Title: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
Telephone: [redacted]
Facsimile: [redacted]
Email: [redacted]

Either Party may change its Project representatives upon written notice to the other Party.

ARTICLE 3. PROJECT DOCUMENTS AND APPLICABLE LAWS.

A. Project Documents. The Participating County agrees to construct the Project in accordance with the following agreements and documents each as may be amended in accordance with its terms and which, together with the Agreement, shall be referred to herein as the “**Project Documents**”: (1) BSCC Jail Construction Agreement Standard Conditions attached hereto as Exhibit A; (2) Participating County’s Project Proposal [Insert Name and Date of Participating County’s Bid Proposal] (“**County Project Proposal**”); (3) County Project Description Detail and Budget (“**Project Description**”) in the form attached hereto as Exhibit B; (4) Ground Lease, Right of Entry for Construction and Operation, Facility Lease and the Facility Sublease as those terms are defined in the PDCA; and (5) the PDCA .

B. Applicable Laws. The Participating County agrees to comply with all federal, state or local laws, regulations, rules, ordinances and guidelines applicable to the construction of the Project including, without limitation the following (collectively “**Applicable Laws**”):

1. The Minimum Standards for Local Detention Facilities and Local Jail Construction Financing Program regulations contained in Title 15, Division 1, Chapter 1, Subchapters 4 and 6 of the California Code of Regulations (“**CCR**”).
2. The Minimum Standards for Local Detention Facilities and the fire and life safety regulations contained in Title 24 of the CCR.
3. California Public Contract Code
4. California Environmental Quality Act (CEQA) contained in Section 21000 *et seq.* of the California Public Resources Code and Title 14, Division 6, Chapter 3, Sections 15000 *et seq.* of the CCR.
5. Accounting Standards and Procedures for Counties, California State Controller, Division of Local Fiscal Affairs.
6. Construction Financing Agreement Administration and Audit Guide.

C. Incorporation of Approved Changes. Upon their completion, all Participating County assurances and submittals, submitted to and approved in writing by BSCC are incorporated herein by reference and made a part of this Agreement.

D. Precedence. In the event of any inconsistency in the Project Documents, except as otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: 1) PDCA; 2) the Ground Lease (as defined in the PDCA); 3) this Agreement including the BSCC Jail Construction Agreement Standard Conditions attached hereto as Exhibit A; 4) the Right of Entry for Construction and Operation (as defined in the PDCA); 5) Participating County’s Project Proposal; 6) Participating County Project Description Detail and Budget; and 7) the Participating County’s proposal(s), modification(s), and submittals. In the event the Bonds are issued, any inconsistency between the Project Documents and the Bond Documents shall be resolved by giving precedence to the Bond Documents. To the extent the Parties mutually agree that a provision of a particular document should control with respect to an

inconsistency between that document and another document or documents, notwithstanding the other provisions of this Section, such provision shall control.

ARTICLE 4. PARTICIPATING COUNTY OBLIGATIONS

Participating County agrees to the following covenants, assurances and submittals:

A. Participating County's Construction of Jail. The Participating County shall construct the Project to ensure and enable compliance with all Applicable Laws, and Participating County agrees that State Financing and Cash (hard) Match funds shall not supplant funds otherwise dedicated or appropriated for construction activities. No review or approval provided by the State, the Agencies or the State Fire Marshal of documents or submittals shall relieve Participating County of its obligation to design and construct the Project in accordance with this Agreement and all Applicable Laws including, without limitation environmental, procurement, safety and health, the AB 900 Jail Financing Program, and Titles 15 and 24 of the CCR. The Agencies' review and approval of any Project Document is for the Agencies' purposes only. No alleged failure or oversight related to the Agencies' review of the Project or the Project Documents shall be construed as a waiver of any rights of the Agencies or the State of California, or construed as an excuse to performance by Participating County under this Agreement or any other agreement. All Plans (as defined below) prepared by the Participating County shall be consistent with the Participating County Project Proposal.

B. Valley Fever. California is one of several states in the country with soils that may contain spores known to cause the disease Coccidioidomycosis (sometimes called "Valley Fever"), which spores may be transmitted through contact with dirt and fugitive dust associated with construction activities. The Participating County shall disclose this information to contractor in or prior to execution of a Construction Agreement. The Participating County, its contractor and any lower-tier subcontractors shall take appropriate precautionary measures designed to minimize the exposure of their respective employees and other workers, Agencies' employees, and other individuals or personnel who may be present during construction activities.

C. Record Keeping and Audit Requirements. Participating County shall keep such full and detailed account records as are necessary for proper financial management of the Project. Participating County shall maintain a complete and current set of all books and records relating to the design and construction of the Project. Agencies shall be entitled, upon forty-eight (48) hour written notice, to inspect all books, records, and accounts kept by Participating County relating to the work contemplated by this Agreement. Within ninety (90) calendar days after Final Completion (as defined below), Participating County shall deliver to Agencies a financial audit of the Project ("**Final Audit**"). The Final Audit shall be performed by a Certified Public Accountant or a Participating County auditor that is organizationally independent from the Participating County's project financial management functions. Nothing in this Article 4(C) shall limit the Participating County's record retention obligations as set forth in Article 7 of the PDCA. For purposes of this Agreement, "**Final Completion**" shall mean completion of the Project.

D. Compliance with Project Documents and Applicable Laws. Participating County agrees to comply with all terms and conditions of this Agreement, the other Project Documents

and all exhibits and schedules attached hereto or thereto and all Applicable Laws.

E. Project Plans. In addition to all submission requirements under the PDCA, the Participating County shall submit to BSCC the architectural and design documents, drawings, specifications, calculations, general and special conditions, submittals, Project budgets, schedules and contracts (collectively, “Plans”) within the time frames as specifically set forth in Exhibit B and as otherwise may be required by the Project Documents and Applicable Laws. As a condition to the financing to be provided by the State through interim financing or the sale of bonds, Participating County shall cause to be prepared all required Plans and documents necessary to solicit design-build bids or proposals, and complete the Project on time and within budget. Participating County is solely responsible for preparing all Plans and other documents for the design-build solicitation process, as provided by Applicable Law. In addition, Participating County is solely responsible for ensuring the final construction documents and specifications are approved by both the BSCC and the State Fire Marshal before issuance and sale of State lease revenue bonds for the Project as set forth in Article 1, Section 1.2 of the PDCA.

F. Construction. Participating County shall be responsible to contract for all design and construction services, and shall manage the day-to-day design and construction of the Project. Participating County shall cause the design and construction of the Project to be consistent with the requirements, limitations, and other terms of this Agreement, the Project Documents, all Applicable Laws, as well as all other agreements between the Agencies and Participating County.

G. Operation of Jail. Participating County shall be responsible to maintain the jail upon Final Completion and staff and operate the jail no later than ninety (90) days after Final Completion.

H. Professional Services. Participating County shall be responsible for providing all necessary professional services in order to carry out the design and construction of the Project. Participating County shall obtain all professional services from properly licensed design professionals. All Plans prepared by such design professionals shall bear the signature and seal of the design professional. All construction work on the Project shall be performed by properly licensed contractors and subcontractors. Participating County is encouraged to utilize a qualified construction manager and claims avoidance experts to facilitate timely and efficient construction of the Project.

I. Completion of Project. Participating County agrees to proceed expeditiously with, and complete, the Project in accordance with the Project Documents and Plans as approved by the BSCC and the Agencies and/or as incorporated in all provisions of this Agreement. Participating County acknowledges and understands that failure to meet application assurances, construction timelines and any other milestones or timelines as set forth in the Project Documents or Plans as approved by the Agencies and/or as incorporated in all provisions of this Agreement, may result at any time in award adjustments or Agreement termination by the BSCC.

ARTICLE 5. SUBSTANTIAL CHANGES.

In addition to the modification requirements set forth in Article 4, Section 4.2 of the PDCA, no substantial change to the Project Documents or other substantial modification to the Project may be made by Participating County without the prior written permission of the BSCC. Minor modifications to the Project do not require BSCC approval, but must be documented and reported on routine progress reports to the BSCC. Without limiting the foregoing, BSCC approval shall be required upon any of the following events or circumstances:

1. more than minor changes which affect the design or scope of the Project;
2. a delay or change in the date of substantial completion or Final Completion;
3. a more than minor change to the design, location, size, capacity or quality of major items of equipment. As used herein "substantial" is as defined in the State Administrative Manual, Section 6863. As used herein a minor change is any change which does not rise to the level of a substantial change under the State Administrative Manual, Section 6863;
4. a change in approved budget categories, or movement of dollars between budget categories as indicated in Exhibit B; or
5. any change that would impact BSCC or State Fire Marshal construction or operational regulations including, without limitation, Titles 15 and 24 of the CCR, or which affects the security or fire and life safety of the facility.

Participating County agrees that its County Construction Administrator will give prompt notification in writing to the BSCC of the occurrence of any of the above events and report any substantial modifications to the Agreement for Construction with its contractor. BSCC shall notify the Department consistent with Article 4 of the PDCA, and the Department shall make a Scope Change Request to the Board. Approval of this Scope Change Request by the Board shall be required before material change to the Project Documents or other substantial modification to the Project may be made by the Participating County.

In no event shall any budget changes be authorized which would cause the amount of Total Project Costs to be exceeded unless the Participating County covenants to fund such excess with lawfully available funds and with the consent of the Agencies and so appropriates such funding.

ARTICLE 6. PROJECT FUNDING

A. Invoices. Invoice and progress/final reports and all required audit reports shall be submitted to the BSCC in a timely manner as specified in this Agreement and Exhibit A.

B. State Financing Obligations.

1. In no event or circumstance shall the State or Agencies be obligated to pay the Participating County under this Agreement or any other Project Document any amount in excess of the Maximum State Financing. Participating County waives any and all claims against the Agencies or the State of California for any costs which exceed the Maximum State

Financing. The Participating County is solely responsible for any and all cost, expenses or fees of the Project which exceed the Maximum State Financing. Reimbursement of county costs from State Financing shall be limited to those costs permitted under Article 1(A) of Exhibit A and/or specifically identified in Exhibit B as “**Eligible State Costs**” provided, however, the State’s obligations to reimburse Participating County for any State Financing is contingent on (1) the availability of Interim Financing and (2) even if Interim Financing is provided, the successful sale of bonds sufficient to cover all remaining Eligible State Costs. State Financing shall be subject to the terms and conditions set forth in the PDCA.

2. Eligible State Costs subject to reimbursement shall in no event or circumstance exceed Maximum State Financing. Because the funds to be paid are limited, Participating County shall be obligated to complete the Project without additional State Financing. No additional State Financing will be available, and Participating County should take all necessary precautions to ensure that the Project is designed and constructed within the Project budget. The Participating County shall be responsible for any costs exceeding the Total Eligible Project Costs.

3. State shall reimburse the Participating County for Eligible State Costs provided Participating County’s performance of the Project is consistent with the Project Documents, including the Construction Schedule, and Participating County is not in breach of any term or condition of this Agreement, any Project Document, or any Applicable Law. At mutually agreed upon intervals as set forth in Exhibit A, Article 7, Participating County shall submit to BSCC a reimbursement request for payments of Eligible State Costs for which Participating County has already paid.

4. BSCC may reject any invoice or item on an invoice should it be determined that such invoice or item is ineligible for reimbursement under the terms of this Agreement, the Project Documents or any Applicable Laws (“**Improper Expenditure**”). Should it later be determined Participating County has been reimbursed for an Improper Expenditure or the State has made a payment to Participating County in excess of the amount for which the State is obligated (“**Excess Payment**”), BSCC may withhold future payments or repayments in amounts equal to the Improper Expenditure or the Excess Payment. In the event the amount of an Improper Expenditure exceeds the total reimbursement amount due Participating County, or should the discovery of the Improper Expenditure or Excess Payment occur after payment of the Withhold Amount (as defined below), Participating County shall immediately pay to BSCC the amount of the Improper Expenditure or Excess Payment.

5. At such time as the unreimbursed balance of the Eligible State Costs equals Five percent (5%) of the total Eligible State Costs (“**Withhold Amount**”), BSCC shall withhold that amount as security for Participating County’s performance of all its obligations under this Agreement. The Withhold Amount shall be released upon satisfaction of all of the following conditions: (a) there has been Final Completion of the Project, (b) delivery by Participating County and acceptance by Agencies of the Final Audit and the Final Project Summary Report, (c) Participating County has staffed and operated the jail as required under Article 4(G) above, and (d) Participating County is not in breach of any provisions of this Agreement, the other Project Documents and Applicable Laws.

6. All agreements with the contractor and any other contractor or subcontractor of Participating County or the contractor providing services or goods on the Project and for which reimbursement with State Financing for all or any portion of the payment for such services or goods is sought, shall require the contractor or subcontractor to list construction costs according to the CSI Divisions for the approved Schedule of Values.

C. Participating County Funding. Subject to all terms and provisions of this Agreement, the Participating County agrees to appropriate and spend cash (hard) matching funds as provided in Exhibits A and B (“**Cash (hard) Match**”). Subject to all terms and provisions of this Agreement, the Participating County agrees to provide in-kind (soft) match in accordance with Exhibits A and B (“**In-kind (soft) Match**”). Participating County agrees to expend Cash (hard) Match funds on a schedule that is at least pro-rata with the percentage expenditure of Eligible State Costs.

ARTICLE 7. ADMINISTRATIVE OVERSIGHT BY BOARD

Notwithstanding any other term or condition of this Agreement or any other Project Document, the scope and cost of the Project shall be subject to approval and administrative oversight by the Board, as required by California Government Code Section 15820.911.

ARTICLE 8. PERFORMANCE AND PAYMENT BONDS

Participating County shall require the contractor to procure and maintain a payment bond and a performance bond each of which shall be in an amount not less than one hundred percent (100%) of the contractor’s total contract price as set forth in the agreement between Participating County and contractor. The bonds shall be issued by one or more surety companies acceptable to the Agencies. The performance bond required by this Article 8 shall name the State as an additional beneficiary under the bonds.

ARTICLE 9. INDEMNITY

As required by California Government Code Section 15820.911(d), the Participating County hereby agrees to indemnify, defend and save harmless the State, including but not limited to the Board, the Department and the BSCC, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants, and agents (collectively, “Indemnitees”) for any and all claims and losses arising out of the acquisition, design, construction, operation, maintenance, use and occupancy of the Project. The Participating County shall not be obligated to provide indemnity or defense where the claim arises out of the gross negligence or willful misconduct of the Indemnitees. These obligations shall survive any termination of this Agreement.

ARTICLE 10. DISPUTES

Disputes arising under or relating to this Agreement shall be resolved in accordance with the provisions of Article 10 of Exhibit A.

ARTICLE 11. GENERAL TERMS AND CONDITIONS

The general terms and conditions published by the Department of General Services at <http://www.documents.dgs.ca.gov/ols/GTC-610.doc> and applicable to all State of California contracts are hereby incorporated by reference into this Agreement. In the event of a conflict between GTC-610 and any sections herein, the sections herein take precedence. In signing below, the Participating County's authorized representative represents and warrants that the Participating County has read and understands these general terms and conditions.

ARTICLE 12. COUNTERPARTS

This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one Party, but all of which when taken together shall constitute one and the same instrument, notwithstanding that all Parties have not signed the same counterpart hereof.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

FORM OF DOCUMENT

IN WITNESS THEREOF, the Parties have executed this Agreement, as of the Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: _____
Signature of Executive Director or Designee

Name and Title: _____
Date: _____

“PARTICIPATING COUNTY”

County of:

By: _____
Signature

Name and Title: _____
Date: _____

FORM OF DOCUMENT

EXHIBIT A

CONSTRUCTION AGREEMENT STANDARD CONDITIONS

ARTICLE 1. TOTAL ELIGIBLE PROJECT COSTS

A. Participating County shall only be reimbursed by the State from State Financing for Eligible State Costs. “**Eligible State Costs**” means reasonable and necessary Project costs actually incurred in construction of the Project and as specified in Exhibits A and B attached to the Agreement. Eligible State Costs also must be eligible for lease-revenue bond financing pursuant to this Agreement (including all Exhibits referenced therein) and all California state laws, rules, regulations, guidelines, and policies including, without limitation, Title 15, Local Jail Construction Financing Program regulations and any other Applicable Laws. Such Eligible State Costs shall include, but are not limited to, the items set forth in subsection (1) through (8) below. Participating County shall receive BSCC’s written consent prior to Participating County’s incurring the expense for any Project costs not listed below and for which Participating County wants State reimbursement provided such expenses do not fall within Participating County Costs as defined below in subsection (B).

1. On-site costs of facility construction of the BSCC-approved local jail facility project, including site preparation (eligible for State Financing or Cash (hard) Match).
2. Architectural programming and design (for activities by consultants and contractors; eligible for State Financing or Cash (hard) Match).
3. Construction management (for activities by consultants and contractors; eligible for State Financing or Cash (hard) Match).
4. Building permit fees, sewer/utility use or unit fees, and building inspection fees (eligible for State Financing or Cash (hard) Match).
5. Fixed equipment items (e.g., heating, ventilation, air conditioning, plumbing, lighting, communications, surveillance, security and life/safety equipment, etc.) as necessary for the operation of the BSCC-approved local jail facility (eligible for State Financing or Cash (hard) Match).
6. Fixed furnishings items (e.g., built-in and/or permanently affixed counters, tables, cabinets, seats, etc.) as necessary for the operation of the BSCC-approved local jail facility (eligible for State Financing or Cash (hard) Match).
7. Installation of existing fixed equipment and furnishings as necessary for the operation of the BSCC-approved local jail facility (eligible for State Financing or Cash (hard) Match).
8. Moveable equipment and moveable furnishings (subject to State review and approval; eligible for State Financing or Cash (hard) Match).

B. Participating County must provide a minimum of at least percent () of the Total Eligible Project Costs as any combination of Cash (hard) Match and In-kind (soft) Match funds. (Note to drafter: Large and Medium counties must provide a minimum of 10%). Cash (hard) Match funds cannot be used to supplant or replace funds otherwise dedicated or appropriated by the Participating County for construction activities. Cash (hard) Match funds cannot be claimed for salaries/benefits of regular employees of the Participating County Workforce but may be claimed for the services of consultants or contractors engaged to perform Project related services as described below. Cash (hard) Match funds only include costs of:

1. Items eligible for Eligible State Costs as described above;
2. Preparation costs for full or focused environmental reports (for activities by consultants and contractors);
3. Off-site costs, including access roads and utilities development, outside of a reasonable buffer zone surrounding the perimeter of the security fence, detention facility building and parking lot; and
4. Public art.

C. In-kind (soft) Match funds may be claimed for Project related costs for activities performed by Participating County staff or consultants. Eligible In-kind (soft) Match funds only includes:

1. Audit of Total Eligible Project Costs at the conclusion of the Project (staff salary/benefits of independent Participating County auditor or services of contracted auditor);
2. Needs assessments (staff salary/benefits and/or consultant costs directly related to the Project);
3. Site acquisition cost or current fair market land value supported by independent appraisal (on-site land only regardless of acquisition date) and as approved by the Department of General Services. This can be claimed for on-site land cost/value for new facility construction, on-site land cost/value of a closed facility that will be renovated and reopened, or on-site land cost/value used for expansion of an existing facility. It cannot be claimed for land cost/value under an existing operational local jail facility;
4. Participating County administration (staff salary/benefits directly related to the Project for activities after October 1, 2011);
5. Transition planning (staff salary/benefits and consultant activities directly related to the Project for activities after October 1, 2011); and
6. Real estate due diligence costs as billed to the Participating County by the State.

D. Participating County shall not under any circumstance be reimbursed by the State from Board interim financing sources, lease-revenue bond funds or from any other financing

source for Ineligible Project Costs. “**Ineligible Project Costs**” means all costs which are not eligible for lease-revenue bond financing or Participating County matching funds pursuant to the PDCA (including all Exhibits attached thereto) or pursuant to any California state law, rule, regulation, guideline, or policy including, without limitation, the AB 900 Jail Financing Program or any other Applicable Law. Participating County shall be responsible for all Ineligible Project Costs (“**Participating County Costs**”). Ineligible Project Costs also shall include but are not limited to the following:

1. Those Project Costs that are determined by the BSCC to be unreasonable or unnecessary costs.
2. Detention facility personnel and operational costs and related costs of supplies.
3. Soil and water contamination assessment/mitigation.
4. Excavation of burial sites.
5. Preparation of Environmental Impact Reports (ineligible for State Financing; eligible for Cash (hard) Match only if performed by consultants or contractors outside the regular county work force, eligible for In-kind (soft) Match if performed by county-paid employees).
6. Bonus payments for early completion of work.
7. Interest charges for late payments.
8. Interest on bonds or any other form of indebtedness required to finance Project costs.
9. Costs outside the scope of the BSCC-approved Project.
10. Fines and penalties due to violation of or failure to comply with federal, state or local laws, ordinances, or regulations.
11. Personal injury compensation or damages arising out of or connected with the Project, whether determined by adjudication, arbitration, negotiation, or otherwise.
12. All costs incurred in violation of the terms, provisions, conditions, or commitments of this Agreement.
13. Travel and per diem costs.
14. All costs arising out of or connected with contractor claims against the Participating County, or those persons for whom the Participating County may be vicariously liable, including, but not limited to, any and all costs related to defense or settlement of such claims.

15. Maintenance costs.
16. Supplanting of existing construction, programs, projects, or personnel.
17. All costs arising out of or attributable to Participating County's malfeasance, misfeasance, mismanagement, or negligence.
18. Temporary holding or court holding facilities.
19. Local Jail facilities or portions thereof operated by jurisdictions other than Participating County.

ARTICLE 2. PARTICIPATING COUNTY'S GENERAL RESPONSIBILITY

Participating County is solely responsible for design, construction, operation, and maintenance of the Project as identified in Exhibit B of this Agreement. Review and approval of plans, specifications, or other documents by BSCC, the Agencies and the State Fire Marshal, is solely for the purpose of proper administration of State Financing by the BSCC and the Agencies and shall not be deemed to relieve or restrict the Participating County's responsibility.

ARTICLE 3. PARTICIPATING COUNTY ASSURANCES AND COMMITMENTS

A. Compliance with Laws and Regulations. This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Participating County shall at all times comply with all Applicable Laws (as defined in the Agreement).

B. Fulfillment of Assurances and Declarations. Participating County shall fulfill all assurances, declarations, representations, and statements made by the Participating County in the County Project Proposal, documents, amendments, and communications filed in support of its request for lease-revenue bond funds including adoption of a BSCC approved staffing plan for staffing and operating the facility in accordance with state standards within ninety (90) calendar days of construction completion.

C. Use of State Financing. Participating County shall expend all State Funds and identified matching funds solely for Eligible Project Costs. Participating County shall, upon demand, remit to the BSCC any State Financing not expended for Eligible Project Costs or an amount equal to any State Financing expended by the Participating County in violation of the terms, provisions, conditions, or commitments of this Agreement. Any State Financing so remitted to the BSCC shall include interest equal to the rate earned by the State Pooled Money Investment Account.

D. Permits and Licenses. Participating County agrees to procure all permits and licenses necessary to complete the Project, pay all charges and fees, and give all notices necessary or incidental to the due and lawful proceeding of the Project work.

E. Compliance with Deliverables, Drawings, and Specifications. Participating County agrees that deliverables, drawings, and specifications, upon which prime and subcontracts are awarded, shall be the same as those submitted to and approved by the BSCC.

F. Prime and Subcontracting Requirements. In accordance with the provisions of this Agreement, the Participating County may contract with public or private contractors of services for activities necessary for the completion of the Project. Participating County agrees that in the event of an inconsistency between the Agreement and any other Project Document and Participating County's Construction Agreement with a contractor, the Project Documents will prevail. Participating County shall ensure that the contractor complies with all requirements of the Project Documents and all instructions of the County Construction Administrator regarding compliance with the Project Documents.

Participating County assures that for any contract awarded by the Participating County, such insurance (e.g., fire and extended coverage, workers' compensation, public liability and property damage, and "all-risk" coverage) as is customary and appropriate will be obtained.

Participating County agrees that its contractor will list construction costs according to the CSI Divisions for the approved Schedule of Values. Since certain portions of the Project may not be eligible for State Financing in all requests for reimbursement, the Participating County's contractor shall separately list work not eligible for State Financing, and the County Construction Administrator shall identify such work for the contractor.

Participating County agrees that it is the County Construction Administrator's responsibility to provide a liaison between the Participating County, the BSCC, and its contractor. Participating County agrees that its contractor is not responsible nor required to engage in direct discussion with the BSCC or any representative thereof, except that the contractor shall in good faith exert its best effort to assist the Participating County in fully complying with all requirements of the contract.

Participating County agrees to place appropriate language in all contracts for work on the Project requiring the Participating County's contractor(s) to:

1. Books and Records. Maintain adequate fiscal and Project books, records, documents, and other evidence pertinent to the contractor's work on the Project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the financial statement, to the accounting records, and to the supporting documentation. These records shall be maintained for the period set forth in Article 5 below, and shall be subject to examination and/or audit by the BSCC or designees, state government auditors or designees.

2. Access to Books and Records. Make such books, records, supporting documentations, and other evidence available to the BSCC or designees, the Department, the Board, the Department of General Services, the Department of Finance, the Bureau of State Audits, their designated representatives, during the course of the Project and for the period set forth in Article 5 below, and provide suitable facilities for access, monitoring, inspection, and copying thereof. Further, the Participating County agrees to include a similar right of the state to audit records and interview staff in any subcontract related to the performance of this Agreement.

3. Contractor Advisement. Be advised that a partial source of financing for the agreement between the Participating County and contractor for construction of the Project is the State Financing, and that the Participating County may not have funds to finance the Construction Agreement independently of the State Financing. The contractor shall in all ways cooperate with the Participating County and the BSCC in maintaining a good working relationship. The contractor shall cooperate as instructed by the County Construction Administrator in resolving any disputes arising under the Agreement.

ARTICLE 4. PROJECT ACCESS

To the extent not inconsistent with the Bond Documents, as that term is defined in Article 1 Section 1.1(a) of the PDCA, at all times during construction of the Project and after final completion, the Participating County shall provide to employees, subcontractors, and consultants of the Agencies reasonable unrestricted access to observe, monitor and inspect the Project. The Agencies' access to observe, monitor and inspect shall include the right to review all documents and files relating to the Project, as well as construction on the Site, including all tests and inspections relating to design or construction of the Project.

ARTICLE 5. RECORDS

Participating County shall establish an Official Project File, as defined in Article 7, Section 7.1 of the PDCA.

Participating County shall establish separate accounting records for receipt, deposit, and disbursement of all Project funds as specified in Exhibit A Article 9.

Participating County shall maintain books, records, documents, and other evidence sufficient to reflect properly the amount, receipt, and disposition of all Project funds, including State Financing, any matching funds provided by the Participating County and the total cost of the Project. The maintenance requirements extend to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all awards, applications, and required financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the award, whether they are employed full-time or part-time. Time and effort reports are also required for consultants and contractors. Supporting documentation for matching funds, goods or services shall, at a minimum, include the source of the match, the basis upon which the value of the match was calculated, and when the matching funds, goods, or services were provided. Receipts, signed by the recipient of donated goods and/or services should be issued and a copy retained. Generally accepted government accounting principles and adequate supporting documentation shall be maintained in such detail so as to provide an audit trail which will permit tracing transactions from the invoices to the financial statement, to the accounting records, and to the supporting documentation for the purpose of determining compliance with Section 10115 *et seq.* of the California Public Contract Code, Section 8546.7 of the California Government Code, and Title 2, Division 2, Chapter 3, Subchapter 10.5 Section 1896.60 *et seq.* of the CCR (as applicable).

Participating County shall maintain all records for the period set forth in the PDCA (“**Record Maintenance Period**”). Participating County agrees to protect records adequately from fire or other damage. When records are stored away from the Participating County’s principal office, a written index of the location of records stored must be on hand and ready access must be assured. All Participating County records shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and audit by the BSCC or designees, the Agencies, and by state government auditors or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the Record Maintenance Period, the records must be retained until the completion of the action and resolution of all issues which arise from it or until the end of the Record Maintenance Period, whichever is later.

ARTICLE 6. ACCOUNTING AND AUDIT REQUIREMENTS

All funds received by the Participating County shall be deposited into separate fund accounts which identify the funds and clearly show the manner of their disposition. Participating County agrees that the audit and accounting procedures shall be in accordance with generally accepted government accounting principles and practices (see Accounting Standards and Procedures for Counties, California State Controller, Division of Local Government Fiscal Affairs) and adequate supporting documentation shall be maintained in such detail so as to provide an audit trail which will permit tracing transactions from support documentation to the accounting records to the financial reports and billings. Participating County further agrees to the following audit requirements:

A. Pre-payment Audit. Prior to the deposit of State Financing into the separate account, the BSCC may require the Participating County to have a system audit performed by an auditor satisfactory to the BSCC to insure that the Participating County’s accounting system meets generally accepted government accounting principles;

B. Interim Audit. The BSCC reserves the right to call for a program audit or a system audit at any time between the execution of this Agreement and the completion or termination of the Project. At any time, the BSCC may disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action determined to be not in compliance with the terms and conditions of this Agreement, or take other remedies legally available; and,

C. Final Audit. Within ninety (90) calendar days of Final Completion, the Participating County must obtain and submit a final program audit to the BSCC (see Construction Financing Program Agreement Administration and Audit Guide). The audit shall be prepared in accordance with generally accepted auditing standards and government auditing standards for financial and compliance audits. The audit may be performed by the Participating County subject to the terms hereinafter described, or the Participating County may hire, at Participating County cost, an independent auditor to complete the final audit. Participating County should obtain assurances that the personnel selected to perform the audit collectively have the necessary skills. It is important that a sound procurement practice be followed when contracting for audit services. Sound contract and approval procedures, including the monitoring of contract performance, should be in place. The objectives and scope of the audit should be

made clear. In addition to price, other factors to be considered include: the responsiveness of the bidder to the request for proposal; the past experience of the bidder; availability of bidder staff with professional qualifications and technical abilities; and whether the bidder organization participates in an external quality control review program. It should be noted that these steps are important whether the Participating County is hiring auditors from an outside CPA firm or within its own internal auditing unit.

Since the audit function must maintain organizational independence, the County Financial Officer for this Project shall not perform audits of the contract-related activities. If the Participating County internal auditor performs the audit, the auditor must be organizationally independent from the Participating County's accounting and project management functions. Additionally, Participating County internal auditors who report to the Project Financial Officer, or to whom the Project Financial Officer reports, shall not perform the audit. The person conducting the audit shall be a certified public accountant, unless a Participating County auditor completes the audit. Failure to comply with these qualifications standards could result in the rejection of the audit report.

At any time, the BSCC may disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action determined to be not in compliance with the terms and conditions of this Agreement, or take other remedies legally available.

The BSCC reserves the right to have an audit conducted (at the BSCC's expense) at any time between execution of the Agreement up to and including the final audit of the Project.

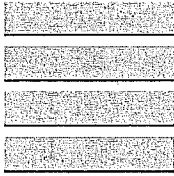
ARTICLE 7. REPORTS

Participating County agrees to submit fiscal invoices and progress/final reports in a format specified by the BSCC, and at mutually agreed upon intervals as defined below, during the period of the Agreement. Reports are due to the BSCC even if State Financing is not expended or requested in the reporting period. Not submitting invoices and progress/final reports in a timely manner may result in disbursements being withheld. In addition, Participating County shall immediately advise the BSCC of any significant problems or changes arising during the course of the Project.

Without limitation of the foregoing, the following reports are required:

A. Fiscal Invoice and Progress/Final Report. Participating County agrees to submit fiscal invoices and progress/final reports to the BSCC on the appropriate form provided to the Participating County during the term of this Agreement and shall do so on a regular schedule of either monthly, bi-monthly or quarterly. The reports shall include, but not be limited to, Project construction activities, change orders issued, problems identified, assistance needed, state funds and match expenditures made, State Financing received, and State Financing requested.

Invoicing/progress reporting interval: The [indicate interval] fiscal and progress/final report must be submitted within forty-five (45) calendar days after the end of [indicate interval]. The due dates for the invoices and progress reports are no later than:



B. Final Fiscal Invoice and Project Summary. Participating County agrees to submit to the BSCC a Final Fiscal Invoice and Project Summary on the appropriate form provided to the Participating County within forty-five (45) calendar days of the scheduled construction completion date identified in Exhibit B. The report shall include, but not be limited to, total state funds and match expenditures made by budget division, total State Financing received, remaining State Financing requested, number of BSCC-rated beds added and modified, number of special use beds added and modified, and a detailed description of the finished Project including pre-construction and post-construction photographs or other visual material suitable for public distribution. For purposes of this Exhibit A, “**BSCC-rated beds**” means the number of beds dedicated to housing adult offenders for which a facility’s single- and double-occupancy cells/rooms or dormitories were planned and designed in conformity to the standards and requirements contained in Titles 15 and 24 of the CCR. “**Special use beds**” means beds for the purpose of appropriately housing offenders in medical, mental health, or disciplinary rooms, cells or units that are planned and designed in conformity to the standards and requirements contained in Titles 15 and 24 of the CCR.

ARTICLE 8. WITHHOLDING OF STATE DISBURSEMENTS

A. BSCC may withhold all or any portion of the State Financing provided for by this Agreement in the event that:

1. Participating County Breach of Agreement. Participating County has materially and substantially breached the terms and conditions of this Agreement or any other Project Document.
2. Insufficient County Funds. Participating County is unable to demonstrate, to the satisfaction of the BSCC’s Executive Director, continuous availability of sufficient funds to complete the Project.
3. Insufficient Match Disbursement. Participating County has not expended its Cash (hard) Match requirement on a schedule that is at least pro-rata with the percentage expenditure of, collectively, interim financing and lease-revenue bond funds.

B. In the event that State Financing is withheld from the Participating County, the BSCC’s Executive Director or designee shall notify the Participating County of the reasons for withholding and advise the Participating County of the time within which the Participating County may remedy the failure or violation leading to the withholding.

The BSCC will not reimburse counties for costs identified as ineligible for State Financing. If State Financing has been provided for costs subsequently discovered to be ineligible, the BSCC may either withhold an equal amount from subsequent payments to the

Participating County or require repayment of an equal amount to the State by the Participating County. Any State Financing so remitted to the BSCC may be subject to interest equal to the rate earned by the State Pooled Money Investment Account.

ARTICLE 9. DISBURSEMENT

Participating County shall be paid in arrears on invoices of expenditures and requests for funds submitted to BSCC at mutually agreed upon intervals, see Article 7(A), on the Fiscal Invoice and Progress/Final Report. Participating County shall supply BSCC with appropriate expenditure documentation and request for funds on form(s) provided by BSCC and certify to the accuracy of the report(s) in accordance with generally accepted governmental accounting principles and BSCC regulations, guidelines, policies and procedures. Participating County shall further certify that all listed expenditures are actual and that all funds were expended for the purpose of liquidating obligations identified in Exhibit B and legally incurred.

The State will issue a warrant for eligible funds within approximately thirty (30) to sixty (60) days of receipt of Participating County invoice and documentation of eligible expenditures. All requests for payment shall be accompanied by any documentation as may be required by BSCC or the Board and with such certification(s) as may be required by BSCC.

ARTICLE 10. DISPUTES

Participating County shall continue with the responsibilities under this Agreement during any disputes. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under, or relating to, the performance of this Agreement which is not resolved by agreement between Participating County and BSCC staff shall be decided by the BSCC. This clause does not preclude consideration of legal questions; nothing in this Agreement shall be construed as making final the decision of any administrative official, representative, or BSCC on a question of law.

Participating County may appeal on the basis of alleged misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures. Such appeal shall be filed within thirty (30) calendar days of the notification of the action with which the Participating County is dissatisfied. The request shall be in writing stating the basis for the dissatisfaction and the action being requested of the BSCC.

A hearing shall be conducted by a hearing panel designated by the Chairperson of the BSCC Board at a reasonable time, date, and place, but not later than twenty-one (21) calendar days after the filing of the request for hearing with BSCC, unless delayed for good cause. BSCC shall mail or deliver to the appellant or authorized representative a written notice of the time and place of hearing not less than fourteen (14) calendar days prior to the hearing. The procedural time requirements may be waived with mutual written consent of the parties involved.

Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision by the BSCC Board within ninety (90) calendar days from the date of the request for appeal hearing, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued for what is determined by the hearing panel to be good cause.

An appellant may waive a personal hearing before the hearing panel and under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information as may be deemed appropriate.

The hearing is not formal in nature. Pertinent and relevant information, whether written or oral, will be accepted. Hearings will be tape recorded. After the hearing has been completed, the hearing panel shall submit an advisory recommendation on the matter to the BSCC Board. The decision of the BSCC Board shall be final.

Notwithstanding any other provision of this Article 10, this Article 10 shall not limit any other rights or remedies available to the State or any other Agency under any other Project Document including, without limitation, the PDCA.

ARTICLE 11. REMEDIES

Participating County agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the BSCC as a result of breach of this Agreement by the Participating County, whether such breach occurs before or after completion of the Project. In the event of litigation between the Parties hereto arising from this Agreement, it is agreed that the prevailing Party shall be entitled to such reasonable costs and/or attorney fees and costs as may be ordered within the discretion of the Court.

ARTICLE 12. WAIVER

The Parties hereto may, from time to time, waive any of their rights under this Agreement unless such waiver is contrary to law, provided that any such waiver shall be in writing and signed by the Party making such waiver.

EXHIBIT B

PROJECT DESCRIPTION AND BUDGET

Capitalized terms not defined in this Exhibit B shall have the meaning as set forth in the Agreement to which this Exhibit B is attached.

County (County):

Name of Facility Subject to Construction:

SECTION 1. PROJECT DESCRIPTION

Provide a description of the Project scope as presented in Exhibit A of the PDCA.

SECTION 2. PROJECT TIMETABLE

Provide an updated Project timetable to include start and completion dates for each of the following key events: 1) Schematic Design and Operational Program Statement; 2) Design Development with Staffing Plan; 3) Staffing/Operating Cost Analysis; 4) Construction Documents; 5) Construction Bids; 6) Notice to Proceed; 7) Construction; and 8) Occupancy. Note that construction should be substantially complete within three (3) years from Notice to Proceed and occupancy must occur within ninety (90) days of Final Completion.

SECTION 3. CONSTRUCTION MANAGEMENT PLAN

Provide a general outline of the construction management plan, including methods to monitor/control the Project and ensure a successful, on schedule completion:

SECTION 4. KEY PERSONNEL

Provide a listing of the names, titles, and roles of key construction and management personnel:

SECTION 5. BUDGET CLASSIFICATION SCHEDULES

In a format acceptable to BSCC, provide budget categories for State Financing, Cash (hard) Match and In-kind (soft) Match.

STATE OF CALIFORNIA

**BOARD OF STATE AND COMMUNITY CORRECTIONS
JAIL CONSTRUCTION AGREEMENT
FOR [REDACTED]**

This Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of _____, 20__ (“**Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an entity of the state government of the State of California (“**State**”), and [REDACTED] (“**Participating County**”), a Political Subdivision of the State. BSCC and Participating County are referred to collectively herein as the “**Parties**,” and individually as a “**Party**.”

RECITALS

WHEREAS, Participating County has proposed to build a jail facility as more particularly described in Exhibit B attached hereto (“**Project**”), located at [REDACTED] (“**Site**”) under Chapter 3.12, Part 10b of Division 3 of Title 2 of the California Government Code and the corresponding regulations set forth in Title 15, Division 1, Chapter 1, Subchapter 6 of the California Code of Regulations (collectively, the “**AB 900 Jail Financing Program**”).

WHEREAS, this Agreement is being executed concurrently with the execution of the Project Delivery and Construction Agreement (“**PDCA**”) entered into between the Participating County, BSCC, the State Public Works Board of the State of California (“**Board**”) and the Department of Corrections and Rehabilitation (“**Department**”). The Department, the Board and BSCC are referred to collectively herein as “**Agencies**.”

WHEREAS, the purpose of this Agreement is to set forth the roles, responsibilities and performance expectations of the Parties with respect to the Participating County’s construction of the Project under the authority of the BSCC and the procedures for reimbursement by the State of those Participating County costs eligible for reimbursement as provided for under the AB 900 Jail Financing Program. This Agreement is intended to be read in conjunction with the other agreements necessary for the construction and financing of the Project under the AB 900 Jail Financing Program including, without limitation, the PDCA and the other agreements described in the PDCA recitals. Nothing in this Agreement is intended to amend or modify the rights and obligations of the Parties under those other agreements including, without limitation, the PDCA.

WHEREAS, the Total Project Costs for the Project shall be defined in Article 3, Section 3.1(a) of the PDCA. The State will provide financing (“**State Financing**”) (up to a maximum of [REDACTED] dollars (\$ [REDACTED]) (“**Maximum State Financing**”)) and the Participating County will provide the Cash (hard) Match (as defined in Article 6(C) below) and the In-Kind (soft) Match (as defined in Article 6(C) below) (with the Cash (hard) Match and the In-kind (soft) Match collectively referred to as “**Participating County Funding**” and together with the Maximum State Financing, the “**Total Eligible Project Costs**”). Total Eligible Project Costs shall be used in determining Cash (hard) Match credit and In-kind (soft) Match credit to the Participating Counties as specified in Exhibit A to this Agreement. As stated in Article 1, Section 1.3 of the PDCA, the AB 900 Jail Financing Program is predicated on the Board’s ability

to issue bonds for the Project.

NOW, THEREFORE, in consideration of the promises and of the mutual agreements, provisions and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1. TERM AND TERMINATION

A. Term. This Agreement shall commence on the Effective Date and shall terminate upon the completion and State acceptance of the Final Audit (as defined below in Article 4(C)) unless terminated earlier as provided in Article 1(C) below.

B. Survival. The provisions of Articles 1(C)(3), 1(C)(4), 3(D), 4(C), 4(D), 6(B)(5), 6(B)(6), 9, 10 and 11, and Articles 3, 4, 5, 6, 7, 8, and 10, 11 of Exhibit A shall survive termination of the Agreement.

C. Termination.

1. BSCC in consultation with the other Agencies may terminate this Agreement in the event any of the following events or conditions occurs:

(a) Participating County's breach of a material term of this Agreement, any Project Document or any Applicable Laws provided Participating County has not cured such breach in all respects within such thirty (30) day period, which cure period may be extended for a reasonable time with the consent of BSCC if the Participating County demonstrates that such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(b) Termination of the PDCA as provided for in Article 2, Section 2.2(a)(i)-(v) and (b) of the PDCA;

(c) Substantive alteration of the scope, cost or schedule of the Project without the prior written approval of BSCC and the Board as required under this Agreement and the PDCA; or

(d) Participating County's refusal or inability to complete the Project in a manner consistent with the Agreement, and the other Project Documents (as defined below in Article 3) including all timelines, plans, and specifications as approved by BSCC, or refusal or inability to comply with any Applicable Law.

2. The Participating County may, prior to the State providing any amount of financing, terminate this Agreement in the event any of the following occurs:

(a) The State's breach of a material term of this Agreement, any Project Document or any Applicable Laws provided the State has not cured such breach in all respects within thirty (30) days from notice of said breach, which cure period may be extended for a reasonable time with the consent of the Participating County if the State demonstrates that

such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(b) Termination of the PDCA as provided for in Article 2, Section 2.2(a)(i)-(v) and (b) of the PDCA;

(c) Failure of the State to execute the Ground Lease or the Right of Entry for Construction and Operation; or

(d) In the event the Board determines the Participating County is no longer eligible for Project financing under the AB 900 Jail Financing Program as set forth in Article 1, Section 1.2 of the PDCA.

3. In the event of termination as provided in Article 1(C)(1), and unless the Parties agree in writing otherwise, Participating County shall, upon notification, refund to the Agencies an amount equal to all State Financing previously disbursed to the Participating County. Any State Financing so remitted to the Agencies may be subject to interest equal to the rate earned by the State Pooled Money Investment Account. Participating County shall not be required to refund any State Financing in the event of termination solely because, through no fault of Participating County, the Board determines it is not feasible or appropriate to issue bonds or is unable to issue bonds to finance the Participating County's Project.

4. Nothing in this Article 1 in any way alters or limits the authority of BSCC or the Agencies to withhold State Financing in accordance with Applicable Laws (as defined below) or any other right or remedy available to the State at law or in equity for breach of the Agreement.

ARTICLE 2. PROJECT OFFICIALS

A. BSCC Representative. The BSCC Executive Director or his or her designee shall be the State's representative ("**Agency Representative**") for administration of this Agreement. Any amendment to this Agreement, including any exhibit, schedule or attachment hereto, shall be binding on the State only if signed by the Agency Representative. This Article 2(A) shall not limit any requirements for amendment of any other agreement that is a Project Document.

B. Participating County Construction Administrator. The Participating County has appointed a County Construction Administrator as identified below. Participating County agrees that its County Construction Administrator shall be its representative for the administration of the Agreement and shall have full authority to act on behalf of the Participating County. Participating County agrees that all communications given to its County Construction Administrator shall be binding as if given to the Participating County. Participating County agrees that any documents required to be submitted to the Agencies, including but not limited to, quarterly progress reports and final project summary reports, shall be certified for accuracy by its County Construction Administrator in form reasonably acceptable to BSCC. Any Amendment to this Agreement and any other Project Document shall be binding on the Participating County only if signed or certified in form reasonably acceptable to BSCC by the County Construction Administrator.

County Construction Administrator: [redacted]
Title: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
Telephone: [redacted]
Facsimile: [redacted]
Email: [redacted]

C. Participating County Project Financial Officer. The Participating County has appointed a Project Financial Officer as identified below. Participating County agrees that its Project Financial Officer shall be responsible for establishing an official project file and a separate account for depositing of funds paid under this Agreement, and ensuring that project accounting procedures and practices are in accordance with generally accepted government accounting principles and practices (see Accounting Standards and Procedures for Counties, California State Controller, Division of Local Government Fiscal Affairs) with adequate supporting documentation maintained in such detail so as to provide an audit trail which will permit tracing transactions from support documentation, to the accounting records, to the financial reports and billings. Participating County agrees that all fiscal documents, including all invoices and expenditure statements, required to be submitted to BSCC shall be certified for accuracy by its Project Financial Officer.

Project Financial Officer: [redacted]
Title: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
Telephone: [redacted]
Facsimile: [redacted]
Email: [redacted]

D. Participating County Project Contact Person. The Participating County has appointed a County Project Contact Person as identified below. Participating County agrees that its County Project Contact Person shall be responsible for coordinating and transmitting information to BSCC and receiving and disseminating information from BSCC. Participating County agrees that all communications given to its County Project Contact Person shall be binding as if given to the Participating County.

County Project Contact Person: [redacted]
Title: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
Telephone: [redacted]
Facsimile: [redacted]
Email: [redacted]

Either Party may change its Project representatives upon written notice to the other Party.

ARTICLE 3. PROJECT DOCUMENTS AND APPLICABLE LAWS.

A. Project Documents. The Participating County agrees to construct the Project in accordance with the following agreements and documents each as may be amended in accordance with its terms and which, together with the Agreement, shall be referred to herein as the “**Project Documents**”: (1) BSCC Jail Construction Agreement Standard Conditions attached hereto as Exhibit A; (2) Participating County’s Project Proposal [Insert Name and Date of Participating County’s Bid Proposal] (“**County Project Proposal**”); (3) County Project Description Detail and Budget (“**Project Description**”) in the form attached hereto as Exhibit B; (4) Ground Lease, Right of Entry for Construction and Operation, Facility Lease and the Facility Sublease as those terms are defined in the PDCA; and (5) the PDCA .

B. Applicable Laws. The Participating County agrees to comply with all federal, state or local laws, regulations, rules, ordinances and guidelines applicable to the construction of the Project including, without limitation the following (collectively “**Applicable Laws**”):

1. The Minimum Standards for Local Detention Facilities and Local Jail Construction Financing Program regulations contained in Title 15, Division 1, Chapter 1, Subchapters 4 and 6 of the California Code of Regulations (“**CCR**”).
2. The Minimum Standards for Local Detention Facilities and the fire and life safety regulations contained in Title 24 of the CCR.
3. California Public Contract Code.
4. California Environmental Quality Act (CEQA) contained in Section 21000 *et seq.* of the California Public Resources Code and Title 14, Division 6, Chapter 3, Sections 15000 *et seq.* of the CCR.
5. Accounting Standards and Procedures for Counties, California State Controller, Division of Local Fiscal Affairs.
6. Construction Financing Agreement Administration and Audit Guide.

C. Incorporation of Approved Changes. Upon their completion, all Participating County assurances and submittals, submitted to and approved in writing by BSCC are incorporated herein by reference and made a part of this Agreement.

D. Precedence. In the event of any inconsistency in the Project Documents, except as otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: 1) PDCA; 2) the Ground Lease (as defined in the PDCA); 3) this Agreement including the BSCC Jail Construction Agreement Standard Conditions attached hereto as Exhibit A; 4) the Right of Entry for Construction and Operation (as defined in the PDCA); 5) Participating County’s Project Proposal; 6) Participating County Project Description Detail and Budget; and 7) the Participating County’s proposal(s), modification(s), and submittals. In the event the Bonds are issued, any inconsistency between the Project Documents and the Bond Documents shall be resolved by giving precedence to the Bond Documents. To the extent the Parties mutually agree that a provision of a particular document should control with respect to an

inconsistency between that document and another document or documents, notwithstanding the other provisions of this Section, such provision shall control.

ARTICLE 4. PARTICIPATING COUNTY OBLIGATIONS

Participating County agrees to the following covenants, assurances and submittals:

A. Participating County's Construction of Jail. The Participating County shall construct the Project to ensure and enable compliance with all Applicable Laws, and Participating County agrees that State Financing and Cash (hard) Match funds shall not supplant funds otherwise dedicated or appropriated for construction activities. No review or approval provided by the State, the Agencies or the State Fire Marshal of documents or submittals shall relieve Participating County of its obligation to design and construct the Project in accordance with this Agreement and all Applicable Laws including, without limitation environmental, procurement, safety and health, the AB 900 Jail Financing Program, and Titles 15 and 24 of the CCR. The Agencies' review and approval of any Project Document is for the Agencies' purposes only. No alleged failure or oversight related to the Agencies' review of the Project or the Project Documents shall be construed as a waiver of any rights of the Agencies or the State of California, or construed as an excuse to performance by Participating County under this Agreement or any other agreement. All Plans (as defined below) prepared by the Participating County shall be consistent with the Participating County Project Proposal.

B. Valley Fever. California is one of several states in the country with soils that may contain spores known to cause the disease Coccidioidomycosis (sometimes called "Valley Fever"), which spores may be transmitted through contact with dirt and fugitive dust associated with construction activities. The Participating County shall disclose this information to contractor in or prior to execution of a Construction Agreement. The Participating County, its contractor and any lower-tier subcontractors shall take appropriate precautionary measures designed to minimize the exposure of their respective employees and other workers, Agencies' employees, and other individuals or personnel who may be present during construction activities.

C. Record Keeping and Audit Requirements. Participating County shall keep such full and detailed account records as are necessary for proper financial management of the Project. Participating County shall maintain a complete and current set of all books and records relating to the design and construction of the Project. Agencies shall be entitled, upon forty-eight (48) hour written notice, to inspect all books, records, and accounts kept by Participating County relating to the work contemplated by this Agreement. Within ninety (90) calendar days after Final Completion (as defined below), Participating County shall deliver to Agencies a financial audit of the Project ("**Final Audit**"). The Final Audit shall be performed by a Certified Public Accountant or a Participating County auditor that is organizationally independent from the Participating County's project financial management functions. Nothing in this Article 4(C) shall limit the Participating County's record retention obligations as set forth in Article 7 of the PDCA. For purposes of this Agreement, "**Final Completion**" shall mean completion of the Project.

D. Compliance with Project Documents and Applicable Laws. Participating County agrees to comply with all terms and conditions of this Agreement, the other Project Documents

and all exhibits and schedules attached hereto or thereto and all Applicable Laws.

E. Project Plans. In addition to all submission requirements under the PDCA, the Participating County shall submit to BSCC the architectural and design documents, drawings, specifications, calculations, general and special conditions, submittals, Project budgets, schedules and contracts (collectively, “Plans”) within the time frames as specifically set forth in Exhibit B and as otherwise may be required by the Project Documents and Applicable Laws. As a condition to the financing to be provided by the State through interim financing or the sale of the Bonds, Participating County shall cause to be prepared, in a form that are ready to construct, all required Plans and bid documents necessary to solicit bids, and complete the Project on time and within budget. Participating County is solely responsible for preparing all Plans and other documents for the public bidding process, as provided by Applicable Law. Participating County shall not solicit bids for the Project until BSCC, together with the State Fire Marshal, have approved the final construction documents and specifications and the Department of Finance has approved these documents and specifications.

F. Construction. Participating County shall be responsible to contract for all design and construction services, and shall manage the day-to-day design and construction of the Project. Participating County shall cause the design and construction of the Project to be consistent with the requirements, limitations, and other terms of this Agreement, the Project Documents, all Applicable Laws, as well as all other agreements between the Agencies and Participating County.

G. Operation of Jail. Participating County shall be responsible to maintain the jail upon Final Completion and staff and operate the jail no later than ninety (90) days after Final Completion.

H. Professional Services. Participating County shall be responsible for providing all necessary professional services in order to carry out the design and construction of the Project. Participating County shall obtain all professional services from properly licensed design professionals. All Plans prepared by such design professionals shall bear the signature and seal of the design professional. All construction work on the Project shall be performed by properly licensed contractors and subcontractors. Participating County is encouraged to utilize a qualified construction manager and claims avoidance experts to facilitate timely and efficient construction of the Project.

I. Completion of Project. Participating County agrees to proceed expeditiously with, and complete, the Project in accordance with the Project Documents and Plans as approved by the BSCC and the Agencies and/or as incorporated in all provisions of this Agreement. Participating County acknowledges and understands that failure to meet application assurances, construction timelines and any other milestones or timelines as set forth in the Project Documents or Plans as approved by the Agencies and/or as incorporated in all provisions of this Agreement, may result at any time in award adjustments or Agreement termination by the BSCC.

ARTICLE 5. SUBSTANTIAL CHANGES.

In addition to the modification requirements set forth in Article 4, Section 4.2 of the

PDCA, no substantial change to the Project Documents or other substantial modification to the Project may be made by Participating County without the prior written permission of the BSCC. Minor modifications to the Project do not require BSCC approval, but must be documented and reported on routine progress reports to the BSCC. Without limiting the foregoing, BSCC approval shall be required upon any of the following events or circumstances:

1. more than minor changes which affect the design or scope of the Project;
2. a delay or change in the date of substantial completion or Final Completion;
3. a more than minor change to the design, location, size, capacity or quality of major items of equipment. As used herein "substantial" is as defined in the State Administrative Manual, Section 6863. As used herein a minor change is any change which does not rise to the level of a substantial change under the State Administrative Manual, Section 6863;
4. a change in approved budget categories, or movement of dollars between budget categories as indicated in Exhibit B; or
5. any change that would impact BSCC or State Fire Marshal construction or operational regulations including, without limitation, Titles 15 and 24 of the CCR, or which affects the security or fire and life safety of the facility.

Participating County agrees that its County Construction Administrator will give prompt notification in writing to the BSCC of the occurrence of any of the above events and report any substantial modifications to the Agreement for Construction with its contractor. BSCC shall notify the Department consistent with Article 4 of the PDCA, and the Department shall make a Scope Change Request to the Board. Approval of this Scope Change Request by the Board shall be required before material change to the Project Documents or other substantial modification to the Project may be made by the Participating County.

In no event shall any budget changes be authorized which would cause the amount of Total Project Costs to be exceeded unless the Participating County covenants to fund such excess with lawfully available funds and with the consent of the Agencies and so appropriates such funding.

ARTICLE 6. PROJECT FUNDING

A. Invoices. Invoice and progress/final reports and all required audit reports shall be submitted to the BSCC in a timely manner as specified in this Agreement and Exhibit A.

B. State Financing Obligations.

1. In no event or circumstance shall the State or Agencies be obligated to pay the Participating County under this Agreement or any other Project Document any amount in excess of the Maximum State Financing. Participating County waives any and all claims against the Agencies or the State of California for any costs which exceed the Maximum State Financing. The Participating County is solely responsible for any and all cost, expenses or fees

of the Project which exceed the Maximum State Financing. Reimbursement of county costs from State Financing shall be limited to those costs permitted under Article 1(A) of Exhibit A and/or specifically identified in Exhibit B as “**Eligible State Costs**” provided, however, the State’s obligations to reimburse Participating County for any State Financing is contingent on (1) the availability of Interim Financing and (2) even if Interim Financing is provided, the successful sale of bonds sufficient to cover all remaining Eligible State Costs. State Financing shall be subject to the terms and conditions set forth in the PDCA.

2. Eligible State Costs subject to reimbursement shall in no event or circumstance exceed Maximum State Financing. Because the funds to be paid are limited, Participating County shall be obligated to complete the Project without additional State Financing. No additional State Financing will be available, and Participating County should take all necessary precautions to ensure that the Project is designed and constructed within the Project budget. The Participating County shall be responsible for any costs exceeding the Total Eligible Project Costs.

3. State shall reimburse the Participating County for Eligible State Costs provided Participating County’s performance of the Project is consistent with the Project Documents, including the Construction Schedule, and Participating County is not in breach of any term or condition of this Agreement, any Project Document, or any Applicable Law. At mutually agreed upon intervals as set forth in Exhibit A, Article 7, Participating County shall submit to BSCC a reimbursement request for payments of Eligible State Costs for which Participating County has already paid.

4. BSCC may reject any invoice or item on an invoice should it be determined that such invoice or item is ineligible for reimbursement under the terms of this Agreement, the Project Documents or any Applicable Laws (“**Improper Expenditure**”). Should it later be determined Participating County has been reimbursed for an Improper Expenditure or the State has made a payment to Participating County in excess of the amount for which the State is obligated (“**Excess Payment**”), BSCC may withhold future payments or repayments in amounts equal to the Improper Expenditure or the Excess Payment. In the event the amount of an Improper Expenditure exceeds the total reimbursement amount due Participating County, or should the discovery of the Improper Expenditure or Excess Payment occur after payment of the Withhold Amount (as defined below), Participating County shall immediately pay to BSCC the amount of the Improper Expenditure or Excess Payment.

5. At such time as the unreimbursed balance of the Eligible State Costs equals Five percent (5%) of the total Eligible State Costs (“**Withhold Amount**”), BSCC shall withhold that amount as security for Participating County’s performance of all its obligations under this Agreement. The Withhold Amount shall be released upon satisfaction of all of the following conditions: (a) there has been Final Completion of the Project, (b) delivery by Participating County and acceptance by Agencies of the Final Audit and the Final Project Summary Report, (c) Participating County has staffed and operated the jail as required under Article 4(G) above, and (d) Participating County is not in breach of any provisions of this Agreement, the other Project Documents and Applicable Laws.

6. All agreements with the contractor and any other contractor or

subcontractor of Participating County or the contractor providing services or goods on the Project and for which reimbursement with State Financing for all or any portion of the payment for such services or goods is sought, shall require the contractor or subcontractor to list construction costs according to the CSI Divisions for the approved Schedule of Values.

C. Participating County Funding. Subject to all terms and provisions of this Agreement, the Participating County agrees to appropriate and spend cash (hard) matching funds as provided in Exhibits A and B (“**Cash (hard) Match**”). Subject to all terms and provisions of this Agreement, the Participating County agrees to provide in-kind (soft) match in accordance with Exhibits A and B (“**In-kind (soft) Match**”). Participating County agrees to expend Cash (hard) Match funds on a schedule that is at least pro-rata with the percentage expenditure of Eligible State Costs.

ARTICLE 7. ADMINISTRATIVE OVERSIGHT BY BOARD

Notwithstanding any other term or condition of this Agreement or any other Project Document, the scope and cost of the Project shall be subject to approval and administrative oversight by the Board, as required by California Government Code Section 15820.911.

ARTICLE 8. PERFORMANCE AND PAYMENT BONDS

Participating County shall require the contractor to procure and maintain a payment bond and a performance bond each of which shall be in an amount not less than one hundred percent (100%) of the contractor’s total contract price as set forth in the agreement between Participating County and contractor. The bonds shall be issued by one or more surety companies acceptable to the Agencies. The performance bond required by this Article 8 shall name the State as an additional beneficiary under the bonds.

ARTICLE 9. INDEMNITY

As required by California Government Code Section 15820.911(d), the Participating County hereby agrees to indemnify, defend and save harmless the State, including but not limited to the Board, the Department and the BSCC, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants, and agents (collectively, “Indemnitees”) for any and all claims and losses arising out of the acquisition, design, construction, operation, maintenance, use and occupancy of the Project. The Participating County shall not be obligated to provide indemnity or defense where the claim arises out of the gross negligence or willful misconduct of the Indemnitees. These obligations shall survive any termination of this Agreement.

ARTICLE 10. DISPUTES

Disputes arising under or relating to this Agreement shall be resolved in accordance with the provisions of Article 10 of Exhibit A.

ARTICLE 11. GENERAL TERMS AND CONDITIONS

The general terms and conditions published by the Department of General Services at

<http://www.documents.dgs.ca.gov/ols/GTC-610.doc> and applicable to all State of California contracts are hereby incorporated by reference into this Agreement. In the event of a conflict between GTC-610 and any sections herein, the sections herein take precedence. In signing below, the Participating County's authorized representative represents and warrants that the Participating County has read and understands these general terms and conditions.

ARTICLE 12. COUNTERPARTS

This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one Party, but all of which when taken together shall constitute one and the same instrument, notwithstanding that all Parties have not signed the same counterpart hereof.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

FORM OF DOCUMENT

IN WITNESS THEREOF, the Parties have executed this Agreement, as of the Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: _____
Signature of Executive Director or Designee

Name and Title: _____
Date: _____

“PARTICIPATING COUNTY”

County of:

By: _____
Signature

Name and Title: _____
Date: _____

FORM OF DOCUMENT

EXHIBIT A

CONSTRUCTION AGREEMENT STANDARD CONDITIONS

ARTICLE 1. TOTAL ELIGIBLE PROJECT COSTS

A. Participating County shall only be reimbursed by the State from State Financing for Eligible State Costs. “**Eligible State Costs**” means reasonable and necessary Project costs actually incurred in construction of the Project and as specified in Exhibits A and B attached to the Agreement. Eligible State Costs also must be eligible for lease-revenue bond financing pursuant to this Agreement (including all Exhibits referenced therein) and all California state laws, rules, regulations, guidelines, and policies including, without limitation, Title 15, Local Jail Construction Financing Program regulations and any other Applicable Laws. Such Eligible State Costs shall include, but are not limited to, the items set forth in subsection (1) through (8) below. Participating County shall receive BSCC’s written consent prior to Participating County’s incurring the expense for any Project costs not listed below and for which Participating County wants State reimbursement provided such expenses do not fall within Participating County Costs as defined below in subsection (B).

1. On-site costs of facility construction of the BSCC-approved local jail facility project, including site preparation (eligible for State Financing or Cash (hard) Match).
2. Architectural programming and design (for activities by consultants and contractors; eligible for State Financing or Cash (hard) Match).
3. Construction management (for activities by consultants and contractors; eligible for State Financing or Cash (hard) Match).
4. Building permit fees, sewer/utility use or unit fees, and building inspection fees (eligible for State Financing or Cash (hard) Match).
5. Fixed equipment items (e.g., heating, ventilation, air conditioning, plumbing, lighting, communications, surveillance, security and life/safety equipment, etc.) as necessary for the operation of the BSCC-approved local jail facility (eligible for State Financing or Cash (hard) Match).
6. Fixed furnishings items (e.g., built-in and/or permanently affixed counters, tables, cabinets, seats, etc.) as necessary for the operation of the BSCC-approved local jail facility (eligible for State Financing or Cash (hard) Match).
7. Installation of existing fixed equipment and furnishings as necessary for the operation of the BSCC-approved local jail facility (eligible for State Financing or Cash (hard) Match).
8. Moveable equipment and moveable furnishings (subject to State review and approval; eligible for State Financing or Cash (hard) Match).

B. Participating County must provide a minimum of at least [redacted] percent ([redacted]%) of the Total Eligible Project Costs as any combination of Cash (hard) Match and In-kind (soft) Match funds. (Note to drafter: Large and Medium counties must provide a minimum of 10%). Cash (hard) Match funds cannot be used to supplant or replace funds otherwise dedicated or appropriated by the Participating County for construction activities. Cash (hard) Match funds cannot be claimed for salaries/benefits of regular employees of the Participating County Workforce but may be claimed for the services of consultants or contractors engaged to perform Project related services as described below. Cash (hard) Match funds only include costs of:

1. Items eligible for Eligible State Costs as described above;
2. Preparation costs for full or focused environmental reports (for activities by consultants and contractors);
3. Off-site costs, including access roads and utilities development, outside of a reasonable buffer zone surrounding the perimeter of the security fence, detention facility building and parking lot; and
4. Public art.

C. In-kind (soft) Match funds may be claimed for Project related costs for activities performed by Participating County staff or consultants. Eligible In-kind (soft) Match funds only includes:

1. Audit of Total Eligible Project Costs at the conclusion of the Project (staff salary/benefits of independent Participating County auditor or services of contracted auditor);
2. Needs assessments (staff salary/benefits and/or consultant costs directly related to the Project);
3. Site acquisition cost or current fair market land value supported by independent appraisal (on-site land only regardless of acquisition date) and as approved by the Department of General Services. This can be claimed for on-site land cost/value for new facility construction, on-site land cost/value of a closed facility that will be renovated and reopened, or on-site land cost/value used for expansion of an existing facility. It cannot be claimed for land cost/value under an existing operational local jail facility;
4. Participating County administration (staff salary/benefits directly related to the Project for activities after October 1, 2011);
5. Transition planning (staff salary/benefits and consultant activities directly related to the Project for activities after October 1, 2011); and
6. Real estate due diligence costs as billed to the Participating County by the State.

D. Participating County shall not under any circumstance be reimbursed by the State from Board interim financing sources, lease-revenue bond funds or from any other financing

source for Ineligible Project Costs. “**Ineligible Project Costs**” means all costs which are not eligible for lease-revenue bond financing or Participating County matching funds pursuant to the PDCA (including all Exhibits attached thereto) or pursuant to any California state law, rule, regulation, guideline, or policy including, without limitation, the AB 900 Jail Financing Program or any other Applicable Law. Participating County shall be responsible for all Ineligible Project Costs (“**Participating County Costs**”). Ineligible Project Costs also shall include but are not limited to the following:

1. Those Project Costs that are determined by the BSCC to be unreasonable or unnecessary costs.
2. Detention facility personnel and operational costs and related costs of supplies.
3. Soil and water contamination assessment/mitigation.
4. Excavation of burial sites.
5. Preparation of Environmental Impact Reports (ineligible for State Financing; eligible for Cash (hard) Match only if performed by consultants or contractors outside the regular county work force, eligible for In-kind (soft) Match if performed by county-paid employees).
6. Bonus payments for early completion of work.
7. Interest charges for late payments.
8. Interest on bonds or any other form of indebtedness required to finance Project costs.
9. Costs outside the scope of the BSCC-approved Project.
10. Fines and penalties due to violation of or failure to comply with federal, state or local laws, ordinances, or regulations.
11. Personal injury compensation or damages arising out of or connected with the Project, whether determined by adjudication, arbitration, negotiation, or otherwise.
12. All costs incurred in violation of the terms, provisions, conditions, or commitments of this Agreement.
13. Travel and per diem costs.
14. All costs arising out of or connected with contractor claims against the Participating County, or those persons for whom the Participating County may be vicariously liable, including, but not limited to, any and all costs related to defense or settlement of such claims.

15. Maintenance costs.
16. Supplanting of existing construction, programs, projects, or personnel.
17. All costs arising out of or attributable to Participating County's malfeasance, misfeasance, mismanagement, or negligence.
18. Temporary holding or court holding facilities.
19. Local Jail facilities or portions thereof operated by jurisdictions other than Participating County.

ARTICLE 2. PARTICIPATING COUNTY'S GENERAL RESPONSIBILITY

Participating County is solely responsible for design, construction, operation, and maintenance of the Project as identified in Exhibit B of this Agreement. Review and approval of plans, specifications, or other documents by BSCC, the Agencies and the State Fire Marshal, is solely for the purpose of proper administration of State Financing by the BSCC and the Agencies and shall not be deemed to relieve or restrict the Participating County's responsibility.

ARTICLE 3. PARTICIPATING COUNTY ASSURANCES AND COMMITMENTS

A. Compliance with Laws and Regulations. This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Participating County shall at all times comply with all Applicable Laws (as defined in the Agreement).

B. Fulfillment of Assurances and Declarations. Participating County shall fulfill all assurances, declarations, representations, and statements made by the Participating County in the County Project Proposal, documents, amendments, and communications filed in support of its request for lease-revenue bond funds including adoption of a BSCC approved staffing plan for staffing and operating the facility in accordance with state standards within ninety (90) calendar days of construction completion.

C. Use of State Financing. Participating County shall expend all State Funds and identified matching funds solely for Eligible Project Costs. Participating County shall, upon demand, remit to the BSCC any State Financing not expended for Eligible Project Costs or an amount equal to any State Financing expended by the Participating County in violation of the terms, provisions, conditions, or commitments of this Agreement. Any State Financing so remitted to the BSCC shall include interest equal to the rate earned by the State Pooled Money Investment Account.

D. Permits and Licenses. Participating County agrees to procure all permits and licenses necessary to complete the Project, pay all charges and fees, and give all notices necessary or incidental to the due and lawful proceeding of the Project work.

E. Compliance with Deliverables, Drawings, and Specifications. Participating County agrees that deliverables, drawings, and specifications, upon which prime and subcontracts are awarded, shall be the same as those submitted to and approved by the BSCC.

F. Prime and Subcontracting Requirements. In accordance with the provisions of this Agreement, the Participating County may contract with public or private contractors of services for activities necessary for the completion of the Project. Participating County agrees that in the event of an inconsistency between the Agreement and any other Project Document and Participating County's Construction Agreement with a contractor, the Project Documents will prevail. Participating County shall ensure that the contractor complies with all requirements of the Project Documents and all instructions of the County Construction Administrator regarding compliance with the Project Documents.

Participating County assures that for any contract awarded by the Participating County, such insurance (e.g., fire and extended coverage, workers' compensation, public liability and property damage, and "all-risk" coverage) as is customary and appropriate will be obtained.

Participating County agrees that its contractor will list construction costs according to the CSI Divisions for the approved Schedule of Values. Since certain portions of the Project may not be eligible for State Financing in all requests for reimbursement, the Participating County's contractor shall separately list work not eligible for State Financing, and the County Construction Administrator shall identify such work for the contractor.

Participating County agrees that it is the County Construction Administrator's responsibility to provide a liaison between the Participating County, the BSCC, and its contractor. Participating County agrees that its contractor is not responsible nor required to engage in direct discussion with the BSCC or any representative thereof, except that the contractor shall in good faith exert its best effort to assist the Participating County in fully complying with all requirements of the contract.

Participating County agrees to place appropriate language in all contracts for work on the Project requiring the Participating County's contractor(s) to:

1. Books and Records. Maintain adequate fiscal and Project books, records, documents, and other evidence pertinent to the contractor's work on the Project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the financial statement, to the accounting records, and to the supporting documentation. These records shall be maintained for the period set forth in Article 5 below, and shall be subject to examination and/or audit by the BSCC or designees, state government auditors or designees.

2. Access to Books and Records. Make such books, records, supporting documentations, and other evidence available to the BSCC or designees, the Department, the Board, the Department of General Services, the Department of Finance, the Bureau of State Audits, their designated representatives, during the course of the Project and for the period set forth in Article 5 below, and provide suitable facilities for access, monitoring, inspection, and copying thereof. Further, the Participating County agrees to include a similar right of the state to audit records and interview staff in any subcontract related to the performance of this Agreement.

3. Contractor Advisement. Be advised that a partial source of financing for the agreement between the Participating County and contractor for construction of the Project is the State Financing, and that the Participating County may not have funds to finance the Construction Agreement independently of the State Financing. The contractor shall in all ways cooperate with the Participating County and the BSCC in maintaining a good working relationship. The contractor shall cooperate as instructed by the County Construction Administrator in resolving any disputes arising under the Agreement.

ARTICLE 4. PROJECT ACCESS

To the extent not inconsistent with the Bond Documents, as that term is defined in Article 1 Section 1.1(a) of the PDCA, at all times during construction of the Project and after final completion, the Participating County shall provide to employees, subcontractors, and consultants of the Agencies reasonable unrestricted access to observe, monitor and inspect the Project. The Agencies' access to observe, monitor and inspect shall include the right to review all documents and files relating to the Project, as well as construction on the Site, including all tests and inspections relating to design or construction of the Project.

ARTICLE 5. RECORDS

Participating County shall establish an Official Project File, as defined in Article 7, Section 7.1 of the PDCA.

Participating County shall establish separate accounting records for receipt, deposit, and disbursement of all Project funds as specified in Exhibit A Article 9.

Participating County shall maintain books, records, documents, and other evidence sufficient to reflect properly the amount, receipt, and disposition of all Project funds, including State Financing, any matching funds provided by the Participating County and the total cost of the Project. The maintenance requirements extend to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all awards, applications, and required financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the award, whether they are employed full-time or part-time. Time and effort reports are also required for consultants and contractors. Supporting documentation for matching funds, goods or services shall, at a minimum, include the source of the match, the basis upon which the value of the match was calculated, and when the matching funds, goods, or services were provided. Receipts, signed by the recipient of donated goods and/or services should be issued and a copy retained. Generally accepted government accounting principles and adequate supporting documentation shall be maintained in such detail so as to provide an audit trail which will permit tracing transactions from the invoices to the financial statement, to the accounting records, and to the supporting documentation for the purpose of determining compliance with Section 10115 *et seq.* of the California Public Contract Code, Section 8546.7 of the California Government Code, and Title 2, Division 2, Chapter 3, Subchapter 10.5 Section 1896.60 *et seq.* of the CCR (as applicable).

Participating County shall maintain all records for the period set forth in the PDCA (“**Record Maintenance Period**”). Participating County agrees to protect records adequately from fire or other damage. When records are stored away from the Participating County’s principal office, a written index of the location of records stored must be on hand and ready access must be assured. All Participating County records shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and audit by the BSCC or designees, the Agencies, and by state government auditors or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the Record Maintenance Period, the records must be retained until the completion of the action and resolution of all issues which arise from it or until the end of the Record Maintenance Period, whichever is later.

ARTICLE 6. ACCOUNTING AND AUDIT REQUIREMENTS

All funds received by the Participating County shall be deposited into separate fund accounts which identify the funds and clearly show the manner of their disposition. Participating County agrees that the audit and accounting procedures shall be in accordance with generally accepted government accounting principles and practices (see Accounting Standards and Procedures for Counties, California State Controller, Division of Local Government Fiscal Affairs) and adequate supporting documentation shall be maintained in such detail so as to provide an audit trail which will permit tracing transactions from support documentation to the accounting records to the financial reports and billings. Participating County further agrees to the following audit requirements:

A. Pre-payment Audit. Prior to the deposit of State Financing into the separate account, the BSCC may require the Participating County to have a system audit performed by an auditor satisfactory to the BSCC to insure that the Participating County’s accounting system meets generally accepted government accounting principles;

B. Interim Audit. The BSCC reserves the right to call for a program audit or a system audit at any time between the execution of this Agreement and the completion or termination of the Project. At any time, the BSCC may disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action determined to be not in compliance with the terms and conditions of this Agreement, or take other remedies legally available; and,

C. Final Audit. Within ninety (90) calendar days of Final Completion, the Participating County must obtain and submit a final program audit to the BSCC (see Construction Financing Program Agreement Administration and Audit Guide). The audit shall be prepared in accordance with generally accepted auditing standards and government auditing standards for financial and compliance audits. The audit may be performed by the Participating County subject to the terms hereinafter described, or the Participating County may hire, at Participating County cost, an independent auditor to complete the final audit. Participating County should obtain assurances that the personnel selected to perform the audit collectively have the necessary skills. It is important that a sound procurement practice be followed when contracting for audit services. Sound contract and approval procedures, including the monitoring of contract performance, should be in place. The objectives and scope of the audit should be

made clear. In addition to price, other factors to be considered include: the responsiveness of the bidder to the request for proposal; the past experience of the bidder; availability of bidder staff with professional qualifications and technical abilities; and whether the bidder organization participates in an external quality control review program. It should be noted that these steps are important whether the Participating County is hiring auditors from an outside CPA firm or within its own internal auditing unit.

Since the audit function must maintain organizational independence, the County Financial Officer for this Project shall not perform audits of the contract-related activities. If the Participating County internal auditor performs the audit, the auditor must be organizationally independent from the Participating County's accounting and project management functions. Additionally, Participating County internal auditors who report to the Project Financial Officer, or to whom the Project Financial Officer reports, shall not perform the audit. The person conducting the audit shall be a certified public accountant, unless a Participating County auditor completes the audit. Failure to comply with these qualifications standards could result in the rejection of the audit report.

At any time, the BSCC may disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action determined to be not in compliance with the terms and conditions of this Agreement, or take other remedies legally available.

The BSCC reserves the right to have an audit conducted (at the BSCC's expense) at any time between execution of the Agreement up to and including the final audit of the Project.

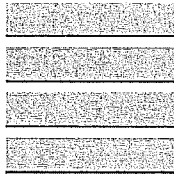
ARTICLE 7. REPORTS

Participating County agrees to submit fiscal invoices and progress/final reports in a format specified by the BSCC, and at mutually agreed upon intervals as defined below, during the period of the Agreement. Reports are due to the BSCC even if State Financing is not expended or requested in the reporting period. Not submitting invoices and progress/final reports in a timely manner may result in disbursements being withheld. In addition, Participating County shall immediately advise the BSCC of any significant problems or changes arising during the course of the Project.

Without limitation of the foregoing, the following reports are required:

A. Fiscal Invoice and Progress/Final Report. Participating County agrees to submit fiscal invoices and progress/final reports to the BSCC on the appropriate form provided to the Participating County during the term of this Agreement and shall do so on a regular schedule of either monthly, bi-monthly or quarterly. The reports shall include, but not be limited to, Project construction activities, change orders issued, problems identified, assistance needed, state funds and match expenditures made, State Financing received, and State Financing requested.

Invoicing/progress reporting interval: The [indicate interval] fiscal and progress/final report must be submitted within forty-five (45) calendar days after the end of [indicate interval]. The due dates for the invoices and progress reports are no later than:



B. Final Fiscal Invoice and Project Summary. Participating County agrees to submit to the BSCC a Final Fiscal Invoice and Project Summary on the appropriate form provided to the Participating County within forty-five (45) calendar days of the scheduled construction completion date identified in Exhibit B. The report shall include, but not be limited to, total state funds and match expenditures made by budget division, total State Financing received, remaining State Financing requested, number of BSCC-rated beds added and modified, number of special use beds added and modified, and a detailed description of the finished Project including pre-construction and post-construction photographs or other visual material suitable for public distribution. For purposes of this Exhibit A, “**BSCC-rated beds**” means the number of beds dedicated to housing adult offenders for which a facility’s single- and double-occupancy cells/rooms or dormitories were planned and designed in conformity to the standards and requirements contained in Titles 15 and 24 of the CCR. “**Special use beds**” means beds for the purpose of appropriately housing offenders in medical, mental health, or disciplinary rooms, cells or units that are planned and designed in conformity to the standards and requirements contained in Titles 15 and 24 of the CCR.

ARTICLE 8. WITHHOLDING OF STATE DISBURSEMENTS

A. BSCC may withhold all or any portion of the State Financing provided for by this Agreement in the event that:

1. Participating County Breach of Agreement. Participating County has materially and substantially breached the terms and conditions of this Agreement or any other Project Document.
2. Insufficient County Funds. Participating County is unable to demonstrate, to the satisfaction of the BSCC’s Executive Director, continuous availability of sufficient funds to complete the Project.
3. Insufficient Match Disbursement. Participating County has not expended its Cash (hard) Match requirement on a schedule that is at least pro-rata with the percentage expenditure of, collectively, interim financing and lease-revenue bond funds.

B. In the event that State Financing is withheld from the Participating County, the BSCC’s Executive Director or designee shall notify the Participating County of the reasons for withholding and advise the Participating County of the time within which the Participating County may remedy the failure or violation leading to the withholding.

The BSCC will not reimburse counties for costs identified as ineligible for State Financing. If State Financing has been provided for costs subsequently discovered to be ineligible, the BSCC may either withhold an equal amount from subsequent payments to the

Participating County or require repayment of an equal amount to the State by the Participating County. Any State Financing so remitted to the BSCC may be subject to interest equal to the rate earned by the State Pooled Money Investment Account.

ARTICLE 9. DISBURSEMENT

Participating County shall be paid in arrears on invoices of expenditures and requests for funds submitted to BSCC at mutually agreed upon intervals, see Article 7(A), on the Fiscal Invoice and Progress/Final Report. Participating County shall supply BSCC with appropriate expenditure documentation and request for funds on form(s) provided by BSCC and certify to the accuracy of the report(s) in accordance with generally accepted governmental accounting principles and BSCC regulations, guidelines, policies and procedures. Participating County shall further certify that all listed expenditures are actual and that all funds were expended for the purpose of liquidating obligations identified in Exhibit B and legally incurred.

The State will issue a warrant for eligible funds within approximately thirty (30) to sixty (60) days of receipt of Participating County invoice and documentation of eligible expenditures. All requests for payment shall be accompanied by any documentation as may be required by BSCC or the Board and with such certification(s) as may be required by BSCC.

ARTICLE 10. DISPUTES

Participating County shall continue with the responsibilities under this Agreement during any disputes. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under, or relating to, the performance of this Agreement which is not resolved by agreement between Participating County and BSCC staff shall be decided by the BSCC. This clause does not preclude consideration of legal questions; nothing in this Agreement shall be construed as making final the decision of any administrative official, representative, or BSCC on a question of law.

Participating County may appeal on the basis of alleged misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures. Such appeal shall be filed within thirty (30) calendar days of the notification of the action with which the Participating County is dissatisfied. The request shall be in writing stating the basis for the dissatisfaction and the action being requested of the BSCC.

A hearing shall be conducted by a hearing panel designated by the Chairperson of the BSCC Board at a reasonable time, date, and place, but not later than twenty-one (21) calendar days after the filing of the request for hearing with BSCC, unless delayed for good cause. BSCC shall mail or deliver to the appellant or authorized representative a written notice of the time and place of hearing not less than fourteen (14) calendar days prior to the hearing. The procedural time requirements may be waived with mutual written consent of the parties involved.

Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision by the BSCC Board within ninety (90) calendar days from the date of the request for appeal hearing, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued for what is determined by the hearing panel to be good cause.

An appellant may waive a personal hearing before the hearing panel and under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information as may be deemed appropriate.

The hearing is not formal in nature. Pertinent and relevant information, whether written or oral, will be accepted. Hearings will be tape recorded. After the hearing has been completed, the hearing panel shall submit an advisory recommendation on the matter to the BSCC Board. The decision of the BSCC Board shall be final.

Notwithstanding any other provision of this Article 10, this Article 10 shall not limit any other rights or remedies available to the State or any other Agency under any other Project Document including, without limitation, the PDCA.

ARTICLE 11. REMEDIES

Participating County agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the BSCC as a result of breach of this Agreement by the Participating County, whether such breach occurs before or after completion of the Project. In the event of litigation between the Parties hereto arising from this Agreement, it is agreed that the prevailing Party shall be entitled to such reasonable costs and/or attorney fees and costs as may be ordered within the discretion of the Court.

ARTICLE 12. WAIVER

The Parties hereto may, from time to time, waive any of their rights under this Agreement unless such waiver is contrary to law, provided that any such waiver shall be in writing and signed by the Party making such waiver.

EXHIBIT B

PROJECT DESCRIPTION AND BUDGET

Capitalized terms not defined in this Exhibit B shall have the meaning as set forth in the Agreement to which this Exhibit B is attached.

County (County):

Name of Facility Subject to Construction:

SECTION 1. PROJECT DESCRIPTION

Provide a description of the Project scope as presented in Exhibit A of the PDCA.

SECTION 2. PROJECT TIMETABLE

Provide an updated Project timetable to include start and completion dates for each of the following key events: 1) Schematic Design and Operational Program Statement; 2) Design Development with Staffing Plan; 3) Staffing/Operating Cost Analysis; 4) Construction Documents; 5) Construction Bids; 6) Notice to Proceed; 7) Construction; and 8) Occupancy. Note that construction should be substantially complete within three (3) years from Notice to Proceed and occupancy must occur within ninety (90) days of Final Completion.

SECTION 3. CONSTRUCTION MANAGEMENT PLAN

Provide a general outline of the construction management plan, including methods to monitor/control the Project and ensure a successful, on schedule completion:

SECTION 4. KEY PERSONNEL

Provide a listing of the names, titles, and roles of key construction and management personnel:

SECTION 5. BUDGET CLASSIFICATION SCHEDULES

In a format acceptable to BSCC, provide budget categories for State Financing, Cash (hard) Match and In-kind (soft) Match.

**PROJECT DELIVERY AND CONSTRUCTION AGREEMENT
[ENTER PROGRAM NAME] FINANCING PROGRAM**

by and among

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

and

**[DEPARTMENT OF CORRECTIONS AND REHABILITATION
OF THE STATE OF CALIFORNIA**

and]

**BOARD OF STATE AND COMMUNITY CORRECTIONS
OF THE STATE OF CALIFORNIA**

and

[ENTER COUNTY NAME]

Effective Date of [MONTH] [DAY], 20[YEAR]

**(FOR A [ENTER TYPE OF FACILITY] FACILITY
LOCATED IN THE COUNTY OF [ENTER COUNTY NAME])**

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FORMAL DOCUMENT

PROJECT DELIVERY AND CONSTRUCTION AGREEMENT
[ENTER PROGRAM NAME] FINANCING PROGRAM
(FOR A [ENTER TYPE OF FACILITY] FACILITY
LOCATED IN [ENTER COUNTY NAME] COUNTY)

This PROJECT DELIVERY AND CONSTRUCTION AGREEMENT (this “Agreement”) is entered into as of [MONTH] [DAY], 20[YEAR], (the “Effective Date”) by and among the STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA (the “Board”), an entity of state government of the State of California (the “State”), [the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA (the “Department”), an entity of state government of the State,] the BOARD OF STATE AND COMMUNITY CORRECTIONS OF THE STATE OF CALIFORNIA (the “BSCC”), an entity of state government of the State, and the COUNTY OF [ENTER COUNTY NAME] (the “Participating County”), a Political Subdivision of the State. For purposes of this Agreement, the Board, the Department, the BSCC and the Participating County are referred to collectively as the “Parties,” and individually as a “Party.” The Board[, the Department] and the BSCC are referred to collectively herein, as the “Agencies,” and individually as an “Agency.”

WHEREAS, pursuant to [ENTER STATUTE] (the “Law”), the Board is authorized to finance the acquisition, design and construction of a [ENTER TYPE OF FACILITY] facility approved by the BSCC pursuant to Section [ENTER SECTION] of the California Government Code (the “[ENTER PROGRAM NAME] Financing Program”); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter [ENTER SUBCHAPTER] and this Agreement and other agreements relating to this Project, the cost of certain design and construction activities will be eligible for reimbursement under the [ENTER PROGRAM NAME] Financing Program; and

WHEREAS, the Participating County has proposed to build or renovate a [ENTER TYPE OF FACILITY] facility, as more particularly described in Exhibit A attached hereto (the “Project”), to be located at [ENTER PHYSICAL ADDRESS], real property controlled by the Participating County through fee-simple ownership (the “Site”); and

WHEREAS, the Participating County intends to lease the Site to the [ENTER “Department” OR “BSCC”] pursuant to a Ground Lease in substantially the form attached hereto as Exhibit B (the “Ground Lease”) executed by and between the Participating County and the [ENTER “Department” OR “BSCC”] and consented to by the Board; and

WHEREAS, the [ENTER “Department” OR “BSCC”], as lessee under the Ground Lease, and the Participating County intend to enter a Right of Entry for Construction and Operation (the “Right of Entry”) in substantially the form attached hereto as Exhibit C concurrently with the execution of the Ground Lease authorizing the Participating County to enter the Site for the purpose of constructing the Project on the Site and for operation of the Project upon substantial completion of construction (the Site and the Project, collectively, the “Facility”), as more particularly described herein; and

WHEREAS, concurrently with the execution of this Agreement, the BSCC and the

Participating County, with the consent of the Board[and the Department], intend to enter into an agreement to assist in complying with BSCC's rules and regulations concerning jail construction for the [ENTER PROGRAM NAME] Financing Program (the "BSCC Agreement"); and

WHEREAS, the Board intends to oversee and issue lease revenue bonds for the Project, subject to satisfaction of certain conditions and requirements of the Board, including but not limited to establishment of Project scope, cost and schedule; approval of performance criteria or performance criteria and concept drawings; involvement in approval of the Design-Build Solicitation Package (as hereinafter defined) and authorization for the Participating County to solicit design-build bids or proposals; requesting actions to be taken to obtain one or more interim loans in connection with the Project (the "Interim Loan") and, subject to section 1.3 below, the Board intends to issue and sell its lease revenue bonds to repay the Interim Loan and provide additional financing for the Project, as necessary (the "Bonds"); and

WHEREAS, prior to authorization by the Board of actions to be taken to provide for the Interim Loan, the [ENTER "Department" OR "BSCC"] shall have certified to the Board that the Participating County is a participating county as required by Section [ENTER SECTION] of the California Government Code and the BSCC shall have approved the Project in accordance with Section [ENTER SECTION] of the California Government Code; and

WHEREAS, an Interim Loan for the Project may be made pursuant to Sections 16312 and 16313 of the California Government Code (Pooled Money Investment Board loans), Section 15849.1 of the California Government Code (General Fund loans), and/or any other appropriate source in an amount or amounts, which in the aggregate do not exceed the Maximum State Financing (as hereinafter defined); and

WHEREAS, the agent for sale for all Board bonds is the State Treasurer; and

WHEREAS, concurrently with the issuance of the Bonds, the [ENTER "Department" OR "BSCC"], as lessee under the Ground Lease, intends to enter into a Site Lease whereby the [ENTER "Department" OR "BSCC"], as lessor, shall lease the Site to the Board, as lessee (the "Site Lease"); and

WHEREAS, concurrently with the execution of the Site Lease, the Board, as lessee under the Site Lease, intends to enter into a Facility Lease whereby the Board, as lessor, shall lease the Facility to the [ENTER "Department" OR "BSCC"], as lessee (the "Facility Lease"); rental payments under the Facility Lease shall secure the payment of principal of and interest on the Bonds; and

WHEREAS, concurrently with the execution of the Facility Lease, the [ENTER "Department" OR "BSCC"], as lessee under the Facility Lease, and the Participating County intend to enter a Facility Sublease in substantially the form attached hereto as **Exhibit D**, whereby the [ENTER "Department" OR "BSCC"], as sublessor, shall lease the Facility to the Participating County, as sublessee (the "Facility Sublease"), for its use, operation and maintenance; and

WHEREAS, in the event the Board is unable to issue the Bonds to finance the Project and the Interim Loan has been provided, the [ENTER "Department" OR "BSCC"] shall commit

a sufficient amount of its annual support appropriation to repay the Interim Loan and any other interim financing costs associated with the Interim Loan.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements of the Parties set forth herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged by the Parties, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE 1

GENERAL

1.1 General Covenants, Acknowledgements and Agreements of the Parties.

(a) The Parties hereto acknowledge and agree that an authorization by the Board to request the Interim Loan and the issuance of the Bonds by the Board is done in reliance upon, among other things, the promise of the relevant Parties to execute, deliver and perform their respective obligations, as applicable, under the Site Lease, the Facility Lease, the Facility Sublease, a Tax Agreement and Certificate in a form satisfactory to the Board to be executed in connection with the issuance of the Bonds (the "Tax Certificate"), a Continuing Disclosure Agreement in a form satisfactory to the Board to be executed in connection with the issuance of the Bonds (the "Continuing Disclosure Agreement") and all related certificates, agreements or other documents, including an indenture and supplemental indenture, if any, authorizing the Bonds that the Chair or Executive Director of the Board or a duly authorized designee thereof may deem necessary or desirable to effectuate the sale of the Bonds. Such indenture, supplemental indenture, if any, the Site Lease, the Facility Lease, the Facility Sublease, the Tax Certificate and the Continuing Disclosure Agreement, are collectively referred to herein as the "Bond Documents."

(b) The Parties accept and agree to comply with, to the extent respectively applicable to them, all terms, provisions, conditions, and commitments of this Agreement, the Project Documents (as hereinafter defined) and the Bond Documents, including all incorporated documents, and that they will do and perform all acts and things permitted by law to effectuate the issuance of the Bonds.

(c) The Participating County[, the Department] and the BSCC agree and acknowledge that the Project is subject to approval and oversight by the Board and the State Department of Finance ("Finance") consistent with the policies and laws governing the expenditure of a State capital outlay appropriation.

1.2 Approvals, Consents and Actions Necessary to Maintain Eligibility in the [ENTER PROGRAM NAME] Financing Program. The Participating County acknowledges its eligibility for Project financing pursuant to the [ENTER PROGRAM NAME] Financing Program is subject to and contingent upon the following approvals, consents and actions:

(a) A determination by the Board that the Site meets the standard requirements for a site being leased in connection with the issuance by the Board of its lease revenue bonds;

(b) A determination by the Board that the Participating County match as set forth in Article 3 has been satisfied as required by the Law and the source of the Cash (hard) Match (as hereinafter defined) and any associated security or terms related thereto has been determined by the Board to be compatible with the financing of the Project pursuant to the [ENTER PROGRAM NAME] Financing Program;

(c) The Board has established the scope, cost and schedule for the Project consistent with the Participating County's initial proposal submitted to the BSCC and the Participating County has agreed that the Project shall be constructed and completed in accordance with such Project scope, cost and schedule established by the Board, except to the extent any modifications thereof may be approved by the Board through the State's standard capital outlay process;

(d) The Board has approved the Ground Lease, the Right of Entry and the Facility Sublease;

(e) Both the Board and Finance have approved the Performance Criteria or Performance Criteria and Concept Drawings for the Project. As used herein "Performance Criteria" shall mean the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, and design character of the buildings and site; the required form, fit, function, operational requirements, and quality of design, materials, equipment, and workmanship; and any other information deemed necessary to sufficiently describe the Participating County's needs; including documents prepared pursuant to paragraph (1) of subdivision (d) of Section 20133 of the California Public Contract Code. As used herein "Concept Drawings" shall mean any drawings or architectural renderings that may be prepared, in addition to performance criteria, in such detail as the Participating County determines necessary to sufficiently describe the Participating County's needs;

(f) Finance has approved the Design-Build Solicitation Package for the Project and authorized the Participating County to proceed with soliciting competitive bids or proposals for design and construction of the Project. As used herein "Design-Build Solicitation Package" shall mean the performance criteria, any concept drawings, the form of contract, and all other documents and information that serve as the basis on which competitive bids or proposals will be solicited from the design-build entities;

(g) Finance has approved award of the Design-Build Contract (as hereinafter defined) for the Project;

(h) BSCC and the State Fire Marshal have approved the Construction Documents for the Project. As used herein "Construction Documents" shall mean architectural plans and specifications that are one hundred percent (100%) complete and generally include: completed specifications and construction drawings; and special interest items (corrections, modifications, or additions made to the documents). The Construction Documents shall include a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of construction by the design-build entity;

(i) The [ENTER "Department" OR "BSCC"] has provided the Board the

certification required by Section [ENTER SECTION] of the California Government Code, which certification the [ENTER "Department" OR "BSCC"] intends to provide upon satisfaction of the required statutory and regulatory conditions;

(j) The Board has adopted a Resolution authorizing steps be taken to seek the Interim Loan together with declaring its intent to reimburse any such Interim Loan with the proceeds from the Bonds;

(k) A determination by the Board that it will receive with respect to the Bonds the normal and customary opinions and certificates delivered in connection with an issuance of lease revenue bonds by the Board; and

(l) The sale of the Bonds.

1.3 [ENTER PROGRAM NAME] Lease Revenue Bond Financing. State financing for the [ENTER PROGRAM NAME] Financing Program is predicated on the Board's ability to issue Bonds for the Project. The Board, acting in good faith, intends to authorize the request for the Interim Loan and, subject to approvals, consents, and actions set forth in section 1.2, to issue Bonds for the Project. The Agencies will make reasonable and good faith efforts to assist in gaining assurance that the Site, the Project, the Participating County's ultimate use of the Project and the Cash (hard) Match (as hereinafter defined) are developed and implemented in such a way to facilitate the financing of the Project through the issuance and sale of the Bonds.

Prior to the Board's authorization to request the Interim Loan, the [ENTER "Department" OR "BSCC"] shall have certified to the Board that the Participating County is a participating county as required by Section [ENTER SECTION] of the California Government Code and the BSCC shall have approved the design and construction of the Project in accordance with Section [ENTER SECTION] of the California Government Code. Certification from the Department to the Board regarding BSCC and State Fire Marshal approval of the Construction Documents must be provided as soon as those approvals have been received and before the issuance and sale of the Bonds.

Notwithstanding the Board's good faith efforts to authorize and provide financing for the Project, the State (including without limitation the Board[, the Department,] and the BSCC) shall not be obligated to issue Bonds for the Project or authorize the Interim Loan request upon the Board's good-faith determination that such financing is not feasible or appropriate, based upon any one or more of the following factors: the lack of suitability of the Project's configuration or site for lease revenue bond financing, local funding that is incompatible with the issuance of lease revenue bonds by the Board, adverse market conditions, adverse outcomes to legal challenges, inability to obtain access to the financial markets or inability to obtain reasonable rates, inability to receive opinions and certificates customarily delivered in connection with the issuance of lease revenue bonds, or another occurrence or state of affairs that would make it objectively infeasible or inappropriate for the Board to issue Bonds or authorize the Interim Loan request.

In the event the Board determines that it is not feasible or appropriate to issue Bonds or to authorize the Interim Loan request, the Participating County is not entitled to receive the Maximum State Financing (as hereinafter defined) or other State funding for the Project, and

shall not receive reimbursement from the State for any Project costs. However, in the event the Board is unable to issue the Bonds to finance the Project and the Interim Loan has been provided, the [ENTER "Department" OR "BSCC"] shall commit a sufficient amount of its annual support appropriation to repay the Interim Loan and any other interim financing costs associated with the Interim Loan and all associated costs.

1.4 The [Department and the]BSCC Act as Liaison of the Board and Finance to the Participating County. The Parties hereto acknowledge that obtaining the approvals and consents of the Board and/or Finance and the provision of documents to the Board and/or Finance as set forth in this Article I and otherwise herein shall be a responsibility of [the Department and]the BSCC. The [Department and the]BSCC will act as liaisons between the Participating County and the Board and Finance, and on their own behalf and behalf of the Board and Finance, will work with the Participating County to obtain such consents and approvals, and to provide such documents to the Board and Finance, as applicable.

1.5 Representations and Warranties of the Participating County.

(a) Under the provisions of the State Constitution, the applicable State statutes, and applicable jurisprudence of the State, the Participating County has the power to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(b) The Participating County has taken all actions and has obtained all consents necessary to enable the Participating County to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(c) The person executing and delivering this Agreement on behalf of the Participating County has been duly authorized and empowered to do so.

(d) The execution and delivery of this Agreement on behalf of the Participating County will bind and obligate the Participating County to the extent provided by the terms hereof.

(e) There exists no litigation or other proceeding pending or threatened against the Participating County that, if determined adversely, would materially and adversely affect the ability of the Participating County to consummate the transactions contemplated hereby or to perform its obligations hereunder.

(f) The execution and delivery of this Agreement and the Ground Lease, the Right of Entry, the BSCC Agreement and the Facility Sublease, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or material breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Participating County is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or

encumbrance of any nature whatsoever upon any of the property or assets of the Participating County, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement, the Ground Lease, the Right of Entry, the BSCC Agreement or the Facility Sublease, or the financial condition, assets, properties or operations of the Participating County.

1.6 Representations and Warranties of the Board.

(a) Under the provisions of the State Constitution, the applicable State statutes, and applicable jurisprudence of the State, the Board has the power to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(b) The Board has taken all actions and has obtained all consents necessary to enable the Board to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(c) The person executing and delivering this Agreement on behalf of the Board has been duly authorized and empowered to do so.

(d) The execution and delivery of this Agreement on behalf of the Board will bind and obligate the Board to the extent provided by the terms hereof.

(e) There exists no litigation or other proceeding pending against the Board (with service of process having been accomplished) that, if determined adversely, would materially and adversely affect the ability of the Board to consummate the transactions contemplated hereby or to perform its obligations hereunder.

1.7 Representations and Warranties of the [Department and the]BSCC.

(a) Under the provisions of the State Constitution, the applicable State statutes, and applicable jurisprudence of the State, the [Department and the]BSCC each have the power to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(b) The [Department and the]BSCC have each taken all actions and have obtained all consents necessary to enable the [Department and the]BSCC to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(c) The persons executing and delivering this Agreement on behalf of the [Department and the]BSCC have been duly authorized and empowered to do so.

(d) The execution and delivery of this Agreement on behalf of the [Department and the]BSCC will bind and obligate the [Department and the]BSCC to the extent provided by the terms hereof.

(e) There exists no litigation or other proceeding pending against the

[Department or the]BSCC (with service of process having been accomplished) that, if determined adversely, would materially and adversely affect the ability of the [Department or the]BSCC to consummate the transactions contemplated hereby or to perform its obligations hereunder.

(f) The execution and delivery of this Agreement and the Ground Lease, the Right of Entry, the Site Lease, the Facility Lease, the BSCC Agreement and the Facility Sublease, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the [Department or the]BSCC is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the [Department or the]BSCC, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement, the Ground Lease, the Right of Entry, the BSCC Agreement or the Facility Sublease, or the financial condition, assets, properties or operations of the [Department or the]BSCC.

1.8 Compliance with Terms and Conditions of the Project Documents. The Parties agree to comply with all terms and conditions relating to the respective Party of this Agreement, the BSCC Agreement, the Ground Lease, the Right of Entry and all exhibits and schedules attached hereto and thereto relating to the Party (collectively, the "Project Documents"), as well as all applicable laws including, without limitation, the Law and those laws, regulations and guidelines set forth in the BSCC Agreement.

1.9 Conflicts Between Terms of Documents. In the event of any inconsistency in the Project Documents, except as otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: 1) this Agreement; 2) the Ground Lease, 3) the BSCC Agreement and all exhibits and schedules attached thereto, and 4) the Right of Entry. In the event the Bonds are issued, any inconsistency between the Project Documents and the Bond Documents shall be resolved by giving precedence to the Bond Documents. To the extent the Parties mutually agree that a provision of a particular document should control with respect to an inconsistency between that document and another document or documents, notwithstanding the other provisions of this section, such provision shall control.

1.10 Indemnity. As required by Section [ENTER SECTION] of the California Government Code, the Participating County hereby agrees to indemnify, defend and save harmless the State, including but not limited to the Board[, the Department] and the BSCC, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants, and agents (collectively, "Indemnitees") for any and all claims and losses arising at any time out of the acquisition, design, construction, operation, maintenance, use and occupancy of the Project. The Participating County shall not be obligated to provide indemnity or defense where the claim arises out of the active negligence or willful misconduct of the Indemnitees. These obligations shall survive any termination of this agreement.

1.11 Assignment or Subletting of the Facility.

(a) *Assignment of Rights and Interest under this Agreement.* Except as otherwise contemplated hereunder, the Participating County may not sublicense, assign, or otherwise confer upon any other person or entity its rights or interests under this Agreement, nor may the Participating County delegate any of its duties or responsibilities required by this Agreement, whether by operation of law or otherwise, without the express, prior written consent of the Agencies, the rights and obligations hereunder imposed being personal to the Participating County.

(b) *Assignment or Subletting of the Facility.* The Participating County and the [ENTER "Department" OR "BSCC"] hereby covenant and agree that none of the Ground Lease, the Facility Lease or the Facility Sublease nor any interest of such Parties thereunder shall be sold, mortgaged, pledged, assigned, or transferred by the Parties thereto by voluntary act or by operation of law or otherwise; provided, however, that the Facility may be subleased in whole or in part by the Participating County with the prior written consent of the [ENTER "Department" OR "BSCC"] and the Board to the form and substance of such sublease, which consent shall not be unreasonably withheld, and, provided further that, any such sublease shall be subject to the following conditions:

(i) Any sublease of the Facility by the Participating County shall explicitly provide that such sublease is subject to all rights of the [ENTER "Department" OR "BSCC"] 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

(ii) At the request of the [ENTER "Department" OR "BSCC"] or the Board, the Participating County shall furnish the [ENTER "Department" OR "BSCC"], 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.

(c) *Restrictions on Private Use of the Facility.* The Participating County acknowledges that its ability to assign or sublet the Facility is subject to the provisions of section 6.1.2 hereof.

1.12 Relationship of the Parties. The Parties hereto acknowledge and agree that, to the extent expressly provided in this Agreement, the relationship of the Participating County to the Agencies is that of an agent to the Agencies and that the Participating County is principally responsible for the acquisition, design, construction, maintenance, and operation of the Project. Other than as set forth herein, nothing in this Agreement shall create between the Participating County and any of the Agencies the relationship of joint venturers, partners or any other similar or representative relationship, and the Participating County shall not hold itself out as an agent (except as expressly provided herein), representative, partner, member or joint venturer of the Agencies. The Participating County shall not make for or on behalf of the Agencies, or subject the Agencies to, any contract, agreement, warranty, guaranty, representation, assurance or other obligation, which has not been approved in advance in writing by the applicable Agency. This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective successors and assigns, and no third party (including without limitation the owners of the Bonds)

is intended to or shall have any rights hereunder.

ARTICLE 2

TERM AND TERMINATION OF AGREEMENT

2.1 Term of Agreement. This Agreement shall commence on the Effective Date and shall terminate upon the later of (i) completion of the construction of the Project or (ii) if the Board issues the Bonds, execution and delivery of the Facility Sublease, unless terminated earlier as provided in section 2.2. The provisions of certain sections hereof as indicated by the express terms thereof will survive termination of this Agreement.

2.2 Termination of Agreement.

(a) *Termination by the State.* The [Department or the]BSCC, with the consent of the Board, or the Board may terminate this Agreement in the event any of the following occurs:

(i) The Participating County's breach of a material term of this Agreement, any Project Document or any Applicable Laws (as defined in the BSCC Agreement) provided the Participating County has not cured such breach in all respects within thirty (30) days from notice of said breach, which cure period may be extended for a reasonable time with the consent of the Agencies if the Participating County demonstrates that such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(ii) Substantive alteration of the Board approved scope, cost or schedule for the Project as set forth in **Exhibit A** without the prior written approval of the Board;

(iii) Failure to execute the Ground Lease or the Right of Entry;

(iv) Failure to provide the Participating County Funding (as hereinafter defined) when and as required under this Agreement, the Law or any Project agreement to which the Participating County is a party;

(v) In the event the Board determines the Participating County is no longer eligible for Project financing under the [ENTER PROGRAM NAME] Financing Program as set forth in section 1.2 hereof; or

(vi) Termination of the BSCC Agreement as provided for in Article 1, Section C of the BSCC Agreement.

(b) *Termination by the Participating County.* The Participating County may, prior to the State providing any amount of financing, terminate this Agreement in the event any of the following occurs:

(i) The State's breach of a material term of this Agreement, any Project Document or any Applicable Laws (as defined in the BSCC Agreement) provided the State has not cured such breach in all respects within thirty (30) days from notice of said breach, which cure period may be extended for a reasonable time with the consent of the Participating

County if the State demonstrates that such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(ii) Failure of the State to execute the Ground Lease or the Right of Entry;

(iii) In the event the Board determines the Participating County is no longer eligible for Project financing under the [ENTER PROGRAM NAME] Financing Program as set forth in section 1.2 hereof.

(c) *Agreement.* The Parties may terminate this Agreement by mutual agreement. The Agencies agree to terminate this agreement in the event that the Participating County determines it cannot proceed with the Project after initial design-build bids or proposals are received, but before any design-build contract is awarded.

(d) *Notice of Termination.* Prior to terminating this Agreement under the provisions of this Article 2, the Parties shall provide to each other, as applicable, at least thirty (30) calendar days written notice, stating the reason(s) for termination and effective date thereof.

(e) *No Impairment.* Nothing in this Article 2 in any way alters or limits the authority of the Agencies to withhold all or a portion of the Maximum State Financing (as hereinafter defined) in accordance with law or otherwise as permitted hereunder or any other right or remedy available to the State at law or in equity for breach of this Agreement.

ARTICLE 3

COST SHARING OF THE PROJECT

3.1 Financing Eligibility of the Project.

(a) *General.* Subject to the terms and provisions hereof, the costs for design and construction of the Project shall be shared by the State and the Participating County with the State providing financing up to a maximum of _____ dollars (\$_____) ("Maximum State Financing") and the Participating County providing the Cash (hard) Match (as hereinafter defined) funding and the In-Kind (soft) Match (as hereinafter defined) funding (collectively, the "Participating County Funding" and together with other Participating County-borne project costs not included as the Participating County Funding and the Maximum State Financing, the "Total Project Costs"). Provided, however, that the Board may provide all or a portion of the Maximum State Financing for Project costs at its discretion as set forth herein. The sources for the Maximum State Financing shall be limited to the proceeds of the Interim Loan, and the proceeds of the Bonds. If Bonds are issued and sold, the proceeds will be used to repay the Interim Loan and to provide additional financing for the Project as appropriate. If the Bonds are issued and sold, in no event or circumstance shall the State or the Agencies be obligated to pay the Participating County under this Agreement or any other Project Document any amount in excess of the Maximum State Financing.

(b) *Cash (hard) Match.* Subject to all terms and provisions of this

Agreement, the Participating County agrees to appropriate and spend cash (hard) matching funds for the Project as provided in the BSCC Agreement (“Cash (hard) Match”). **Exhibit E-1** is a detailed description of and certification related to the source or sources of the Cash (hard) Match and any associated security or terms related thereto as approved by the Agencies, which detail and assurance of has been deemed sufficient by the Board to determine that the use of such funds as the Cash (hard) Match is compatible with the financing of the Project pursuant to the [ENTER PROGRAM NAME] Financing Program. Any modifications to the source or sources of the Cash (hard) Match or the associated security and terms related thereto as described in **Exhibit E-1** must be approved by the Agencies. The Participating County shall ensure that all Cash (hard) Match is encumbered prior to Finance approval to proceed to bid the Design-Build Solicitation Package.

(c) *In-Kind (soft) Match.* Subject to all terms and provisions of this Agreement, the Participating County agrees to provide in-kind (soft) match for the Project as provided in the BSCC Agreement (“In-kind (soft) Match”). The Participating County has provided in **Exhibit E-2** a detailed description of the In-kind (soft) Match for the Project as approved by the Agencies. Any modifications to the In-kind (soft) Match as described in **Exhibit E-2** must be approved by the Agencies.

3.2 Excess Project Costs. In no event shall any Project scope, cost, budget or schedule changes be authorized by the Participating County which would cause the amount of Total Project Costs to be exceeded unless the Participating County covenants to fund such excess with lawfully available funds and the Participating County first obtains the consent of the Agencies. The Participating County is solely responsible for any and all cost, expenses or fees of the Project which exceed the Maximum State Financing and the Participating County covenants to use its best efforts to promptly appropriate sufficient amounts to cover such cost, expenses or fees. The Participating County waives any and all claims against any of the Agencies or the State in the event that Total Project Costs exceed the amount initially established by the Board.

3.3 Project Cost Savings. To the extent there exists Project cost savings during the Project the amount of such savings shall be applied first to the Participating County to the extent the Participating County has identified Participating County Funding in an amount more than required by the Applicable Laws (as defined in the BSCC Agreement). Thereafter, cost savings shall be shared by the State and the Participating County on a pro rata basis determined by the percentage of the total amount of Project costs financed by the State and the Participating County Funding, respectively. However, in no case may savings be applied to the Participating County that would (1) result in the State providing financing for activities other than eligible design and construction costs; or (2) result in the Participating County contributing less than the percentage of Total Project Costs required by the Applicable Laws.

ARTICLE 4

PROJECT SCOPE, COST AND SCHEDULE

4.1 The Project. See **Exhibit A** for a description of the scope, cost and schedule of the Project, including a narrative description of the Project, budgeted costs related to the Project and a schedule for completion of design and construction of the Project.

4.2 Modification of Project Scope, Cost or Schedule. No substantial change or other substantial modifications to the Project scope, cost or schedule may be made by the Participating County without prior written permission of Finance and recognition by the Board ("Scope Change"). Minor modifications to the project do not require Finance approval and Board recognition, but must be documented and reported on routine progress reports to the BSCC as set forth in the BSCC Agreement. Without limiting the foregoing, the Participating County shall notify the [Department and the]BSCC, and the [ENTER "Department" OR "BSCC"] shall in turn notify Finance and the Board upon any of the following events or circumstances that may constitute a Scope Change:

- (a) More than minor changes which affect the design, project configuration, cost or schedule of the Project;
- (b) A delay or change in the substantial completion or final completion dates for the Project;
- (c) A more than minor change to the design, location, size, capacity or quality of major items of equipment;
- (d) A change in approved budget categories, or movement of dollars between budget categories as indicated in the Board approved scope cost and schedule as identified in **Exhibit A.**

As used herein "substantial" is as defined in Section 6863 of the State Administrative Manual. As used herein a minor change is any change which does not rise to the level of a substantial change as defined in Section 6863 of the State Administrative Manual. Finance shall determine whether any reported event or circumstance requires its approval and recognition or other formal action by the Board.

The Participating County agrees that it will give prompt notification in writing to the [Department and the]BSCC of the occurrence of any of the above events and promptly report, in writing, to the [Department and the]BSCC any modifications to the Design-Build Contract (as hereinafter defined) with respect to the Project. The [ENTER "Department" OR "BSCC"] will provide the aforementioned notices and reports to the Board. The Participating County agrees further that, for purposes of the immediately preceding clause (a) and (c), if unsure whether a particular change is minor it will discuss the appropriate characterization with the [Department and the]BSCC.

4.3 Excess Project Costs. In no event shall any scope, cost or budget changes be authorized which would cause the amount of Total Project Costs to be exceeded unless the Participating County covenants to fund such excess with lawfully available funds and with the consent of the Agencies and so appropriates such funding.

ARTICLE 5

BIDDING AND DESIGN-BUILD PHASE OF THE PROJECT

5.1 Design-Build Covenant of the Participating County. The Participating County

acting as agent of the Board and the [ENTER "Department" OR "BSCC"], hereby covenants and agrees to provide and perform or cause to be performed all activities required to acquire, design and construct the Project on behalf of the Board in accordance with the Participating County's established policies and procedures for the design and construction of major capital projects such as the Project. The Participating County shall be responsible to contract for all pre-design, design and construction services, and shall manage the day-to-day design and construction of the Project. The Participating County shall cause the design and construction of the Project to be consistent with the requirements, limitations, and other terms of this Agreement, the other Project Documents, the Law and all Applicable Laws. The Participating County shall also manage all aspects of the development and construction of the Project in accordance with the Project Documents.

5.2 Procurement and Enforcement of Design-Build Contract. The Participating County shall follow and adhere to all pertinent bidding rules and policies applicable to Participating County capital projects of this type and size. If there is an ambiguity as to the applicability of certain contracting rules and/or policies to the Project, the Participating County will seek advice from its counsel, follow that advice and use its best efforts to enforce the general design-build contract (the "Design-Build Contract") between the Participating County and the design-build entity selected by the Participating County.

5.3 Completion of the Project. The Participating County acknowledges it is obligated to undertake and complete the design and construction of the Project in compliance with all of the applicable terms and conditions of the Project Documents and the Participating County agrees to use its best efforts to cause the completion of design and construction of the Project in compliance with the applicable terms and conditions of such documents. The Participating County agrees to complete the Project in accordance with this Agreement and consistent with the scope, cost and schedule established by the Board and attached hereto in **Exhibit A**, as such scope, cost and schedule may be modified with the approval of Finance and the recognition of the Board.

5.4 Project Access. To the extent not inconsistent with the Bond Documents, at all times during design and construction of the Project and after final completion, the Participating County shall provide to employees, subcontractors, and consultants of the Agencies reasonable unrestricted access to observe, monitor and inspect the Project. The Agencies' access to observe, monitor and inspect shall include the right to review all documents and files relating to the Project, as well as construction on the Site, including all tests and inspections relating to design or construction of the Project.

5.5 Insurance.

(a) Insurance Obligations of the Participating County.

(i) Requirements during construction. Not later than the start of construction, and continuing through completion of construction of the Project, the Participating County, at its own cost and expense, shall secure and maintain or cause to be secured and maintained (i) fire, lightning and extended coverage insurance on the Project, 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 insurance is in effect, shall be in the form of a

commercial property policy in an amount equal to one hundred percent (100%) of the then current replacement cost of the Project, excluding the replacement cost of the unimproved real property constituting the Site (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or two million five hundred thousand dollars (\$2,500,000)] for any one loss), and (ii) earthquake insurance (if such insurance is available on the open market from reputable insurance companies at a reasonable cost) on any structure comprising part of the Project in an amount equal to the full insurable value of such structure or the amount of the attributable portion of the Interim Financing, whichever is less (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or 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.

If such policy is expected to expire in accordance with its terms prior to execution of the Facility Sublease, the Participating County shall give written notice to the Agencies forty-five (45) days prior to the expected expiration date.

(ii) Requirements after construction completion. 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 and maintain after completion of construction and/or when placing the Project in operation, the following insurance coverage for the Project:

a. 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;

b. By signing this Agreement, 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 Agreement.

c. 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.

(iii) Additional Insureds. The Participating County agrees that the Board[, the Department,] and the BSCC and their respective officers, agents and employees shall be included as additional insured in all insurance required herein.

(iv) Insurance Certificate. Any and all insurance policies related to the Project shall name the Board and the [ENTER "Department" OR "BSCC"] as additional insured parties and the Participating County shall deliver to the Agencies a certificate or certificates of insurance

authorized by the insurers describing the insurance coverage and stating that it is in full force and effect.

(v) 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 the statutory provisions of the State, and/or a self-funded loss reserve in whatever proportions are deemed appropriate by the Participating County. The Participating County shall furnish the Agencies 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.

(b) Insurance Obligations of the [ENTER "Department" OR "BSCC"]. If the insurance required in (a)(i) expires in accordance with its terms prior to execution of the Facility Sublease, the [ENTER "Department" OR "BSCC"] shall, at its own cost and expense, procure and maintain or cause to be procured and maintained (i) property casualty insurance in an amount equal to one hundred percent (100%) of the then current replacement cost of the Project, excluding the replacement cost of the unimproved real property constituting the Site (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or two million five hundred thousand dollars (\$2,500,000)] for any one loss), and (ii) earthquake insurance (if such insurance is available on the open market from reputable insurance companies at a reasonable cost) on any structure comprising part of the Project in an amount equal to the full insurable value of such structure or the amount of the attributable portion of the Interim Financing, whichever is less (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or 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. The property casualty insurance shall be in a form satisfactory and with carriers which are acceptable to the Board.

(c) Disposition of Insurance Proceeds. The Participating County agrees and acknowledges that the Board, in its sole discretion, may elect to use the proceeds of insurance procured pursuant to this Agreement to repay the Interim Loan and related costs. However, in the event of (i) damage or destruction of the Project caused by the perils covered by the insurance procured pursuant to this Agreement and (ii) if the Board elects to repay the Interim Loan and related costs, and (iii) if any insurance proceeds remain after the Interim Loan and related costs have been repaid, and (iv) such remaining insurance proceeds are distributed to the [ENTER "Department" OR "BSCC"], then the [ENTER "Department" OR "BSCC"] agrees to distribute such remaining proceeds to the Participating County.

ARTICLE 6

CERTAIN OBLIGATIONS POST PROJECT COMPLETION

6.1 Private Use of the Project.

6.1.1 *Provision of Information Regarding Private Use.* The Participating

County acknowledges that under the terms of the Facility Sublease, a form of which is attached hereto as **Exhibit D**, the Participating County will covenant to provide updated information to the Board, the [ENTER "Department" OR "BSCC"] and the State Treasurer annually regarding private use, if any, of the Project.

6.1.2 *Restriction on Private Use of Bond Financed Project.* The Participating County acknowledges that under the terms of the Facility Sublease, a form of which is attached hereto as **Exhibit D**, the Participating County will covenant to restrict private use of the Project as required by the terms thereof.

6.2 No Liens. The Participating County acknowledges that except as permitted under the terms of the Facility Sublease, a form of which is attached hereto as **Exhibit D**, the Participating County will covenant not to allow any liens on the Facility.

ARTICLE 7

RECORD RETENTION

7.1 Establishment of Official Project File. The Participating County shall establish an official file for the Project (the "Official Project File"). The file shall contain adequate documentation of all actions that have been taken with respect to the Project, in accordance with generally accepted government accounting principles and the requirements for record retention for capital projects constructed with the proceeds of tax exempt bonds. The Participating County will provide a copy of such file to the [ENTER "Department" OR "BSCC"] upon termination of this Agreement. The documents to be retained shall include, but is not limited to contracts, payment of invoices, transfer of funds and other related accounting records.

7.2 Preservation of Records. The Participating County agrees to protect records adequately from fire or other damage. When records are stored away from the Participating County's principal office, a written index of the location of records stored must be on hand and ready access must be assured. All the Participating County records contained in the Official Project File must be preserved for a minimum of three years after the last date on which no Bonds are outstanding. These records shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and audit by the Agencies or designees, by state government auditors or designees, or by federal government auditors or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the relevant time period set forth in the third sentence of this paragraph, the related records must be retained until the completion of the action and resolution of all issues which arise from it if such date is later than the end of the afore-mentioned three-year period.

ARTICLE 8

MISCELLANEOUS

8.1 Entire Agreement. This Agreement constitutes and contains the entire agreement between the Parties hereto with respect to the transactions contemplated hereby and supersedes any prior oral or written understanding or agreement of the Parties with respect to the

transactions contemplated hereby.

8.2 Amendment. The Parties may, by mutual agreement in writing, amend this Agreement in any respect.

8.3 Waiver. The Parties hereto may, from time to time, waive any of their rights under this Agreement unless such waiver is contrary to law, provided that any such waiver shall be in writing and signed by the Party making such waiver.

8.4 Counterparts. This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one Party, but all of which when taken together shall constitute one and the same instrument, notwithstanding that all Parties have not signed the same counterpart hereof.

8.5 Headings. The article and section headings contained in this Agreement are inserted as a matter of convenience and shall not affect in any way the construction or terms of this Agreement.

8.6 Further Assurances. Each of the Parties shall execute such other instruments, documents and other papers and shall take such further actions as may be reasonably required or desirable to carry out the provisions hereof and to consummate the transactions contemplated hereby.

8.7 Survival. The representations, warranties, covenants and agreements made herein or in any certificate or document executed in connection herewith shall survive the execution and delivery hereof or thereof, as the case may be, and all statements contained in any certificate or document delivered by any Party hereto shall be deemed to constitute a representation and warranty made herein by such Party.

8.8 Governing Law. The laws of the State shall govern this Agreement, the interpretation thereof and any right or liability arising hereunder. Any action or proceeding to enforce or interpret any provision of this Agreement shall be brought, commenced or prosecuted in the courts of the State located in the County of Sacramento. All parties expressly assert that Sacramento County is not a forum inconvenience.

8.9 Compliance with Laws. At all times during the performance of this Agreement by the Parties, they shall strictly comply with all applicable governmental, administrative and judicial laws, ordinances, rules, regulations, orders, covenants and findings, including, without limitation, all applicable environmental laws and regulations.

8.10 Partial Invalidity. If any provisions of this Agreement are found by any competent authority to be void or unenforceable, such provision shall be deemed to be deleted from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect.

8.11 Notices. All notices and other official communications between the Parties shall be in writing and shall be given by hand delivery or by recognized overnight courier who maintains verification of delivery (deemed to be duly received on the date delivered), or by

registered mail, postage prepaid, return receipt requested (deemed to be duly received five (5) days after such mailing) or by telecopy (deemed to be received on the date sent providing that the facsimile was properly addressed and disclosed the number of pages transmitted on its front sheet and that the transmission report produced indicates that each of the pages of the facsimile was received at the correct facsimile number) to each of the respective Parties as follows:

If to the Board: State Public Works Board
915 L. St., 9th Floor
Sacramento, CA 95814
Attention: Executive Director
Facsimile: 916-449-5739

[If to the Department: California Department of Corrections and Rehabilitation
9838 Old Placerville Road, Suite B
Sacramento, CA 95827
Attention: Deputy Director, Facility Planning, Construction and
Management
Facsimile: 916-322-5717]

If to the BSCC: Board of State and Community Corrections
600 Bercut Dr.
Sacramento, CA 95811
Attention: Executive Director
Facsimile: 916-327-3317

If to the Participating County: County of [ENTER COUNTY NAME]
[ENTER STREET ADDRESS]
[ENTER CITY, STATE AND ZIP CODE]
Attention: [ENTER POSITION TITLE]
Facsimile: [ENTER FAX NUMBER]

or to such other address or number for any of the Parties hereto as may from time to time be designated by notice given by such Party to the other Parties in the manner hereinabove provided.

8.12 Force Majeure. None of the Parties shall be liable or responsible for any delay or failure resulting from (and the times for performance by the Parties hereunder shall be extended by the duration of) causes beyond the control of, and without the fault or negligence of, such Party, including without limitation acts of God, acts of the public enemy, acts of war or terrorism, acts of the government or governmental or quasi-governmental agency or instrumentality, significant market disruptions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, civil commotion, casualties, embargoes, severe or inclement weather beyond that usually encountered in [ENTER COUNTY NAME] County, California, shortages in labor or materials, or similar cause.

8.13 Exculpation. Notwithstanding anything to the contrary contained in this Agreement, in any Bond Document, Project Document or other certificate, agreement, document or instrument executed in connection with the [ENTER PROGRAM NAME] Financing

Program, the liability of the Board hereunder shall be limited to and satisfied solely out of proceeds of the Interim Loan, if any, or the Bonds, if any, permitted to be used for such purpose. Except as provided above, the Participating County shall not have the right to obtain payment from the Agencies or from any other assets of the Agencies. The Participating County shall not enforce the liability and obligation of the Agencies to perform and observe the obligations contained in this Agreement, or any other documents delivered in connection herewith in any action or proceeding wherein a money judgment in excess of the available proceeds of the foregoing sources shall be sought against the Agencies.

8.14 Benefits of this Agreement Limited to the Parties. Except for the Parties to this Agreement, nothing contained in this Agreement, expressed or implied, is intended to give to any person (including without limitation the owners of the Bonds) any right, remedy or claim under or by reason hereof. Any agreement or covenant required herein to be performed by or on behalf of any Party shall be for the sole and exclusive benefit of the other Parties to this Agreement.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

FORM OF DOCUMENT

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement, either individually or by an authorized representative, on the day and year first set forth above.

STATE PUBLIC WORKS BOARD OF
THE STATE OF CALIFORNIA

By: _____
[Name]
[Executive Director or Deputy Director]

[DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
[Name]
[Title]

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF
CALIFORNIA

By: _____
[Name]
[Title]

COUNTY OF [COUNTY NAME]

By: _____
[Name]
[Title]

EXHIBIT A

PROJECT SCOPE, COST AND SCHEDULE DESCRIPTION; TC \L 0
"000000000001"

[Include narrative description of Project per Section 4.1]

FORM OF DOCUMENT

EXHIBIT B

FORM OF GROUND LEASE{TC \L 0 "0000000000001"}

FORM OF DOCUMENT

EXHIBIT C

FORM OF RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION, TC VL 0
"0000000000001"1

FORM OF DOCUMENT

EXHIBIT D

FORM OF FACILITY SUBLEASE{TC \L 0 "000000000001"}

FORM OF DOCUMENT

EXHIBIT E-1

DESCRIPTION OF PARTICIPATING COUNTY FUNDING {TC \L 0 "0000000000001"}

Cash Contribution

**CERTIFICATE OF THE COUNTY OF [ENTER COUNTY NAME] REGARDING ITS
CASH (HARD) MATCH FOR THE [ENTER COUNTY NAME] COUNTY JAIL
PROJECT**

All capitalized terms not otherwise defined herein shall have the meaning given them in the Project Delivery and Construction Agreement.

WHEREAS, pursuant to [ENTER STATUTE] (the "Law"), the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a [ENTER TYPE OF FACILITY] facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section [ENTER SECTION] of the California Government Code (the "[ENTER PROGRAM NAME] Financing Program"); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter [ENTER SUBCHAPTER], only the cost of certain design and construction activities are potentially eligible for reimbursement under the [ENTER PROGRAM NAME] Financing Program – acquisition, pre-design and other specified design and construction costs are not eligible; and

WHEREAS, the County of [ENTER COUNTY NAME] (the "Participating County") has proposed to build a [ENTER TYPE OF FACILITY] facility, the [ENTER PROJECT NAME] project, (the "Project"), to be located at [ENTER PHYSICAL ADDRESS], real property controlled by the Participating County through fee-simple ownership (the "Site"); and

WHEREAS, pursuant to the Law, the Participating County is paying a portion of the costs of the Project (the "Cash (hard) Match") as described in Exhibit 1; and

WHEREAS, the Board intends to assist in the oversight and financing of the Project, subject to satisfaction of certain conditions and requirements of the Board, and the Board may in its sole, reasonable discretion, issue lease revenue bonds for the Project (the "Bonds"); and

WHEREAS, the interests of both the Board and the Participating County require confirmation of certain facts and certain assurances concerning the Cash (hard) Match.

NOW, THEREFORE, the Participating County, acting through its duly authorized representative, does hereby represent, warrant and covenant as follows:

(A) Lawfully Available Funds. The Cash (hard) Match, as described in Exhibit 1, has been derived exclusively from lawfully available funds of the Participating County.

(B) Cash (hard) Match Is Legal and Authorized. The payment of the Cash (hard) Match for the Project (i) is within the power, legal right, and authority of the Participating County; (ii) is legal and will not conflict with or constitute on the part of the Participating County a material violation of, a material breach of, a material default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of the Participating County under the provisions of any charter instrument, bylaw, indenture, mortgage, deed of trust, pledge, note, lease, loan, installment sale agreement, contract, or other material agreement or instrument to which the Participating County is a party or by which the Participating County or its properties or funds are otherwise subject or bound, decree, or demand of any court or governmental agency or body having jurisdiction over the Participating County or any of its activities, properties or funds; and (iii) have been duly authorized by all necessary and appropriate action on the part of the governing body of the Participating County. The authorized representative of the Participating County executing this Certificate is fully authorized and empowered to take such actions, for and on behalf of the Participating County.

(C) Governmental Consents. The execution, delivery, and performance by the Participating County of this certificate and the use of the Cash (hard) Match for certain costs of the Project do not require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority other than the Participating County in connection with the execution, delivery, and performance of this Certificate, the consummation of any transaction herein contemplated, or the offer, issue, sale, or delivery of the Bonds, except as shall have been obtained or made and as are now in full force and effect.

(D) No Prior Pledge. The Cash (hard) Match and the Project are not and will not be mortgaged, pledged, or hypothecated by the Participating County in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest by the Participating County. In addition, the Cash (hard) Match and the Project are 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 have 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 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.

IN WITNESS WHEREOF, the undersigned duly authorized representative of the Participating County has executed and delivered this Certificate to the Board on the date set forth below.

Date: [ENTER DATE FROM PDCA COVER PAGE]

COUNTY OF [ENTER COUNTY NAME]

By: _____

[NAME]

[TITLE]

Exhibit 1-Description of Cash (hard) Match

[ENTER COUNTY NAME] County's Cash (hard) Match for the Project will be funded from [ENTER NUMBER OF SOURCES] sources: (1) _____, (2) _____, and (3) _____.

FORM OF DOCUMENT

**CERTIFICATE OF THE COUNTY OF [ENTER COUNTY NAME] REGARDING ITS
OTHER PARTICIPATING COUNTY FUNDING FOR THE [ENTER COUNTY NAME]
COUNTY JAIL PROJECT**

All capitalized terms not otherwise defined herein shall have the meaning given them in the Project Delivery and Construction Agreement.

WHEREAS, pursuant to [ENTER STATUTE] (the "Law"), the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a [ENTER TYPE OF FACILITY] facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section [ENTER SECTION] of the California Government Code (the "[ENTER PROGRAM NAME] Financing Program"); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter [ENTER SUBCHAPTER], only the cost of certain design and construction activities are potentially eligible for reimbursement under the [ENTER PROGRAM NAME] Financing Program – acquisition, pre-design and other specified design and construction costs are not eligible; and

WHEREAS, the County of [ENTER COUNTY NAME] (the "Participating County") has proposed to build a [ENTER TYPE OF FACILITY] facility, the [ENTER PROJECT NAME] project, (the "Project"), to be located at [ENTER PHYSICAL ADDRESS], real property controlled by the Participating County through fee-simple ownership (the "Site"); and

WHEREAS, pursuant to the Law, the Participating County is contributing funding in addition to its Cash (hard) Match and In-Kind (soft) Match (the "Other Participating County Funding"); and

WHEREAS, the Board intends to assist in the oversight and financing of the Project, subject to satisfaction of certain conditions and requirements of the Board, and the Board may in its sole, reasonable discretion, issue lease revenue bonds for the Project (the "Bonds"); and

WHEREAS, the interests of both the Board and the Participating County require confirmation of certain facts and certain assurances concerning the Other Participating County Funding.

NOW, THEREFORE, the Participating County, acting through its duly authorized representative, does hereby represent, warrant and covenant as follows:

(A) Lawfully Available Funds. The Other Participating County Funding, as described in Exhibit 1, has been derived exclusively from lawfully available funds of the Participating County.

(B) Other Participating County Funding Is Legal and Authorized. The payment of the Other Participating County Funding for the Project (i) is within the power, legal right, and authority of the Participating County; (ii) is legal and will not conflict with or constitute on the part of the Participating County a material violation of, a material breach of, a material default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of the Participating County under the provisions of any charter instrument, bylaw, indenture, mortgage,

deed of trust, pledge, note, lease, loan, installment sale agreement, contract, or other material agreement or instrument to which the Participating County is a party or by which the Participating County or its properties or funds are otherwise subject or bound, decree, or demand of any court or governmental agency or body having jurisdiction over the Participating County or any of its activities, properties or funds; and (iii) have been duly authorized by all necessary and appropriate action on the part of the governing body of the Participating County. The authorized representative of the Participating County executing this Certificate is fully authorized and empowered to take such actions for and on behalf of the Participating County.

(C) Governmental Consents. The execution, delivery, and performance by the Participating County of this certificate and the use of the Other Participating County Funding for certain costs of the Project do not require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority other than the Participating County in connection with the execution, delivery, and performance of this Certificate, the consummation of any transaction herein contemplated, or the offer, issue, sale, or delivery of the Bonds, except as shall have been obtained or made and as are now in full force and effect.

(D) No Prior Pledge. The Other Participating County Funding and the Project are not and will not be mortgaged, pledged, or hypothecated by the Participating County in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest by the Participating County. In addition, the Other Participating County Funding and the Project are 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 have 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 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.

IN WITNESS WHEREOF, the undersigned duly authorized representative of the Participating County has executed and delivered this Certificate to the Board on the date set forth below.

Date: [ENTER DATE FROM PDCA COVER PAGE]

COUNTY OF [ENTER COUNTY NAME]

By: _____

[NAME]

[TITLE]

Exhibit 1-Description of Other Participating County Funding

[ENTER COUNTY NAME] County's Other Participating County Funding for the Project will be funded from [ENTER NUMBER OF SOURCES] sources: (1) _____, (2) _____, and (3) _____.

FORM OF DOCUMENT

EXHIBIT E-2

DESCRIPTION OF PARTICIPATING COUNTY FUNDING {TC \L 0 "0000000000001"}

In-kind (soft) Match

[DESCRIPTION TO BE INSERTED]

FORM OF DOCUMENT

**PROJECT DELIVERY AND CONSTRUCTION AGREEMENT
[ENTER PROGRAM NAME] FINANCING PROGRAM**

by and among

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

and

**[DEPARTMENT OF CORRECTIONS AND REHABILITATION
OF THE STATE OF CALIFORNIA**

and]

**BOARD OF STATE AND COMMUNITY CORRECTIONS
OF THE STATE OF CALIFORNIA**

and

[ENTER COUNTY NAME]

Effective Date of [MONTH] [DAY], 20[YEAR]

**(FOR A [ENTER TYPE OF FACILITY] FACILITY
LOCATED IN THE COUNTY OF [ENTER COUNTY NAME])**

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FORM DOCUMENT

PROJECT DELIVERY AND CONSTRUCTION AGREEMENT
[ENTER PROGRAM NAME] FINANCING PROGRAM
(FOR A [ENTER TYPE OF FACILITY] FACILITY
LOCATED IN [ENTER COUNTY NAME] COUNTY)

This PROJECT DELIVERY AND CONSTRUCTION AGREEMENT (this "Agreement") is entered into as of [MONTH] [DAY], 20[YEAR], (the "Effective Date") by and among the STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA (the "Board"), an entity of state government of the State of California (the "State"), [the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA (the "Department"), an entity of state government of the State,] the BOARD OF STATE AND COMMUNITY CORRECTIONS OF THE STATE OF CALIFORNIA (the "BSCC"), an entity of state government of the State, and the COUNTY OF [ENTER COUNTY NAME] (the "Participating County"), a Political Subdivision of the State. For purposes of this Agreement, the Board, the Department, the BSCC and the Participating County are referred to collectively as the "Parties," and individually as a "Party." The Board[, the Department] and the BSCC are referred to collectively herein, as the "Agencies" and individually as an "Agency."

WHEREAS, pursuant to [ENTER STATUTE] (the "Law"), the Board is authorized to finance the acquisition, design and construction of a [ENTER TYPE OF FACILITY] facility approved by the BSCC pursuant to Section [ENTER SECTION] of the California Government Code (the "[ENTER PROGRAM NAME] Financing Program"); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter [ENTER SUBCHAPTER] and this Agreement and other agreements relating to this Project, the cost of certain design and construction activities will be eligible for reimbursement under the [ENTER PROGRAM NAME] Financing Program; and

WHEREAS, the Participating County has proposed to build or renovate a [ENTER TYPE OF FACILITY] facility, as more particularly described in **Exhibit A** attached hereto (the "Project"), to be located at [ENTER PHYSICAL ADDRESS], real property controlled by the Participating County through fee-simple ownership (the "Site"); and

WHEREAS, the Participating County intends to lease the Site to the [ENTER "Department" OR "BSCC"] pursuant to a Ground Lease in substantially the form attached hereto as **Exhibit B** (the "Ground Lease") executed by and between the Participating County and the [ENTER "Department" OR "BSCC"] and consented to by the Board; and

WHEREAS, the [ENTER "Department" OR "BSCC"], as lessee under the Ground Lease, and the Participating County intend to enter a Right of Entry for Construction and Operation (the "Right of Entry") in substantially the form attached hereto as **Exhibit C** concurrently with the execution of the Ground Lease authorizing the Participating County to enter the Site for the purpose of constructing the Project on the Site and for operation of the Project upon substantial completion of construction (the Site and the Project, collectively, the "Facility"), as more particularly described herein; and

WHEREAS, concurrently with the execution of this Agreement, the BSCC and the

Participating County, with the consent of the Board [and the Department], intend to enter into an agreement to assist in complying with BSCC's rules and regulations concerning jail construction for the [ENTER PROGRAM NAME] Financing Program (the "BSCC Agreement"); and

WHEREAS, the Board intends to oversee and issue lease revenue bonds for the Project, subject to satisfaction of certain conditions and requirements of the Board, including but not limited to establishment of Project scope, cost and schedule; approval of preliminary plans; involvement in working drawings approval and authorization for the Participating County to request construction bids; requesting actions to be taken to obtain one or more interim loans in connection with the Project (the "Interim Loan") and, subject to section 1.3 below, the Board intends to issue and sell its lease revenue bonds to repay the Interim Loan and provide additional financing for the Project, as necessary (the "Bonds"); and

WHEREAS, prior to authorization by the Board of actions to be taken to provide for the Interim Loan, the [ENTER "Department" OR "BSCC"] shall have certified to the Board that the Participating County is a participating county as required by Section [ENTER SECTION] of the California Government Code and the BSCC shall have approved the Project in accordance with Section [ENTER SECTION] of the California Government Code; and

WHEREAS, an Interim Loan for the Project may be made pursuant to Sections 16312 and 16313 of the California Government Code (Pooled Money Investment Board loans), Section 15849.1 of the California Government Code (General Fund loans), and/or any other appropriate source in an amount or amounts, which in the aggregate do not exceed the Maximum State Financing (as hereinafter defined); and

WHEREAS, the agent for sale for all Board bonds is the State Treasurer; and

WHEREAS, concurrently with the issuance of the Bonds, the [ENTER "Department" OR "BSCC"], as lessee under the Ground Lease, intends to enter into a Site Lease whereby the [ENTER "Department" OR "BSCC"], as lessor, shall lease the Site to the Board, as lessee (the "Site Lease"); and

WHEREAS, concurrently with the execution of the Site Lease, the Board, as lessee under the Site Lease, intends to enter into a Facility Lease whereby the Board, as lessor, shall lease the Facility to the [ENTER "Department" OR "BSCC"], as lessee (the "Facility Lease"); rental payments under the Facility Lease shall secure the payment of principal of and interest on the Bonds; and

WHEREAS, concurrently with the execution of the Facility Lease, the [ENTER "Department" OR "BSCC"], as lessee under the Facility Lease, and the Participating County intend to enter a Facility Sublease in substantially the form attached hereto as **Exhibit D**, whereby the [ENTER "Department" OR "BSCC"], as sublessor, shall lease the Facility to the Participating County, as sublessee (the "Facility Sublease"), for its use, operation and maintenance; and

WHEREAS, in the event the Board is unable to issue the Bonds to finance the Project and the Interim Loan has been provided, the [ENTER "Department" OR "BSCC"] shall commit a sufficient amount of its annual support appropriation to repay the Interim Loan and any other

interim financing costs associated with the Interim Loan.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements of the Parties set forth herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged by the Parties, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE 1

GENERAL

1.1 General Covenants, Acknowledgements and Agreements of the Parties.

(a) The Parties hereto acknowledge and agree that an authorization by the Board to request the Interim Loan and the issuance of the Bonds by the Board is done in reliance upon, among other things, the promise of the relevant Parties to execute, deliver and perform their respective obligations, as applicable, under the Site Lease, the Facility Lease, the Facility Sublease, a Tax Agreement and Certificate in a form satisfactory to the Board to be executed in connection with the issuance of the Bonds (the "Tax Certificate"), a Continuing Disclosure Agreement in a form satisfactory to the Board to be executed in connection with the issuance of the Bonds (the "Continuing Disclosure Agreement") and all related certificates, agreements or other documents, including an indenture and supplemental indenture, if any, authorizing the Bonds that the Chair or Executive Director of the Board or a duly authorized designee thereof may deem necessary or desirable to effectuate the sale of the Bonds. Such indenture, supplemental indenture, if any, the Site Lease, the Facility Lease, the Facility Sublease, the Tax Certificate and the Continuing Disclosure Agreement, are collectively referred to herein as the "Bond Documents."

(b) The Parties accept and agree to comply with, to the extent respectively applicable to them, all terms, provisions, conditions, and commitments of this Agreement, the Project Documents (as hereinafter defined) and the Bond Documents, including all incorporated documents, and that they will do and perform all acts and things permitted by law to effectuate the issuance of the Bonds.

(c) The Participating County[, the Department] and the BSCC agree and acknowledge that the Project is subject to approval and oversight by the Board and the State Department of Finance ("Finance") consistent with the policies and laws governing the expenditure of a State capital outlay appropriation.

1.2 Approvals, Consents and Actions Necessary to Maintain Eligibility in the [ENTER PROGRAM NAME] Financing Program. The Participating County acknowledges its eligibility for Project financing pursuant to the [ENTER PROGRAM NAME] Financing Program is subject to and contingent upon the following approvals, consents and actions by the Board and Finance;

(a) A determination by the Board that the Site meets the standard requirements for a site being leased in connection with the issuance by the Board of its lease revenue bonds;

(b) A determination by the Board that the Participating County match as set forth in Article 3 has been satisfied as required by the Law and the source of the Cash (hard) Match (as hereinafter defined) and any associated security or terms related thereto has been determined by the Board to be compatible with the financing of the Project pursuant to the [ENTER PROGRAM NAME] Financing Program;

(c) The Board has established the scope, cost and schedule for the Project consistent with the Participating County's initial proposal submitted to the BSCC and the Participating County has agreed that the Project shall be constructed and completed in accordance with such Project scope, cost and schedule established by the Board, except to the extent any modifications thereof may be approved by the Board through the State's standard capital outlay process;

(d) The Board has approved the Ground Lease, the Right of Entry and the Facility Sublease;

(e) Both the Board and Finance have approved the Preliminary Plans for the Project. As used herein "Preliminary Plans" shall mean a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate, for each utility, site development, conversion, and remodeling project, the drawings shall be sufficiently descriptive to accurately convey the location, scope, cost, and the nature of the improvement being proposed;

(f) Finance has approved the Working Drawings for the Project and authorized the Participating County to proceed with soliciting competitive bids for construction of the Project. As used herein "Working Drawings" shall mean a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project;

(g) The [ENTER "Department" OR "BSCC"] has provided the Board the certification required by Section [ENTER SECTION] of the California Government Code, which certification the [ENTER "Department" OR "BSCC"] intends to provide upon satisfaction of the required statutory and regulatory conditions;

(h) The Board has adopted a Resolution authorizing steps be taken to seek the Interim Loan together with declaring its intent to reimburse any such Interim Loan with the proceeds from the Bonds;

(i) A determination by the Board that it will receive with respect to the Bonds the normal and customary opinions and certificates delivered in connection with an issuance of lease revenue bonds by the Board; and

(j) The sale of the Bonds.

1.3 [ENTER PROGRAM NAME] Lease Revenue Bond Financing. State financing for the [ENTER PROGRAM NAME] Financing Program is predicated on the Board's ability to issue Bonds for the Project. The Board, acting in good faith, intends to authorize the request for

the Interim Loan and, subject to approvals, consents, and actions set forth in section 1.2, to issue Bonds for the Project. The Agencies will make reasonable and good faith efforts to assist in gaining assurance that the Site, the Project, the Participating County's ultimate use of the Project and the Cash (hard) Match (as hereinafter defined) are developed and implemented in such a way to facilitate the financing of the Project through the issuance and sale of the Bonds.

Prior to the Board's authorization to request the Interim Loan, the [ENTER "Department" OR "BSCC"] shall have certified to the Board that the Participating County is a participating county as required by Section [ENTER SECTION] of the California Government Code and the BSCC shall have approved the design and construction of the Project in accordance with Section [ENTER SECTION] of the California Government Code.

Notwithstanding the Board's good faith efforts to authorize and provide financing for the Project, the State (including without limitation the Board[, the Department,] and the BSCC) shall not be obligated to issue Bonds for the Project or authorize the Interim Loan request upon the Board's good-faith determination that such financing is not feasible or appropriate, based upon any one or more of the following factors: the lack of suitability of the Project's configuration or site for lease revenue bond financing, local funding that is incompatible with the issuance of lease revenue bonds by the Board, adverse market conditions, adverse outcomes to legal challenges, inability to obtain access to the financial markets or inability to obtain reasonable rates, inability to receive opinions and certificates customarily delivered in connection with the issuance of lease revenue bonds, or another occurrence or state of affairs that would make it objectively infeasible or inappropriate for the Board to issue Bonds or authorize the Interim Loan request.

In the event the Board determines that it is not feasible or appropriate to issue Bonds or to authorize the Interim Loan request, the Participating County is not entitled to receive the Maximum State Financing (as hereinafter defined) or other State funding for the Project, and shall not receive reimbursement from the State for any Project costs. However, in the event the Board is unable to issue the Bonds to finance the Project and the Interim Loan has been provided, the [ENTER "Department" OR "BSCC"] shall commit a sufficient amount of its annual support appropriation to repay the Interim Loan and any other interim financing costs associated with the Interim Loan and all associated costs.

1.4 The [Department and the]BSCC Act as Liaison of the Board and Finance to the Participating County. The Parties hereto acknowledge that obtaining the approvals and consents of the Board and/or Finance and the provision of documents to the Board and/or Finance as set forth in this Article I and otherwise herein shall be a responsibility of [the Department and]the BSCC. The [Department and the]BSCC will act as liaisons between the Participating County and the Board and Finance, and on their own behalf and behalf of the Board and Finance, will work with the Participating County to obtain such consents and approvals, and to provide such documents to the Board and Finance, as applicable.

1.5 Representations and Warranties of the Participating County.

(a) Under the provisions of the State Constitution, the applicable State statutes, and applicable jurisprudence of the State, the Participating County has the power to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated

hereby and to perform its obligations hereunder.

(b) The Participating County has taken all actions and has obtained all consents necessary to enable the Participating County to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(c) The person executing and delivering this Agreement on behalf of the Participating County has been duly authorized and empowered to do so.

(d) The execution and delivery of this Agreement on behalf of the Participating County will bind and obligate the Participating County to the extent provided by the terms hereof.

(e) There exists no litigation or other proceeding pending or threatened against the Participating County that, if determined adversely, would materially and adversely affect the ability of the Participating County to consummate the transactions contemplated hereby or to perform its obligations hereunder.

(f) The execution and delivery of this Agreement and the Ground Lease, the Right of Entry, the BSCC Agreement and the Facility Sublease, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or material breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Participating County is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Participating County, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement, the Ground Lease, the Right of Entry, the BSCC Agreement or the Facility Sublease, or the financial condition, assets, properties or operations of the Participating County.

1.6 Representations and Warranties of the Board.

(a) Under the provisions of the State Constitution, the applicable State statutes, and applicable jurisprudence of the State, the Board has the power to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(b) The Board has taken all actions and has obtained all consents necessary to enable the Board to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(c) The person executing and delivering this Agreement on behalf of the Board has been duly authorized and empowered to do so.

(d) The execution and delivery of this Agreement on behalf of the Board will bind and obligate the Board to the extent provided by the terms hereof.

(e) There exists no litigation or other proceeding pending against the Board (with service of process having been accomplished) that, if determined adversely, would materially and adversely affect the ability of the Board to consummate the transactions contemplated hereby or to perform its obligations hereunder.

1.7 Representations and Warranties of the [Department and the]BSCC.

(a) Under the provisions of the State Constitution, the applicable State statutes, and applicable jurisprudence of the State, the [Department and the]BSCC each have the power to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(b) The [Department and the]BSCC have each taken all actions and have obtained all consents necessary to enable the [Department and the]BSCC to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

(c) The persons executing and delivering this Agreement on behalf of the [Department and the]BSCC have been duly authorized and empowered to do so.

(d) The execution and delivery of this Agreement on behalf of the [Department and the]BSCC will bind and obligate the [Department and the]BSCC to the extent provided by the terms hereof.

(e) There exists no litigation or other proceeding pending against the [Department or the]BSCC (with service of process having been accomplished) that, if determined adversely, would materially and adversely affect the ability of the [Department or the]BSCC to consummate the transactions contemplated hereby or to perform its obligations hereunder.

(f) The execution and delivery of this Agreement and the Ground Lease, the Right of Entry, the Site Lease, the Facility Lease, the BSCC Agreement and the Facility Sublease, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the [Department or the]BSCC is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the [Department or the]BSCC, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement, the Ground Lease, the Right of Entry, the BSCC Agreement or the Facility Sublease, or the financial condition, assets, properties or operations of the [Department or the]BSCC.

1.8 Compliance with Terms and Conditions of the Project Documents. The Parties agree to comply with all terms and conditions relating to the respective Party of this Agreement, the BSCC Agreement, the Ground Lease, the Right of Entry and all exhibits and schedules attached hereto and thereto relating to the Party (collectively, the "Project Documents"), as well as all applicable laws including, without limitation, the Law and those laws, regulations and guidelines set forth in the BSCC Agreement.

1.9 Conflicts Between Terms of Documents. In the event of any inconsistency in the Project Documents, except as otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: 1) this Agreement; 2) the Ground Lease; 3) the BSCC Agreement and all exhibits and schedules attached thereto, and 4) the Right of Entry. In the event the Bonds are issued, any inconsistency between the Project Documents and the Bond Documents shall be resolved by giving precedence to the Bond Documents. To the extent the Parties mutually agree that a provision of a particular document should control with respect to an inconsistency between that document and another document or documents, notwithstanding the other provisions of this section, such provision shall control.

1.10 Indemnity. As required by Section [ENTER SECTION] of the California Government Code, the Participating County hereby agrees to indemnify, defend and save harmless the State, including but not limited to the Board[, the Department] and the BSCC, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants, and agents (collectively, "Indemnitees") for any and all claims and losses arising at any time out of the acquisition, design, construction, operation, maintenance, use and occupancy of the Project. The Participating County shall not be obligated to provide indemnity or defense where the claim arises out of the active negligence or willful misconduct of the Indemnitees. These obligations shall survive any termination of this agreement.

1.11 Assignment or Subletting of the Facility.

(a) *Assignment of Rights and Interest under this Agreement.* Except as otherwise contemplated hereunder, the Participating County may not sublicense, assign, or otherwise confer upon any other person or entity its rights or interests under this Agreement, nor may the Participating County delegate any of its duties or responsibilities required by this Agreement, whether by operation of law or otherwise, without the express, prior written consent of the Agencies, the rights and obligations hereunder imposed being personal to the Participating County.

(b) *Assignment or Subletting of the Facility.* The Participating County and the [ENTER "Department" OR "BSCC"] hereby covenant and agree that none of the Ground Lease, the Facility Lease or the Facility Sublease nor any interest of such Parties thereunder shall be sold, mortgaged, pledged, assigned, or transferred by the Parties thereto by voluntary act or by operation of law or otherwise; provided, however, that the Facility may be subleased in whole or in part by the Participating County with the prior written consent of the [ENTER "Department" OR "BSCC"] and the Board to the form and substance of such sublease, which consent shall not be unreasonably withheld, and, provided further that, any such sublease shall be subject to the following conditions:

(i) Any sublease of the Facility by the Participating County shall

explicitly provide that such sublease is subject to all rights of the [ENTER "Department" OR "BSCC"] 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

(ii) At the request of the [ENTER "Department" OR "BSCC"] or the Board, the Participating County shall furnish the [ENTER "Department" OR "BSCC"], 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.

(c) *Restrictions on Private Use of the Facility.* The Participating County acknowledges that its ability to assign or sublet the Facility is subject to the provisions of section 6.1.2 hereof.

1.12 Relationship of the Parties. The Parties hereto acknowledge and agree that, to the extent expressly provided in this Agreement, the relationship of the Participating County to the Agencies is that of an agent to the Agencies and that the Participating County is principally responsible for the acquisition, design, construction, maintenance, and operation of the Project. Other than as set forth herein, nothing in this Agreement shall create between the Participating County and any of the Agencies the relationship of joint venturers, partners or any other similar or representative relationship, and the Participating County shall not hold itself out as an agent (except as expressly provided herein), representative, partner, member or joint venturer of the Agencies. The Participating County shall not make for or on behalf of the Agencies, or subject the Agencies to, any contract, agreement, warranty, guaranty, representation, assurance or other obligation, which has not been approved in advance in writing by the applicable Agency. This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective successors and assigns, and no third party (including without limitation the owners of the Bonds) is intended to or shall have any rights hereunder.

ARTICLE 2

TERM AND TERMINATION OF AGREEMENT

2.1 Term of Agreement. This Agreement shall commence on the Effective Date and shall terminate upon the later of (i) completion of the construction of the Project or (ii) if the Board issues the Bonds, execution and delivery of the Facility Sublease, unless terminated earlier as provided in section 2.2. The provisions of certain sections hereof as indicated by the express terms thereof will survive termination of this Agreement.

2.2 Termination of Agreement.

(a) *Termination by the State.* The [Department or the]BSCC, with the consent of the Board, or the Board may terminate this Agreement in the event any of the following occurs:

(i) The Participating County's breach of a material term of this Agreement, any Project Document or any Applicable Laws (as defined in the BSCC Agreement) provided the Participating County has not cured such breach in all respects within thirty (30)

days from notice of said breach, which cure period may be extended for a reasonable time with the consent of the Agencies if the Participating County demonstrates that such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(ii) Substantive alteration of the Board approved scope, cost or schedule for the Project as set forth in **Exhibit A** without the prior written approval of the Board;

(iii) Failure to execute the Ground Lease or the Right of Entry;

(iv) Failure to provide the Participating County Funding (as hereinafter defined) when and as required under this Agreement, the Law or any Project agreement to which the Participating County is a party;

(v) In the event the Board determines the Participating County is no longer eligible for Project financing under the [ENTER PROGRAM NAME] Financing Program as set forth in section 1.2 hereof; or

(vi) Termination of the BSCC Agreement as provided for in Article 1, Section C of the BSCC Agreement.

(b) *Termination by the Participating County.* The Participating County may, prior to the State providing any amount of financing, terminate this Agreement in the event any of the following occurs:

(i) The State's breach of a material term of this Agreement, any Project Document or any Applicable Laws (as defined in the BSCC Agreement) provided the State has not cured such breach in all respects within thirty (30) days from notice of said breach, which cure period may be extended for a reasonable time with the consent of the Participating County if the State demonstrates that such additional time is required to cure such breach in a diligent and commercially reasonable manner;

(ii) Failure of the State to execute the Ground Lease or the Right of Entry;

(iii) In the event the Board determines the Participating County is no longer eligible for Project financing under the [ENTER PROGRAM NAME] Financing Program as set forth in section 1.2 hereof.

(c) *Agreement.* The Parties may terminate this Agreement by mutual agreement. The Agencies agree to terminate this agreement in the event that the Participating County determines it cannot proceed with the Project after initial construction bids are received, but before any construction contract is awarded.

(d) *Notice of Termination.* Prior to terminating this Agreement under the provisions of this Article 2, the Parties shall provide to each other, as applicable, at least thirty (30) calendar days written notice, stating the reason(s) for termination and effective date thereof.

(e) *No Impairment.* Nothing in this Article 2 in any way alters or limits the

authority of the Agencies to withhold all or a portion of the Maximum State Financing (as hereinafter defined) in accordance with law or otherwise as permitted hereunder or any other right or remedy available to the State at law or in equity for breach of this Agreement.

ARTICLE 3

COST SHARING OF THE PROJECT

3.1 Financing Eligibility of the Project.

(a) *General.* Subject to the terms and provisions hereof, the costs for design and construction of the Project shall be shared by the State and the Participating County with the State providing financing up to a maximum of _____ dollars (\$_____) (“Maximum State Financing”) and the Participating County providing the Cash (hard) Match (as hereinafter defined) funding and the In-Kind (soft) Match (as hereinafter defined) funding (collectively, the “Participating County Funding” and together with other Participating County-borne project costs not included as the Participating County Funding and the Maximum State Financing, the “Total Project Costs”). Provided, however, that the Board may provide all or a portion of the Maximum State Financing for Project costs at its discretion as set forth herein. The sources for the Maximum State Financing shall be limited to the proceeds of the Interim Loan, and the proceeds of the Bonds. If Bonds are issued and sold, the proceeds will be used to repay the Interim Loan and to provide additional financing for the Project as appropriate. If the Bonds are issued and sold, in no event or circumstance shall the State or the Agencies be obligated to pay the Participating County under this Agreement or any other Project Document any amount in excess of the Maximum State Financing.

(b) *Cash (hard) Match.* Subject to all terms and provisions of this Agreement, the Participating County agrees to appropriate and spend cash (hard) matching funds for the Project as provided in the BSCC Agreement (“Cash (hard) Match”). **Exhibit E-1** is a detailed description of and certification related to the source or sources of the Cash (hard) Match and any associated security or terms related thereto as approved by the Agencies, which detail and assurance of has been deemed sufficient by the Board to determine that the use of such funds as the Cash (hard) Match is compatible with the financing of the Project pursuant to the [ENTER PROGRAM NAME] Financing Program. Any modifications to the source or sources of the Cash (hard) Match or the associated security and terms related thereto as described in **Exhibit E-1** must be approved by the Agencies. The Participating County shall ensure that all Cash (hard) Match is encumbered prior to Finance approval of proceeding to bid the Construction Contract (as hereinafter defined).

(c) *In-Kind (soft) Match.* Subject to all terms and provisions of this Agreement, the Participating County agrees to provide in-kind (soft) match for the Project as provided in the BSCC Agreement (“In-kind (soft) Match”). The Participating County has provided in **Exhibit E-2** a detailed description of the In-kind (soft) Match for the Project as approved by the Agencies. Any modifications to the In-kind (soft) Match as described in **Exhibit E-2** must be approved by the Agencies.

3.2 Excess Project Costs. In no event shall any Project scope, cost, budget or schedule changes be authorized by the Participating County which would cause the amount of

Total Project Costs to be exceeded unless the Participating County covenants to fund such excess with lawfully available funds and the Participating County first obtains the consent of the Agencies. The Participating County is solely responsible for any and all cost, expenses or fees of the Project which exceed the Maximum State Financing and the Participating County covenants to use its best efforts to promptly appropriate sufficient amounts to cover such cost, expenses or fees. The Participating County waives any and all claims against any of the Agencies or the State in the event that Total Project Costs exceed the amount initially established by the Board.

3.3 Project Cost Savings. To the extent there exists Project cost savings during the Project the amount of such savings shall be applied first to the Participating County to the extent the Participating County has identified Participating County Funding in an amount more than required by the Applicable Laws (as defined in the BSCC Agreement). Thereafter, cost savings shall be shared by the State and the Participating County on a pro rata basis determined by the percentage of the total amount of Project costs financed by the State and the Participating County Funding, respectively. However, in no case may savings be applied to the Participating County that would (1) result in the State providing financing for activities other than eligible design and construction costs; or (2) result in the Participating County contributing less than the percentage of Total Project Costs required by the Applicable Laws.

ARTICLE 4

PROJECT SCOPE, COST AND SCHEDULE

4.1 The Project. See **Exhibit A** for a description of the scope, cost and schedule of the Project, including a narrative description of the Project, budgeted costs related to the Project and a schedule for completion of design and construction of the Project.

4.2 Modification of Project Scope, Cost or Schedule. No substantial change or other substantial modifications to the Project scope, cost or schedule may be made by the Participating County without prior written permission of Finance and recognition by the Board (“Scope Change”). Minor modifications to the project do not require Finance approval and Board recognition, but must be documented and reported on routine progress reports to the BSCC as set forth in the BSCC Agreement. Without limiting the foregoing, the Participating County shall notify the [Department and the]BSCC, and the [ENTER “Department” OR “BSCC”] shall in turn notify Finance and the Board upon any of the following events or circumstances that may constitute a Scope Change:

- (a) More than minor changes which affect the design, project configuration, cost or schedule of the Project;
- (b) A delay or change in the substantial completion or final completion dates for the Project;
- (c) A more than minor change to the design, location, size, capacity or quality of major items of equipment;
- (d) A change in approved budget categories, or movement of dollars between budget categories as indicated in the Board approved scope cost and schedule as identified in

Exhibit A.

As used herein "substantial" is as defined in Section 6863 of the State Administrative Manual. As used herein a minor change is any change which does not rise to the level of a substantial change as defined in Section 6863 of the State Administrative Manual. Finance shall determine whether any reported event or circumstance requires its approval and recognition or other formal action by the Board.

The Participating County agrees that it will give prompt notification in writing to the [Department and the]BSCC of the occurrence of any of the above events and promptly report, in writing, to the [Department and the]BSCC any modifications to the Construction Contract (as hereinafter defined) with respect to the Project. The [ENTER "Department" OR "BSCC"] will provide the aforementioned notices and reports to the Board. The Participating County agrees further that, for purposes of the immediately preceding clause (a) and (c), if unsure whether a particular change is minor it will discuss the appropriate characterization with the [Department and the]BSCC.

4.3 Excess Project Costs. In no event shall any scope, cost or budget changes be authorized which would cause the amount of Total Project Costs to be exceeded unless the Participating County covenants to fund such excess with lawfully available funds and with the consent of the Agencies and so appropriates such funding.

ARTICLE 5

BIDDING AND CONSTRUCTION PHASE OF THE PROJECT

5.1 Construction Covenant of the Participating County. The Participating County acting as agent of the Board and the [ENTER "Department" OR "BSCC"], hereby covenants and agrees to provide and perform or cause to be performed all activities required to acquire, design and construct the Project on behalf of the Board in accordance with the Participating County's established policies and procedures for the design and construction of major capital projects such as the Project. The Participating County shall be responsible to contract for all pre-design, design and construction services, and shall manage the day-to-day design and construction of the Project. The Participating County shall cause the design and construction of the Project to be consistent with the requirements, limitations, and other terms of this Agreement, the other Project Documents, the Law and all Applicable Laws. The Participating County shall also manage all aspects of the development and construction of the Project in accordance with the Project Documents.

5.2 Procurement and Enforcement of Construction Contract. The Participating County shall follow and adhere to all pertinent bidding rules and policies applicable to Participating County capital projects of this type and size. If there is an ambiguity as to the applicability of certain contracting rules and/or policies to the Project, the Participating County will seek advice from its counsel, follow that advice and use its best efforts to enforce the general construction contract (the "Construction Contract") between the Participating County and the contractor selected by the Participating County.

5.3 Completion of the Project. The Participating County acknowledges it is obligated

to undertake and complete the design and construction of the Project in compliance with all of the applicable terms and conditions of the Project Documents and the Participating County agrees to use its best efforts to cause the completion of design and construction of the Project in compliance with the applicable terms and conditions of such documents. The Participating County agrees to complete the Project in accordance with this Agreement and consistent with the scope, cost and schedule established by the Board and attached hereto in **Exhibit A**, as such scope, cost and schedule may be modified with the approval of Finance and the recognition of the Board.

5.4 Project Access. To the extent not inconsistent with the Bond Documents, at all times during design and construction of the Project and after final completion, the Participating County shall provide to employees, subcontractors, and consultants of the Agencies reasonable unrestricted access to observe, monitor and inspect the Project. The Agencies' access to observe, monitor and inspect shall include the right to review all documents and files relating to the Project, as well as construction on the Site, including all tests and inspections relating to design or construction of the Project.

5.5 Insurance.

(a) Insurance Obligations of the Participating County.

(i) Requirements during construction. Not later than the start of construction, and continuing through completion of construction of the Project, the Participating County, at its own cost and expense, shall secure and maintain or cause to be secured and maintained (i) fire, lightning and extended coverage insurance on the Project, 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 insurance is in effect, shall be in the form of a commercial property policy in an amount equal to one hundred percent (100%) of the then current replacement cost of the Project, excluding the replacement cost of the unimproved real property constituting the Site (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or two million five hundred thousand dollars (\$2,500,000)] for any one loss), and (ii) earthquake insurance (if such insurance is available on the open market from reputable insurance companies at a reasonable cost) on any structure comprising part of the Project in an amount equal to the full insurable value of such structure or the amount of the attributable portion of the Interim Financing, whichever is less (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or 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.

If such policy is expected to expire in accordance with its terms prior to execution of the Facility Sublease, the Participating County shall give written notice to the Agencies forty-five (45) days prior to the expected expiration date.

(ii) Requirements after construction completion. 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 and maintain after

completion of construction and/or when placing the Project in operation, the following insurance coverage for the Project:

a. 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;

b. By signing this Agreement, 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 Agreement.

c. 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.

(iii) Additional Insureds. The Participating County agrees that the Board[, the Department,] and the BSCC and their respective officers, agents and employees shall be included as additional insured in all insurance required herein.

(iv) Insurance Certificate. Any and all insurance policies related to the Project shall name the Board and the [ENTER "Department" OR "BSCC"] as additional insured parties and the Participating County shall deliver to the Agencies a certificate or certificates of insurance authorized by the insurers describing the insurance coverage and stating that it is in full force and effect.

(v) 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 the statutory provisions of the State, and/or a self-funded loss reserve in whatever proportions are deemed appropriate by the Participating County. The Participating County shall furnish the Agencies 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.

(b) Insurance Obligations of the [ENTER "Department" OR "BSCC"]. If the insurance required in (a)(i) expires in accordance with its terms prior to execution of the Facility Sublease, the [ENTER "Department" OR "BSCC"] shall, at its own cost and expense, procure and maintain or cause to be procured and maintained (i) property casualty insurance in an amount equal to one hundred percent (100%) of the then current replacement cost of the Project, excluding the replacement cost of the unimproved real property constituting the Site (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or two million five hundred thousand dollars (\$2,500,000)] for any one loss), and (ii) earthquake insurance (if such insurance is available on the open market from reputable

insurance companies at a reasonable cost) on any structure comprising part of the Project in an amount equal to the full insurable value of such structure or the amount of the attributable portion of the Interim Financing, whichever is less (except that such insurance may be subject to a deductible clause not to exceed [five hundred thousand dollars (\$500,000) or 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. The property casualty insurance shall be in a form satisfactory and with carriers which are acceptable to the Board.

(c) Disposition of Insurance Proceeds. The Participating County agrees and acknowledges that the Board, in its sole discretion, may elect to use the proceeds of insurance procured pursuant to this Agreement to repay the Interim Loan and related costs. However, in the event of (i) damage or destruction of the Project caused by the perils covered by the insurance procured pursuant to this Agreement and (ii) if the Board elects to repay the Interim Loan and related costs, and (iii) if any insurance proceeds remain after the Interim Loan and related costs have been repaid, and (iv) such remaining insurance proceeds are distributed to the [ENTER "Department" OR "BSCC"], then the [ENTER "Department" OR "BSCC"] agrees to distribute such remaining proceeds to the Participating County.

ARTICLE 6

CERTAIN OBLIGATIONS POST PROJECT COMPLETION

6.1 Private Use of the Project.

6.1.1 *Provision of Information Regarding Private Use.* The Participating County acknowledges that under the terms of the Facility Sublease, a form of which is attached hereto as **Exhibit D**, the Participating County will covenant to provide updated information to the Board, the [ENTER "Department" OR "BSCC"] and the State Treasurer annually regarding private use, if any, of the Project.

6.1.2 *Restriction on Private Use of Bond Financed Project.* The Participating County acknowledges that under the terms of the Facility Sublease, a form of which is attached hereto as **Exhibit D**, the Participating County will covenant to restrict private use of the Project as required by the terms thereof.

6.2 No Liens. The Participating County acknowledges that except as permitted under the terms of the Facility Sublease, a form of which is attached hereto as **Exhibit D**, the Participating County will covenant not to allow any liens on the Facility.

ARTICLE 7

RECORD RETENTION

7.1 Establishment of Official Project File. The Participating County shall establish an official file for the Project (the "Official Project File"). The file shall contain adequate documentation of all actions that have been taken with respect to the Project, in accordance with

generally accepted government accounting principles and the requirements for record retention for capital projects constructed with the proceeds of tax exempt bonds. The Participating County will provide a copy of such file to the [ENTER "Department" OR "BSCC"] upon termination of this Agreement. The documents to be retained shall include, but is not limited to contracts, payment of invoices, transfer of funds and other related accounting records.

7.2 Preservation of Records. The Participating County agrees to protect records adequately from fire or other damage. When records are stored away from the Participating County's principal office, a written index of the location of records stored must be on hand and ready access must be assured. All the Participating County records contained in the Official Project File must be preserved for a minimum of three years after the last date on which no Bonds are outstanding. These records shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and audit by the Agencies or designees, by state government auditors or designees, or by federal government auditors or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the relevant time period set forth in the third sentence of this paragraph, the related records must be retained until the completion of the action and resolution of all issues which arise from it if such date is later than the end of the afore-mentioned three-year period.

ARTICLE 8

MISCELLANEOUS

8.1 Entire Agreement. This Agreement constitutes and contains the entire agreement between the Parties hereto with respect to the transactions contemplated hereby and supersedes any prior oral or written understanding or agreement of the Parties with respect to the transactions contemplated hereby.

8.2 Amendment. The Parties may, by mutual agreement in writing, amend this Agreement in any respect.

8.3 Waiver. The Parties hereto may, from time to time, waive any of their rights under this Agreement unless such waiver is contrary to law, provided that any such waiver shall be in writing and signed by the Party making such waiver.

8.4 Counterparts. This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one Party, but all of which when taken together shall constitute one and the same instrument, notwithstanding that all Parties have not signed the same counterpart hereof.

8.5 Headings. The article and section headings contained in this Agreement are inserted as a matter of convenience and shall not affect in any way the construction or terms of this Agreement.

8.6 Further Assurances. Each of the Parties shall execute such other instruments, documents and other papers and shall take such further actions as may be reasonably required or desirable to carry out the provisions hereof and to consummate the transactions contemplated

hereby.

8.7 Survival. The representations, warranties, covenants and agreements made herein or in any certificate or document executed in connection herewith shall survive the execution and delivery hereof or thereof, as the case may be, and all statements contained in any certificate or document delivered by any Party hereto shall be deemed to constitute a representation and warranty made herein by such Party.

8.8 Governing Law. The laws of the State shall govern this Agreement, the interpretation thereof and any right or liability arising hereunder. Any action or proceeding to enforce or interpret any provision of this Agreement shall be brought, commenced or prosecuted in the courts of the State located in the County of Sacramento. All parties expressly assert that Sacramento County is not a forum inconvenience.

8.9 Compliance with Laws. At all times during the performance of this Agreement by the Parties, they shall strictly comply with all applicable governmental, administrative and judicial laws, ordinances, rules, regulations, orders, covenants and findings, including, without limitation, all applicable environmental laws and regulations.

8.10 Partial Invalidity. If any provisions of this Agreement are found by any competent authority to be void or unenforceable, such provision shall be deemed to be deleted from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect.

8.11 Notices. All notices and other official communications between the Parties shall be in writing and shall be given by hand delivery or by recognized overnight courier who maintains verification of delivery (deemed to be duly received on the date delivered), or by registered mail, postage prepaid, return receipt requested (deemed to be duly received five (5) days after such mailing) or by telecopy (deemed to be received on the date sent providing that the facsimile was properly addressed and disclosed the number of pages transmitted on its front sheet and that the transmission report produced indicates that each of the pages of the facsimile was received at the correct facsimile number) to each of the respective Parties as follows:

If to the Board: State Public Works Board
915 L. St., 9th Floor
Sacramento, CA 95814
Attention: Executive Director
Facsimile: 916-449-5739

[If to the Department: California Department of Corrections and Rehabilitation
9838 Old Placerville Road, Suite B
Sacramento, CA 95827
Attention: Deputy Director, Facility Planning, Construction and
Management
Facsimile: 916-322-5717]

If to the BSCC: Board of State and Community Corrections
600 Bercut Dr.
Sacramento, CA 95811
Attention: Executive Director
Facsimile: 916-327-3317

If to the Participating County: County of [ENTER COUNTY NAME]
[ENTER STREET ADDRESS]
[ENTER CITY, STATE AND ZIP CODE]
Attention: [ENTER POSITION TITLE]
Facsimile: [ENTER FAX NUMBER]

or to such other address or number for any of the Parties hereto as may from time to time be designated by notice given by such Party to the other Parties in the manner hereinabove provided.

8.12 Force Majeure. None of the Parties shall be liable or responsible for any delay or failure resulting from (and the times for performance by the Parties hereunder shall be extended by the duration of) causes beyond the control of, and without the fault or negligence of, such Party, including without limitation acts of God, acts of the public enemy, acts of war or terrorism, acts of the government or governmental or quasi-governmental agency or instrumentality, significant market disruptions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, civil commotion, casualties, embargoes, severe or inclement weather beyond that usually encountered in [ENTER COUNTY NAME] County, California, shortages in labor or materials, or similar cause.

8.13 Exculpation. Notwithstanding anything to the contrary contained in this Agreement, in any Bond Document, Project Document or other certificate, agreement, document or instrument executed in connection with the [ENTER PROGRAM NAME] Financing Program, the liability of the Board hereunder shall be limited to and satisfied solely out of proceeds of the Interim Loan, if any, or the Bonds, if any, permitted to be used for such purpose. Except as provided above, the Participating County shall not have the right to obtain payment from the Agencies or from any other assets of the Agencies. The Participating County shall not enforce the liability and obligation of the Agencies to perform and observe the obligations contained in this Agreement, or any other documents delivered in connection herewith in any action or proceeding wherein a money judgment in excess of the available proceeds of the foregoing sources shall be sought against the Agencies.

8.14 Benefits of this Agreement Limited to the Parties. Except for the Parties to this Agreement, nothing contained in this Agreement, expressed or implied, is intended to give to any person (including without limitation the owners of the Bonds) any right, remedy or claim under or by reason hereof. Any agreement or covenant required herein to be performed by or on behalf of any Party shall be for the sole and exclusive benefit of the other Parties to this Agreement.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement, either individually or by an authorized representative, on the day and year first set forth above.

STATE PUBLIC WORKS BOARD OF
THE STATE OF CALIFORNIA

By: _____
[Name]
[Executive Director or Deputy Director]

[DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
[Name]
[Title]

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF
CALIFORNIA

By: _____
[Name]
[Title]

COUNTY OF [COUNTY NAME]

By: _____
[Name]
[Title]

EXHIBIT A

PROJECT SCOPE, COST AND SCHEDULE DESCRIPTION TC \L 0
"000000000001"

[Include narrative description of Project per Section 4.1]

FORM OF DOCUMENT

EXHIBIT B

FORM OF GROUND LEASE{TC \L 0 "0000000000001"}

FORM OF DOCUMENT

EXHIBIT C

FORM OF RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION TC \L 0
"0000000000001"

FORM OF DOCUMENT

EXHIBIT D

FORM OF FACILITY SUBLEASE{TC \L 0 "000000000001"}\}

FORM OF DOCUMENT

EXHIBIT E-1

DESCRIPTION OF PARTICIPATING COUNTY FUNDING {TC \L 0 "000000000001"}

Cash Contribution

**CERTIFICATE OF THE COUNTY OF [ENTER COUNTY NAME] REGARDING ITS
CASH (HARD) MATCH FOR THE [ENTER COUNTY NAME] COUNTY JAIL
PROJECT**

All capitalized terms not otherwise defined herein shall have the meaning given them in the Project Delivery and Construction Agreement.

WHEREAS, pursuant to [ENTER STATUTE] (the "Law"), the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a [ENTER TYPE OF FACILITY] facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section [ENTER SECTION] of the California Government Code (the "[ENTER PROGRAM NAME] Financing Program"); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter [ENTER SUBCHAPTER], only the cost of certain design and construction activities are potentially eligible for reimbursement under the [ENTER PROGRAM NAME] Financing Program – acquisition, pre-design and other specified design and construction costs are not eligible; and

WHEREAS, the County of [ENTER COUNTY NAME] (the "Participating County") has proposed to build a [ENTER TYPE OF FACILITY] facility, the [ENTER PROJECT NAME] project, (the "Project"), to be located at [ENTER PHYSICAL ADDRESS], real property controlled by the Participating County through fee-simple ownership (the "Site"); and

WHEREAS, pursuant to the Law, the Participating County is paying a portion of the costs of the Project (the "Cash (hard) Match") as described in Exhibit 1; and

WHEREAS, the Board intends to assist in the oversight and financing of the Project, subject to satisfaction of certain conditions and requirements of the Board, and the Board may in its sole, reasonable discretion, issue lease revenue bonds for the Project (the "Bonds"); and

WHEREAS, the interests of both the Board and the Participating County require confirmation of certain facts and certain assurances concerning the Cash (hard) Match.

NOW, THEREFORE, the Participating County, acting through its duly authorized representative, does hereby represent, warrant and covenant as follows:

(A) Lawfully Available Funds. The Cash (hard) Match, as described in Exhibit 1, has been derived exclusively from lawfully available funds of the Participating County.

(B) Cash (hard) Match Is Legal and Authorized. The payment of the Cash (hard) Match for the Project (i) is within the power, legal right, and authority of the Participating County; (ii) is legal and will not conflict with or constitute on the part of the Participating County a material violation of, a material breach of, a material default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of the Participating County under the provisions of any charter instrument, bylaw, indenture, mortgage, deed of trust, pledge, note, lease, loan, installment sale agreement, contract, or other material agreement or instrument to which the Participating County is a party or by which the Participating County or its properties or funds are otherwise subject or bound, decree, or demand of any court or governmental agency or body having jurisdiction over the Participating County or any of its activities, properties or funds; and (iii) have been duly authorized by all necessary and appropriate action on the part of the governing body of the Participating County. The authorized representative of the Participating County executing this Certificate is fully authorized and empowered to take such actions, for and on behalf of the Participating County.

(C) Governmental Consents. The execution, delivery, and performance by the Participating County of this certificate and the use of the Cash (hard) Match for certain costs of the Project do not require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority other than the Participating County in connection with the execution, delivery, and performance of this Certificate, the consummation of any transaction herein contemplated, or the offer, issue, sale, or delivery of the Bonds, except as shall have been obtained or made and as are now in full force and effect.

(D) No Prior Pledge. The Cash (hard) Match and the Project are not and will not be mortgaged, pledged, or hypothecated by the Participating County in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest by the Participating County. In addition, the Cash (hard) Match and the Project are 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 have 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 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.

IN WITNESS WHEREOF, the undersigned duly authorized representative of the Participating County has executed and delivered this Certificate to the Board on the date set forth below.

Date: [ENTER DATE FROM PDCA COVER PAGE]

COUNTY OF [ENTER COUNTY NAME]

By: _____
[NAME]
[TITLE]

Exhibit 1-Description of Cash (hard) Match

[ENTER COUNTY NAME] County's Cash (hard) Match for the Project will be funded from [ENTER NUMBER OF SOURCES] sources: (1) _____, (2) _____, and (3) _____.

FORM OF DOCUMENT

**CERTIFICATE OF THE COUNTY OF [ENTER COUNTY NAME] REGARDING ITS
OTHER PARTICIPATING COUNTY FUNDING FOR THE [ENTER COUNTY NAME]
COUNTY JAIL PROJECT**

All capitalized terms not otherwise defined herein shall have the meaning given them in the Project Delivery and Construction Agreement.

WHEREAS, pursuant to [ENTER STATUTE] (the “Law”), the State Public Works Board (the “Board”) is authorized to finance the acquisition, design and construction of a [ENTER TYPE OF FACILITY] facility approved by the Board of State and Community Corrections (the “BSCC”) pursuant to Section [ENTER SECTION] of the California Government Code (the “[ENTER PROGRAM NAME] Financing Program”); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter [ENTER SUBCHAPTER], only the cost of certain design and construction activities are potentially eligible for reimbursement under the [ENTER PROGRAM NAME] Financing Program – acquisition, pre-design and other specified design and construction costs are not eligible; and

WHEREAS, the County of [ENTER COUNTY NAME] (the “Participating County”) has proposed to build a [ENTER TYPE OF FACILITY] facility, the [ENTER PROJECT NAME] project, (the “Project”), to be located at [ENTER PHYSICAL ADDRESS], real property controlled by the Participating County through fee-simple ownership (the “Site”); and

WHEREAS, pursuant to the Law, the Participating County is contributing funding in addition to its Cash (hard) Match and In-Kind (soft) Match (the “Other Participating County Funding”); and

WHEREAS, the Board intends to assist in the oversight and financing of the Project, subject to satisfaction of certain conditions and requirements of the Board, and the Board may in its sole, reasonable discretion, issue lease revenue bonds for the Project (the “Bonds”); and

WHEREAS, the interests of both the Board and the Participating County require confirmation of certain facts and certain assurances concerning the Other Participating County Funding.

NOW, ~~THEREFORE~~, the Participating County, acting through its duly authorized representative, does hereby represent, warrant and covenant as follows:

(A) Lawfully Available Funds. The Other Participating County Funding, as described in Exhibit 1, has been derived exclusively from lawfully available funds of the Participating County.

(B) Other Participating County Funding Is Legal and Authorized. The payment of the Other Participating County Funding for the Project (i) is within the power, legal right, and authority of the Participating County; (ii) is legal and will not conflict with or constitute on the part of the Participating County a material violation of, a material breach of, a material default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of the Participating County under the provisions of any charter instrument, bylaw, indenture, mortgage, deed of trust, pledge, note, lease, loan, installment sale agreement, contract, or other material

agreement or instrument to which the Participating County is a party or by which the Participating County or its properties or funds are otherwise subject or bound, decree, or demand of any court or governmental agency or body having jurisdiction over the Participating County or any of its activities, properties or funds; and (iii) have been duly authorized by all necessary and appropriate action on the part of the governing body of the Participating County. The authorized representative of the Participating County executing this Certificate is fully authorized and empowered to take such actions for and on behalf of the Participating County.

(C) Governmental Consents. The execution, delivery, and performance by the Participating County of this certificate and the use of the Other Participating County Funding for certain costs of the Project do not require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority other than the Participating County in connection with the execution, delivery, and performance of this Certificate, the consummation of any transaction herein contemplated, or the offer, issue, sale, or delivery of the Bonds, except as shall have been obtained or made and as are now in full force and effect.

(D) No Prior Pledge. The Other Participating County Funding and the Project are not and will not be mortgaged, pledged, or hypothecated by the Participating County in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest by the Participating County. In addition, the Other Participating County Funding and the Project are 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 have 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 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.

IN WITNESS WHEREOF, the undersigned duly authorized representative of the Participating County has executed and delivered this Certificate to the Board on the date set forth below.

Date: [ENTER DATE FROM PDCA COVER PAGE]

COUNTY OF [ENTER COUNTY NAME]

By: _____
[NAME]
[TITLE]

Exhibit 1-Description of Other Participating County Funding

[ENTER COUNTY NAME] County's Other Participating County Funding for the Project will be funded from [ENTER NUMBER OF SOURCES] sources: (1) _____, (2) _____, and (3) _____.

FORM OF DOCUMENT

EXHIBIT E-2

DESCRIPTION OF PARTICIPATING COUNTY FUNDING {TC \L 0 "000000000001"}

In-kind (soft) Match

[DESCRIPTION TO BE INSERTED]

FORM OF DOCUMENT

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)

_____)
_____)
_____)
Attention: _____)

[Space above for Recorder's use]

GROUND LEASE

by and between the

[ENTER COUNTY NAME]
as Landlord,

and

[“DEPARTMENT OF CORRECTIONS AND REHABILITATION” OR “BOARD OF STATE
AND COMMUNITY CORRECTIONS”]
OF THE STATE OF CALIFORNIA,
as Tenant

Dated as of _____, 20__

(FOR A [ENTER TYPE OF FACILITY] FACILITY
LOCATED IN THE COUNTY OF [ENTER COUNTY NAME])

NO DOCUMENTARY TRANSFER TAX DUE. This Ground Lease is recorded for the benefit of the State of California and is exempt from California 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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FORM OF DOCUMENT

GROUND LEASE

THIS GROUND LEASE, dated as of _____, 20__ for reference only (this "Ground Lease"), is entered into by and between COUNTY OF [ENTER COUNTY NAME] (the "Participating County"), a Political Subdivision of the State of California (the "State"), as Landlord, and the ["DEPARTMENT OF CORRECTIONS AND REHABILITATION" OR "BOARD OF STATE AND COMMUNITY CORRECTIONS"] OF THE STATE OF CALIFORNIA (the "Department"), an entity of state government of the State, as Tenant. The Participating County and the Department are sometimes referred to collectively as the "Parties", and individually as a "Party".

RECITALS

WHEREAS, pursuant to [ENTER STATUTE], the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a jail facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section [ENTER SECTION] and following, as amended, (the "[ENTER PROGRAM NAME] Financing Program"), the Participating County, [the Department,]BSCC and the Board entered into the Project Delivery and Construction Agreement (the "PDCA") dated as of _____, 20__, for reference only; and

WHEREAS, further to the PDCA, the Participating County has proposed to build a [ENTER TYPE OF FACILITY] facility as more particularly described in Exhibit A attached hereto (the "Project"), to be located on real property owned in fee simple by the Participating County and legally described in Exhibit B attached hereto (the "Site"); and

WHEREAS, further to the PDCA, the Department desires to ground lease the Site from the Participating County to assist the Participating County in obtaining eligibility for the Board lease revenue bond financing to finance a portion of the construction of the Project (the "Bonds"); and

WHEREAS, the Department and the Board desire that the term of this Ground Lease not terminate or expire until the Bonds have been paid in full or retired under the provisions of the Bond Documents; and

WHEREAS, the Participating County is desirous of maintaining its eligibility to receive financing for the Project, and to achieve this end, the Participating County is willing to lease the Site to the Department; and

WHEREAS, concurrently with the execution of this Ground Lease, the Department as the Licensor and the Participating County as the Licensee, have entered into a Right of Entry for Construction and Operation (the "Right of Entry") in substantially the form attached as Exhibit C to the PDCA, authorizing the Participating County to enter the Site for the purpose of constructing the Project and for operation of the Project upon substantial completion of construction; and

WHEREAS, if the Participating County maintains its eligibility in the [ENTER PROGRAM NAME] Financing Program, and the Board in its sole discretion, is able to issue the

Bonds to finance the Project in its typical and customary manner, the Department will concurrently sublease the Site to the Board, (the "Site Lease"), and enter into a Facility Lease (the "Facility Lease") providing for the Board to sublease to the Department the Site and the Project (together the "Facility"). The Site Lease and the Facility Lease will provide security for the Bonds to be issued by the Board under an indenture (the "Indenture") between the Board and the Treasurer of the State, as trustee (the "State Treasurer"); and

WHEREAS, if the Board is able to issue the Bonds for the Project in its typical and customary manner, concurrently with executing the Site Lease and the Facility Lease, the Department and the Participating County intend to enter into a Facility Sublease (the "Facility Sublease") whereby the Department will sublet the Facility to the Participating County pursuant to the terms of the Facility Sublease; and

NOW, THEREFORE, in consideration of the mutual obligations of the Parties hereto, the Participating County hereby leases to the Department, and the Department hereby leases from the Participating County, the Site subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which the Participating County and the Department hereby mutually agree.

SECTION 1. Definitions.

As used herein, the following terms shall have the following meanings:

- (a) "[ENTER PROGRAM NAME] Financing Program" has the meaning given to such term in the Recitals.
- (b) "Abatement Event" shall have the meaning given to such term in the Facility Lease.
- (c) "Board" means the State Public Works Board of the State of California, an entity of state government of the State.
- (d) "Bond Documents" mean each and every document evidencing the Bonds, including, but not limited to, the Site Lease, the Facility Lease, the Facility Sublease, and the Indenture.
- (e) "Bonds" has the meaning given to such term in the Recitals.
- (f) "BSCC" has the meaning given to such term in the Recitals.
- (g) "Claims" has the meaning given to such term in Section 23 of this Ground Lease.
- (h) "Department" has the meaning given to such term in the preamble.
- (i) "DGS" means the Department of General Services of the State of California, an entity of state government of the State.

(j) “Easements” mean the access, utilities and repairs easements described in Subsection 4(b) of this Ground Lease.

(k) “Easement Agreement” means an easement agreement memorializing the grant of Easements by the Participating County, as grantor, to the Department, as grantee, in the form of Exhibit C attached hereto.

(l) “Easement Property” means real property owned by the Participating County that is burdened by the Easement Agreement as described in Exhibit 2 to the Easement Agreement.

(m) “Effective Date” means the date this Ground Lease is valid, binding and effective as provided in Section 2 of this Ground Lease.

(n) “Facility” has the meaning given to such term in the Recitals.

(o) “Facility Lease” has the meaning given to such term in the Recitals.

(p) “Facility Sublease” has the meaning given to such term in the Recitals.

(q) “Ground Lease” has the meaning given to such term in the preamble, including all exhibits attached hereto.

(r) “Hazardous Materials” mean any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste”, “extremely hazardous waste” or “restricted hazardous waste” under Section 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.

(s) “Improvements” mean the physical construction of the Project and other buildings, improvements, structures, furnishings and equipment placed in, under or upon the Site by the Participating County under the terms and conditions in the Right of Entry or this Ground Lease.

(t) “Indemnitees” has the meaning given to such term in Section 24 of this Ground Lease.

(u) “Indenture” has the meaning given to such term in the Recitals.

(v) “Landlord” has the meaning given to such term in the preamble.

(w) “Leasehold Estate” means the real property right and interest held by the Department as Tenant to possess, use and access the Site and the Project under the terms and conditions of this Ground Lease.

- (x) "Participating County" has the meaning given to such term in the preamble.
- (y) "Parties" has the meaning given to such term in the preamble.
- (z) "Party" has the meaning given to such term in the preamble.
- (aa) "PDCA" has the meaning given to such term in the Recitals.
- (bb) "Permitted Encumbrances" has the meaning given to such term in Subsection 3(b)(4) of this Ground Lease.
- (cc) "Project" means the buildings, structures, works and related improvements constructed or to be constructed on the Site, as are more particularly described in Exhibit A attached hereto, and any and all additions, betterments, extensions and improvements thereto.
- (dd) "Resolution" has the meaning given to such term in Subsection 3(b)(1) of this Ground Lease.
- (ee) "Right of Entry" has the meaning given to such term in the Recitals.
- (ff) "Right of First Offer" has the meaning given to such term in Section 13 of this Ground Lease.
- (gg) "Site" has the meaning given to such term in the Recitals.
- (hh) "Site Lease" has the meaning given to such term in the Recitals.
- (ii) "State" means the state government of the State of California.
- (jj) "State Treasurer" has the meaning given to such term in the Recitals.
- (kk) "Tenant" has the meaning given to such term in the preamble.
- (ll) "Term" has the meaning given to such term in Section 10 of this Ground Lease.

SECTION 2. Effective Date.

The Parties hereby confirm and agree that this Ground Lease is effective and binding on the Parties upon the first day (the "Effective Date") on which this Ground Lease has been consented to by the Board and a duly authorized representative of the Board has consented to this Ground Lease by executing it below.

SECTION 3. Representations, Warranties and Covenants.

(a) Representations and Warranties of the Department. In addition to any express agreements of Tenant herein, the Department makes the following representations and warranties to the Participating County as of the Effective Date:

(1) The Department has full legal right, power and authority to enter into this Ground Lease as Tenant and to carry out and consummate all transactions contemplated by this Ground Lease and by proper action has duly authorized the execution and delivery of this Ground Lease. The Department shall cause an opinion, dated as of [the date in the preamble of this Ground Lease] and in substantially the form of Exhibit D attached to this Ground Lease, to be delivered to the Board contemporaneously with the Department's execution of this Ground Lease;

(2) The officers of the Department executing this Ground Lease are duly and properly holding their respective offices and are fully authorized to execute this Ground Lease; and

(3) This Ground Lease has been duly authorized, executed and delivered by the Department, and will constitute a legal, valid and binding agreement of the Department, enforceable against the Department in accordance with its terms on the Effective Date.

(b) Representations, Warranties and Covenants of the Participating County. In addition to any express agreements of Landlord herein, the Participating County makes the following representations, warranties and covenants to the Department as of the Effective Date:

(1) The Participating County, by Resolution of the Board of Supervisors ("Resolution"), has full legal right, power and authority to enter into this Ground Lease as Landlord, to transfer and convey the Leasehold Estate to the Department under this Ground Lease, and to carry out and consummate all transactions contemplated by this Ground Lease and by proper action has duly authorized the execution and delivery of this Ground Lease. The Participating County shall cause an opinion, dated as of [the date in the preamble of this Ground Lease] and in substantially the form of Exhibit D attached to this Ground Lease, to be delivered to the Board contemporaneously with the Participating County's execution of this Ground Lease.

(2) The officers of Participating County executing this Ground Lease are duly and properly holding their respective offices and have the legal power, right and are fully authorized to execute this Ground Lease pursuant to the Resolution.

(3) This Ground Lease has been duly authorized, executed and delivered by Participating County, and will constitute a legal, valid and binding agreement of Participating County, enforceable against the Participating County in accordance with its terms upon the Effective Date.

(4) The Participating County is the owner in fee simple of the Site and has marketable and insurable fee simple title to the Site, there is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending against the Site or pending against the Participating County which could affect the Participating County's title to the Site, affect the value of the Site, or subject an owner of the Site to liability and there are no outstanding mortgages, deeds of trust, bond indebtedness, leaseholds, pledges, conditions or restrictions, liens or encumbrances against the Site except as identified in Exhibit E, attached hereto, collectively, the "Permitted Encumbrances".

(5) No consent, permission, authorization, order, license, or registration with any governmental authority is necessary in connection with the execution and delivery of this Ground Lease, except as have been obtained.

(6) There exists no litigation or other proceeding pending or threatened against the Participating County except as identified in Exhibit F, attached hereto, that, if determined adversely, would materially and adversely affect the ability of the Participating County to perform its obligations under this Ground Lease.

(7) This Ground Lease is, and all other instruments, documents, exhibits, and agreements required to be executed and delivered by the Participating County in connection with this Ground Lease are and shall be, duly authorized, executed and delivered by the Participating County and shall be valid, legally binding obligations of and enforceable against the Participating County in accordance with their terms.

(8) Neither the execution and delivery of this Ground Lease and documents referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Ground Lease and the documents referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any agreements or instruments to which the Participating County is a party or affecting the Site.

(9) There are no attachments, execution proceedings, or assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings pending against the Participating County.

(10) There are no and have been no:

(A) actual or pending public improvements which will result in the creation of any liens, encumbrances or assessments upon the Site, including public assessments or mechanics liens, other than the Permitted Encumbrances, and the Participating County agrees to indemnify, defend and hold the Department free and harmless from and against any claims, liabilities, losses, costs, damages, expenses and attorneys' fees arising from any liens, encumbrances or assessments that have been, or may be, imposed upon the Site as a consequence of actual or impending public improvements at or after the Effective Date, including any obligations to pay a fee or assessment for infrastructure to the extent such liability survives or continues at or after the Effective Date, and the Department agrees to cooperate with the Participating County, at the Participating County's costs and to the extent permitted by law, with respect to the Participating County's efforts to remove any such liens, fees, assessments, or encumbrances.

(B) uncured notices from any governmental agency notifying the Participating County of any violations of law, ordinance, rule, or regulation, including Environmental Laws, occurring on the Site.

(C) notices of any condemnation, zoning or other land-use regulation proceedings, either instituted or planned to be instituted, which would detrimentally affect the use, operation or value of the Site.

(11) The Participating County hereby agrees that it will not enter into any new leases or any other obligations or agreements that will affect the Site at or after the Effective Date, without the express prior written consent of the Department and approval of the Board.

(12) The Participating County will not subject the Site to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the Effective Date without the express prior written consent of the Department and the approval of the Board.

(13) The Participating County shall promptly notify the Department of any event or circumstance that makes any representation or warranty of the Participating County under this Ground Lease untrue or misleading, or of any covenant of the Participating County under this Ground Lease incapable or less likely of being performed. The Participating County's obligation to provide the notice described in the preceding sentence to the Department shall in no way relieve the Participating County of any liability for a breach by the Participating County of any of its representations, warranties or covenants under this Ground Lease.

(14) The Department shall at all times during the Term have access to and from the Site.

(15) No representation, warranty or statement of the Participating County in this Ground Lease or in any document, certificate, exhibit or schedule furnished or to be furnished to the Department pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

SECTION 4. Lease of the Site, Access, Utilities and Repairs Easements and Recordation of Lease.

(a) Lease of the Site and Recordation of Ground Lease. The Participating County hereby leases the Site to the Department and the Department leases the Site from the Participating County. The Participating County further agrees to provide, or cause to be provided, to the Department and its assigns or sublessees, adequate parking spaces at no cost, and such utility services as the Participating County customarily provides or causes to be provided to facilities similar to the Project, including without limitation electricity, gas, water, sewer, garbage disposal, heating, air conditioning and telephone. The Department and the Board shall have the right to record this Ground Lease in the Official Records of the Participating County as of the Effective Date or anytime thereafter.

[Use Note: Section 4(b) and the Easement Agreement are necessary if Site access and utilities are provided by other real property. The execution form of the Easement Agreement is attached as Exhibit C.]

(b) Access, Utilities and Repairs Easement. As of the Effective Date, the Participating County agrees to grant to the Department, for the use, benefit and enjoyment of the Department and its lessees, successors and assigns, and their respective employees, invitees, agents, independent contractors, patrons, customers, guests and members of the public using or

visiting the Site or the Project, a non-exclusive easement over, across and under the Easement Property for the purpose of: a) ingress, egress, passage or access to and from the Site by pedestrian or vehicular traffic; b) installation, maintenance and replacement of utility wires, cables, conduits and pipes; and c) other purposes and uses necessary or desirable for access to and from the Site for the repair, operation and maintenance of the Facility (collectively the "Easements"). The grant of the Easements shall be memorialized in that certain Easement Agreement for Grants of Access, Utilities and Repairs (the "Easement Agreement") in substantially the form of Exhibit C attached to this Ground Lease. The Department and the Board shall have the right to record the Easement Agreement in the Official Records of the Participating County as of the Effective Date or anytime thereafter. The Easements to be granted by the Participating County are subject to the limitations set forth in the Easement Agreement. In the event of a conflict or ambiguity, with respect to the terms of the Easements, between this Ground Lease and the Easement Agreement, the terms of the Easement Agreement shall control.

SECTION 5. Landlord Right of Entry for Construction and Operation.

(a) Landlord Right of Entry for Construction and Operation. Notwithstanding anything to the contrary contained herein, Landlord has reserved the right to enter and use the Site for construction of the Project pursuant to the terms and conditions in the Right of Entry.

(b) Quiet Enjoyment. The Participating County covenants that the Department, its assigns or sublessees, may quietly have, hold, and enjoy all of the Site and the Improvements during the Term of this Ground Lease and any extended term hereof, without hindrance or interruption by the Participating County or by any other person or persons lawfully or equitably claiming by, through or under the Participating County, except as limited by the Permitted Encumbrances.

SECTION 6. Purpose and Use.

The Parties reasonably expect for the Site to be used by the Department, and each of its assignees or sublessees during the Term of this Ground Lease, for the purpose of causing the construction, operation and maintenance of the Project and appurtenances thereto; provided however, the Parties acknowledge that the Site may be utilized for other types of correctional housing or other public purposes as may be required to exercise the Board's obligations, rights and remedies under the Bond Documents.

The Participating County acknowledges and confirms that the Department's use of the Leasehold Estate created hereunder includes, but is not limited to, allowing for potential financing and construction of the Project and the leasing of the Site and/or the Facility pursuant to the Site Lease, the Facility Lease, and the Facility Sublease and for such other purposes as may be incidental thereto. The Participating County further acknowledges and confirms the Board's right to relet the Facility in the event of a default under the Facility Lease and to provide for all other rights and remedies of the Board, the State Treasurer, and the owners of the Bonds in the event of a default under the Bond Documents.

SECTION 7. Assignment or Sublease.

The Department may sublet or assign all or a portion of the Site or the Project or assign

this Ground Lease or any interest therein, without the prior consent or approval of the Participating County; provided, however, any sublet or assignment shall be subject to the prior approval of the Board and Participating County is provided notice of said sublet or assignment. Notwithstanding that the Participating County's consent or approval is not required for any subletting of the Site or the Project, to assist with the Board's financing of the Project, the Participating County hereby consents to and approves the sublease of the Site, together with the Improvements, to the Board under the Site Lease and the further subletting of the Facility by the Board to the Department under the Facility Lease.

SECTION 8. No Commitment to Issue the Bonds and Non-Liability of the Department and the State.

The delivery of this Ground Lease shall not directly, indirectly or contingently, obligate the Department, the Board or any other subdivision of the State to issue the Bonds or levy any form of taxation or to make any appropriation with respect to the Project. Any obligation of the Department created by or arising out of this Ground Lease shall not impose a debt or pecuniary liability upon the Department, the Board or any other subdivision of the State, 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.

SECTION 9. Cooperation.

The Participating County has a duty to fully cooperate and provide all necessary assistance to the Department and the Board to aid them in their efforts to finance the Project. The Participating County acknowledges that it is authorized and directed to provide cooperation concerning the issuance of the Bonds, including without limitation, executing and delivering such certificates, legal opinions or instruments as the Department or the Board may reasonably request. The Participating County's legal counsel, Chief Administrative Officer and its Sheriff are authorized and directed to cooperate in the issuance of the Bonds and to execute all documents reasonably needed to accomplish such financing.

SECTION 10. Term and Extension.

The Term of this Ground Lease shall commence on the Effective Date 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, except no termination of this Ground Lease shall occur until all the Bonds and all other indebtedness incurred by the Board for the Project, if any, have been fully repaid.

SECTION 11. Rental.

The Department shall pay the Participating County rental in the sum of Ten Dollars (\$10.00) per year, all of which rental shall be deemed to have been prepaid to the Participating County by the Department on the Effective Date and, thereby acknowledges the Participating County's match funding requirement has been sufficiently met. The Participating County agrees that the payment of such rental is adequate consideration for the leasing of the Site, together with the Improvements, under this Ground Lease.

SECTION 12. Taxes and Assessment.

The Department shall pay or cause to be paid all lawful taxes that may be levied at any time upon any interest the Department may have under this Ground Lease (including both the Site and the Improvements after the Effective Date). The Participating County and the Department each represent and acknowledge that neither Party believes or expects that its respective interests in the Site are subject to payment of property taxes. The Department shall have the right to contest the validity of any levy or tax assessment levied upon the Department's interest in the Site.

SECTION 13. Right of First Offer and Priority of Ground Lease.

(a) Right of First Offer. Should the Participating County decide to sell the Site at any time during the Term of this Ground Lease, the Participating County shall notify the Department and the Board in writing of such intention prior to soliciting offers from any prospective purchasers. In such event, the Department and the Board shall have fifteen (15) months from receipt of such notification of intention to sell to inform the Participating County of the Department's interest in acquiring the Site. The Participating County understands that the State's acquisition process requires an appropriation of funds and the approval of the Board. The Participating County agrees to reasonably cooperate with the Department in obtaining such approval and in meeting any other State property acquisition requirements that may exist at that time. If the Department informs the Participating County of the Department's intention to acquire the Site within said fifteen (15) month period, the Parties agree to negotiate a purchase agreement in good faith and at a price that is the fair market value of the Site at the time the Department exercises its Right of First Offer.

(b) Priority of Ground Lease. If the Department and the Participating County are unable to agree on the terms and conditions for the purchase and sale of the Site, or if the Board does not approve the acquisition of the Site by the Department, the Participating County shall be free to market and sell the Site to a third party; provided, however, any new owner of the Site shall acquire the Site subject to this Ground Lease and any encumbrances related to the Bonds and the Bond Documents. The Department and the Board shall have no obligation to subordinate the Ground Lease, the Bonds or the Bond Documents to accommodate the new owner or lender(s).

SECTION 14. Damage or Destruction.

Damage or destruction to the Project shall not act to terminate or cancel this Ground Lease. In the event of any damage or destruction of the Project, the use of the proceeds of any property casualty or builder's risk insurance required to be procured and maintained pursuant to the PDCA, or any insurance required by the Facility Lease or Facility Sublease shall be governed by the terms of the agreement that required the procurement of such insurance.

SECTION 15. Insurance.

Except for insurance obligations that may arise as a result of the issuance of the Bonds by the Board, or as may be required by the PDCA, the Department shall have no obligation to purchase insurance for the Site or the Project, including but not limited to any general liability,

earthquake, flood, fire or extended casualty coverage.

SECTION 16. Condition and Title to the Improvements on Termination.

Upon termination or expiration of this Ground Lease, the Department shall have no obligation, to remove the Improvements. Title to the Improvements, including the Project, during the Term shall be vested in the State. Subject to the terms and conditions in the Bond Documents, at the termination or expiration of this Ground Lease, fee title to the Improvements, including the Project, shall vest in the Participating County and become the property of the Participating County without further action of any Party and without the necessity of a deed from the Department to the Participating County.

SECTION 17. The Department's Right to Terminate.

The Department, with the approval of the Board, shall have the right to terminate this Ground Lease upon thirty (30) days written notice to the Participating County without any liability; provided, however, no termination of this Ground Lease or revesting of title to any portion of the Site or vesting of title to the Project may occur until the Bonds have been fully paid or retired under the provisions of the Bond Documents.

SECTION 18. The Participating County's Right to Terminate

Participating County's proper exercise of its termination rights pursuant to Article 2, section 2.2(b) of the PDCA serves to terminate this Ground Lease effective on the date of termination of the PDCA.

SECTION 19. Non-Termination, Default and Damages.

This Ground Lease shall expire at the end of the Term. It is expressly agreed by the Parties to this Ground Lease that any default under this Ground Lease will not allow either Party to terminate or otherwise interfere with the Department's quiet enjoyment and beneficial use of the Site and the Project under this Ground Lease, the Site Lease or the Facility Lease. Until such time as the Bonds have been fully paid or retired under the provisions of the Bond Documents, the sole remedy of any Party upon such default shall be a suit for money damages or specific performance to remedy such a default.

SECTION 20. Waste and Hazardous Materials.

Neither the Participating County nor the Department shall knowingly commit, suffer or permit any waste or nuisance on the Site or any acts to be done thereon in violation of any laws or ordinances. To the Participating County's best knowledge, after having examined its documents, public records and other instruments and having made inquiry of appropriate departments and agencies with respect to the Site and, except as specifically provided in this Ground Lease, no Hazardous Materials, were used, generated, stored, released, discharged or disposed of on, under, in, or about the Site or transported to or from the Site. The Participating County represents with respect to the Site that neither the Participating County nor any other person or entity under the control of, or with the knowledge of the Participating County will cause or permit the use generation, storage, release, discharge, or disposal of any Hazardous

Materials on, under, in, or about the Site or transported to or from the Site.

SECTION 21. Eminent Domain.

If the whole or any portion of the Site or the Project shall be taken in eminent domain proceedings, or by sale in lieu of such taking by a governmental entity threatening to use the power of eminent domain, and which taking in the collective judgment of the Department, the Board, and the State Treasurer renders the Site and/or the Project unsuitable for the continued use by the State, then this Ground Lease shall terminate when possession is taken by the condemning entity.

If this Ground Lease is terminated because of such taking and any of the Bonds are outstanding, then all proceeds from any permanent or temporary taking shall be used to repay any outstanding Bonds as provided in the Bond Documents, including any outstanding or accrued interest, and upon full repayment of the Bonds then the remaining proceeds, if any, shall be distributed to the Department and the Participating County according to their respective interests as provided in the Bond Documents. The Participating County and the Department shall each have the right to represent its own interest, at its own cost and expense, in any proceedings arising out of such taking, and each of the Participating County and the Department shall reasonably cooperate with the other, including without limitation, settling with the condemning authority only with the other Party's consent if such settlement would affect the other Party's rights.

If this Ground Lease is not terminated because of such taking, then it shall remain in full force and effect with respect to the remainder of the Site and the Project. The Participating County and the Department each waives the provisions of the California Code of Civil Procedure, Section 1265.130, or any similar law that permits a Party to petition a court to terminate this Ground Lease upon a taking affecting the Site or the Project, the Parties agreeing that any such termination rights shall be only as expressly set forth in this Ground Lease.

SECTION 22. Non-Discrimination.

During the performance of this Ground Lease, the Participating County shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. The Participating County shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

The Participating County shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.), the provisions of Article 9.5, Chapter I, Part I, Division 3, Title 2 of the Government Code (Government Code, Sections 11135 - 11139.5), and the regulations or standards adopted to implement such article.

SECTION 23. Liens.

In the event the Department, the Board or their designees, at any time during the Term, causes any changes, alterations, additions, improvements, or other work to be done or performed or materials to be supplied, in or upon the Project or the Site, the Department, the Board or their designees shall pay, when due, all sums of money that may become due for any labor, services, materials, supplies or equipment furnished to or for the Department or the Board, upon or about the Project or the Site and which may be secured by any lien against the Project or the Site or the Department's or the Board's interest therein, and will 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 comes due; except that, if the Department or the Board desires to contest any such lien, it may do so. If any such lien is reduced to final judgment and such judgment or other process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed, said stay thereafter expires, the Department or the Board shall forthwith pay and discharge said judgment.

SECTION 24. Indemnification.

As required by Section [ENTER SECTION] of the California Government Code, the Participating County hereby agrees that it shall indemnify, protect, defend and hold harmless the State, including but not limited to, the Department, the Board, DGS, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants and agents (collectively the "Indemnitees"), for any and all claims, liabilities and losses arising out of the use of the Site or the Project, including, but not limited to all demands, causes of action and liabilities of every kind and nature whatsoever arising out of, related to, or in connection with (a) any breach of this Ground Lease by the Participating County; (b) the construction, operation, maintenance, use and occupancy of the Project; (c) any acts or omissions of any contractor hired by the Participating County or its agents or subcontractor hired by such contractor (collectively the "Claims"). The Participating County's obligation to indemnify, defend, and save harmless the Indemnitees shall extend to all Claims arising, occurring, alleged, or made any time, including prior to, during, or after this Ground Lease is in full force and effect. The Participating County's obligation to indemnify, defend, and save harmless the Indemnitees shall apply regardless of any active and/or passive negligent act or omission of the Indemnitees, but the Participating County shall not be obligated to provide indemnity or defense for Indemnitees wherein the Claims arise out of the gross negligence or willful misconduct of the Indemnitees. The indemnification obligation of the Participating County set forth in this Section shall survive the expiration of the Term or earlier termination of this Ground Lease.

SECTION 25: Non-Encumbrance.

The Participating County covenants that the Facility is not and will not be mortgaged, pledged, or hypothecated in any manner or for any purpose and has not been and will not be the subject of a grant of a security interest by the Participating County without the written consent of the Department and the Board. The Participating County further covenants that it 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 26. Miscellaneous.

(a) Amendments. This Ground Lease may only be amended, changed, modified or

altered in writing by the Parties. As long as any of the Bonds are outstanding the Board must consent to any amendment hereto to be effective.

(b) Waiver. The waiver by any Party of a breach by the other Party of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

(c) Law Governing. This Ground Lease shall be governed exclusively by the provisions hereof and by the laws of the State and any action arising from or relating to this Ground Lease shall be filed and maintained in Sacramento County Superior Court, Sacramento, California.

(d) Section Headings. All articles, paragraph and section headings, titles or captions contained in this Ground Lease are for convenience of reference only and are not intended to define or limit the scope of any provision of this Ground Lease.

(e) Conflicts Between Terms of Documents. Nothing in this Ground Lease is intended to amend, modify or supersede the PDCA except as expressly provided herein. In the event of any inconsistency in the PDCA and this Ground Lease, the inconsistency shall be resolved by giving preference to the PDCA. In the event of any inconsistency between this Ground Lease and the Bond Documents, the inconsistencies shall be resolved by giving preference to the Bond Documents.

(f) Relationship of Parties. The Department and its agents and employees involved in the performance of this Ground Lease shall act in an independent capacity and not as officers, employees or agents of the Participating County.

(g) 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.

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

(i) Notices. All notices herein which are to be given or which may be given by either Party to the other, shall be in writing and shall be deemed to have been given three (3) business days after deposit in the United States Mail, certified and postage prepaid, return receipt requested and addressed as follows:

[To the Department: California Department of Corrections and Rehabilitation
9838 Old Placerville Road, Suite B
Sacramento, CA 95827
Attention: Deputy Director, Facility Planning, Construction
and Management
Facsimile: 916-322-5717]

To the Board: State Public Works Board
915 L Street, 9th Floor
Sacramento, CA 95814
Attention: Executive Director
Facsimile: 916-449-5739

To the Participating County: County of [ENTER COUNTY NAME]
[ENTER STREET ADDRESS]
[ENTER CITY, STATE AND ZIP CODE]
Attention: [ENTER POSITION TITLE]
Facsimile: [ENTER FAX NUMBER]

Nothing herein contained shall preclude the giving of any such written notice by personal service, in which event notice shall be deemed given when actually received. The address to which notices shall be mailed to a Party may be changed by written notice given to all Parties as hereinabove provided.

(j) Execution and Counterparts. This Ground Lease 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 Ground Lease. It is also agreed that separate counterparts of this Ground Lease may separately be executed by the signatories to this Ground Lease, all with the same force and effect as though the same counterpart had been executed by all of the signatories.

(k) Bankruptcy. In the event of any bankruptcy proceeding, this Ground Lease will not be treated as an executory contract and cannot be rejected by the Participating County.

(l) Exhibits. The following Exhibits are attached to this Ground Lease and incorporated by reference herein.

- Exhibit A: Project Description
- Exhibit B: Legal Description of the Site
- Exhibit C: Form of Easement Agreement for Grants of Access, Utilities and Repairs
- Exhibit D: Form of Legal Opinion Letter
- Exhibit E: List of the Permitted Encumbrances
- Exhibit F: Pending and Threatened Lawsuits

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

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

[PARTICIPATING COUNTY]

By: _____
Name:
Title:

**[DEPARTMENT OF CORRECTIONS
AND REHABILITATION OF THE
STATE OF CALIFORNIA]**

By: _____
Name:
Title:

**CONSENT: STATE PUBLIC WORKS
BOARD OF THE STATE OF CALIFORNIA**

By: _____
Name:
Title: [Executive Director or Deputy Director]

Date: _____

**APPROVED: DEPARTMENT OF GENERAL
SERVICES OF THE STATE OF
CALIFORNIA**
(Pursuant to Government Code Section 11005)

By: _____
Name:
Title:

State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that, pursuant to Section 27281 of the California Government Code, the interest in real property conveyed by the Ground Lease dated as of _____, 20__ for reference only from the County of _____, a Political Subdivision of the State of California to the State of California on behalf of the Department of Corrections and Rehabilitation of the State of California is hereby accepted by the undersigned officer on behalf of the State Public Works Board pursuant to authority conferred by said Board in its duly adopted delegation resolution on December 13, 2013.

Note to Recorder: If this certificate is for a correction deed, all corrections and/or changes to the previously recorded deed must be reviewed and accepted by the State prior to recording a correction deed. All correction deeds require a new Certificate of Acceptance dated subsequent to recordation of the original deed or the most recent correction deed if any.

ACCEPTED

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Name: _____
Title: _____

Date: _____

APPROVED

[DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA]

By: _____
Name: _____
Title: _____

Date: _____

APPROVED

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA
(Pursuant to Government Code Section 11005)

By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT A

(Project Description)

(to be inserted)

FORM OF DOCUMENT

EXHIBIT B

(Legal Description of the Site)

(to be inserted)

FORM OF DOCUMENT

EXHIBIT C

(Form of Easement Agreement for Grants of Access, Utilities and Repairs)

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

NO DOCUMENTARY TRANSFER TAX DUE. This Ground Lease is recorded for the benefit of the State of California and is exempt from California 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.

[THE AREA ABOVE IS RESERVED FOR RECORDER'S USE]

**EASEMENT AGREEMENT FOR GRANTS OF
ACCESS, UTILITIES AND REPAIRS**

This Easement Agreement for Grants of Access, Utilities and Repairs (this "Easement Agreement"), dated for reference only as of _____, 20__, is made by and between COUNTY OF _____, (the "Participating County"), a Political Subdivision of the State of California, as grantor, and the ["DEPARTMENT OF CORRECTIONS AND REHABILITATION" OR BOARD OF STATE AND COMMUNITY CORRECTIONS"] OF THE STATE OF CALIFORNIA (the "Department"), an entity of state government of the State of California, as grantee.

RECITALS

A. The Participating County, as landlord, and the Department as tenant, entered into a ground lease dated as of _____, 20__ for reference only, (the "Ground Lease") for the lease of that certain real property located in the County of [_____] and more particularly described in Exhibit 1, attached hereto and incorporated herein by this reference (the "Site"); and

B. The Ground Lease provides that the Participating County, as owner of certain real property adjacent to the Site, shall grant Easements to the Department in the Easement Property, which is more particularly described in Exhibit 2, attached hereto and incorporated herein by this reference; and

C. The Participating County and the Department desire the grant of Easements in the Easement Property on the terms and conditions contained in this Easement Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

1. Definitions. Unless otherwise required by the context, all capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in the Ground Lease or the Project Delivery and Construction Agreement.

2. Grant and Description of Easements.

2.1 Grant of Access Easement. The Participating County, as the owner of the Easement Property, hereby establishes and grants to and for the benefit of the Department and the Board and their respective contractors, subcontractors, employees, lessees, licensees, permittees, successors and assigns a non-exclusive easement over and across the Easement Property as shown in Exhibit 2 hereto for purposes of ingress and egress to and from the Site and the Project (the "Access Easement"); provided, however, that rights pursuant to such Access Easement shall only be exercised if there is no reasonable access to the Site and the Project via adjacent public streets and roadways and subject to the security limitations set forth in Section 2.3 hereof; and provided further, that such Access Easement is only effective (i) during such times where the Department, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Sublease or (ii) during such times where the Board, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Lease.

2.2 Grant of Utilities and Repairs Easement. The Participating County, as the owner of the Easement Property, hereby grants to and for the benefit of the Department and the Board and their respective contractors, subcontractors, employees, lessees, licensees, permittees, successors and assigns a non-exclusive easement across, over and under the Easement Property as shown in Exhibit 2 hereto for the purpose of: a) installation, maintenance and replacement of utility wires, cables, conduits and pipes for "Utilities", as defined below; and b) other purposes and uses necessary or desirable for the repair, operation and maintenance of the Facility (the "Utilities and Repairs Easement" and together with the Access Easement, the "Easements"); provided, however, that such Utilities and Repairs Easement is subject to the security limitations set forth in Section 2.3 hereof; and, provided further, that such Utilities and Repairs Easement is only effective (i) during such times where the Department, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Sublease or (ii) during such times where the Board, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Lease. "Utilities" shall mean any and all wet and dry utilities (including sewer) necessary or required to service the Facility, including, without limitation, all electrical, natural gas, water, sewer, telephone, data, and other telecommunications services.

2.3 Security Limitation on Easements. The exercise of the rights granted under the Easements will be expressly subject to the limitations and requirements imposed by the Participating County's customary security measures for the Participating County's facilities that may be located on the Easement Property (the "Security Measures"). Prior to the exercise of any rights under the Easements, the Department or the Board, as the case may be, or their respective lessees, successors or assigns shall contact the [Title of Appropriate Individual at Participating County] to ensure that such exercise of rights granted under the Easements will be in compliance

with the requirements of the Security Measures.

3. No Unreasonable Interference. The Participating County shall not conduct any activity on, under or about the Easement Property that would unreasonably interfere with the use of the Easements.

4. Term of Easement Agreement; No Termination by Breach. The term of this Easement Agreement shall be coextensive with the Term of the Ground Lease, as such Term may be extended or terminated as provided in the Ground Lease. No breach of this Easement Agreement shall entitle any of the parties hereunder to cancel, rescind, or otherwise terminate this Easement Agreement, but such limitation shall not affect in any manner any other rights or remedies which a party may have hereunder by reason of any breach.

5. Character. The Easements granted by this Easement Agreement shall be appurtenant to the Site and nonexclusive and for the use and benefit of the Department and the Board. This Easement Agreement is not intended to grant a fee interest in the Easement Property, nor is it intended to be a lease or a license. The Department acknowledges that the Easements herein granted are nonexclusive easements and that the Participating County and its successors and assigns may grant one or more additional non-exclusive easements in the Easement Property to third parties, so long as the rights granted by such easements do not materially interfere with or hinder the use of the Easements by the Department or the Board or that of their respective lessees, successors or assigns.

6. Covenants Running with the Land; Binding on Successors. Pursuant to California Civil Code section 1468, this Easement Agreement and the Easements are covenants related to the use, repair, maintenance and improvement of the properties benefited and burdened hereby, and, as such, the covenants set forth herein shall be binding upon the Easement Property and shall be binding upon all parties having or in the future acquiring any interest in the Easement Property.

7. Binding Effect. This Easement Agreement shall be binding on and shall inure to the benefit of the lessees, successors and assigns of the Participating County, the Department, and the Board.

8. Recordation of Easement Agreement. This Easement Agreement shall be recorded in the Official Records of [ENTER COUNTY NAME] County, State of California, and shall serve as notice to all parties succeeding to the interest of the parties hereto that their use of the Site and the Project and the Easement Property shall be benefited or restricted, or both, in the manner herein described.

9. Entire Agreement; Amendments. This Easement Agreement contains the entire agreement of the parties hereto relating to the Easements herein granted. Any representations or modifications concerning this Easement Agreement shall be of no force and effect, excepting a subsequent modification in writing, signed by the Department and approved by the Board and the current owner of the Easement Property and recorded in the Official Records of [ENTER COUNTY NAME] County, State of California.

10. Warranty of Authority. The Participating County represents and warrants as of

the Effective Date that (i) it is the legal owner of the Easement Property, (ii) it has full power and authority to place the encumbrance of this Easement Agreement on the Easement Property, (iii) it has not conveyed (or purported to convey) any right, title or interest in or to the Easement Property, except as has been disclosed in writing to the Department prior to the Effective Date, and (iv) if necessary, it has the written consent of any lenders, tenants and subtenants of the Easement Property to the terms and conditions of this Easement Agreement.

11. Counterparts. This Easement Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

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

THE COUNTY OF [COUNTY]

By: _____

Name:

Title:

**[DEPARTMENT OF CORRECTIONS
AND REHABILITATION OF THE
STATE OF CALIFORNIA]**

By: _____

Name:

Title:

**CONSENT: STATE PUBLIC WORKS
BOARD OF THE STATE OF CALIFORNIA**

By: _____

Name:

Title: [Executive Director or Deputy Director]

**APPROVED: DEPARTMENT OF GENERAL
SERVICES OF THE STATE OF
CALIFORNIA**

(Pursuant to Government Code Section 11005)

By: _____

Name:

Title:

State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that, pursuant to Section 27281 of the California Government Code, the easement interest in real property conveyed by the Easement Agreement for Grants of Access Utilities, and Repairs dated as of _____, 20__ for reference only from the County of _____, a Political Subdivision of the State of California to the State of California on behalf of the Department of Corrections and Rehabilitation of the State of California is hereby accepted by the undersigned officer on behalf of the State Public Works Board pursuant to authority conferred by said Board in its duly adopted delegation resolution on December 13, 2013.

Note to Recorder: If this certificate is for a correction deed, all corrections and/or changes to the previously recorded deed must be reviewed and accepted by the State prior to recording a correction deed. All correction deeds require a new Certificate of Acceptance dated subsequent to recordation of the original deed or the most recent correction deed if any.

ACCEPTED

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Name: _____
Title: _____

Date: _____

APPROVED

[DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA]

By: _____
Name: _____
Title: _____

Date: _____

APPROVED

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA
(Pursuant to Government Code Section 11005)

By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT 1 TO EASEMENT AGREEMENT

LEGAL DESCRIPTION OF THE SITE

(To Be Attached)

FORM OF DOCUMENT

EXHIBIT 2 TO EASEMENT AGREEMENT

LEGAL DESCRIPTION OF THE EASMENT PROPERTY

(To Be Attached)

FORM OF DOCUMENT

EXHIBIT D

(Form of Legal Opinion Letter)

[LEGAL COUNSEL LETTERHEAD]

[Client]

State Public Works Board
of the State of California
Sacramento, California

Re: Ground Lease By and Between [insert name of the Participating County] and the Department for the [insert name of the Project] Located at [insert address of the Site]

Ladies and Gentlemen:

I am legal counsel for [insert name of client] with respect to the above referenced matter. I have examined originals or copies, certified or otherwise identified to my satisfaction, of such documents, exhibits, public records and other instruments in connection with the Ground Lease dated as of _____, 20__ for reference only between [insert name of the Participating County], as landlord, and the Department of Corrections and Rehabilitation of the State of California (the "Department"), as tenant, (the "Ground Lease"), and have conducted such other investigations of fact and law as I have deemed necessary for the purpose of this opinion.

I am of the opinion that:

[Use one of the following alternatives]

[Alternative 1: If the Participating County is the client]

1. The [insert name of the Participating County] is a political subdivision of the State of California created in accordance with the provisions of the Constitution of the State of California, with full legal right, power and authority to enter into and perform its obligations under the Ground Lease [if easements are being granted under the terms of an Easement Agreement in the form of Exhibit C to the Ground Lease, add: "and Easement Agreement in the form attached as Exhibit C to the Ground Lease" and revise letter accordingly].

[Alternative 2: If the Department is the client]

1. The Department is an entity of state government of the State of California with full legal right, power and authority to enter into and perform its obligations under the Ground

Lease [if easements are being granted under the terms of an Easement Agreement in the form of Exhibit C to the Ground Lease, add: "and Easement Agreement in the form attached as Exhibit C to the Ground Lease" and revise letter accordingly].

[The following provisions apply regardless of the client]

2. The Ground Lease [and Easement Agreement] [has/have] been duly authorized, executed and delivered by [insert name of client], and [is/are] valid and binding upon and enforceable against the [insert name of client] in accordance with [its/their] terms if [it is/they are] in like fashion valid and binding upon and enforceable against the respective other parties thereto, except that enforceability may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

3. The execution and delivery by the [insert name of client] of the Ground Lease [and Easement Agreement] and compliance with the provisions thereof do not and will not materially conflict with or constitute on the part of the [insert name of client] a breach of or a default under the law, administrative regulation, judgment, decree or any agreement or other instrument known to me which the [insert name of client] is a party or otherwise subject.

4. All actions on the part of the [insert name of client] necessary for the execution and performance of the Ground Lease [and Easement Agreement] have been duly and effectively taken, and no consent, authorization or approval of, or filing or registration with, any governmental or regulatory officer or body not already obtained or not obtainable in due course by the [insert name of client] is required to be obtained by the [insert name of client] for the making and performance of the Ground Lease [and Easement Agreement].

5. There is no action, suit or proceeding pending (with the service of process having been accomplished) to restrain or enjoin the execution and delivery of the Ground Lease [and Easement Agreement], or in any way contesting or affecting the validity of the Ground Lease [and Easement Agreement].

Very truly yours,

[INSERT NAME OF CLIENT]

By: _____

Name: _____

Its: _____

EXHIBIT E

(List of the Permitted Encumbrances)

(to be inserted)

- [1. Right of Entry for Construction and Operation]

FORM OF DOCUMENT

EXHIBIT F

(Pending and Threatened Lawsuits)

(to be inserted)

FORM OF DOCUMENT

Location of Site
Agency: [Department of Corrections and Rehabilitation of the State of California]
Real Property:

**RIGHT OF ENTRY FOR
CONSTRUCTION AND OPERATION**

This RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION AGREEMENT (this "License") is entered into as of _____, 20__, by and between the ["DEPARTMENT OF CORRECTIONS AND REHABILITATION OR "BOARD OF STATE AND COMMUNITY CORRECTIONS"] OF THE STATE OF CALIFORNIA (the "Department"), an entity of state government of the State of California (the "State"), as licensor, and the COUNTY OF [ENTER COUNTY NAME] (the "Participating County"), a political subdivision of the State of California, as licensee. The Department and the Participating County are sometimes individually referred to as "Party" and collectively as "Parties".

RECITALS

WHEREAS, pursuant to [ENTER STATUTE] of the California Government Code, the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a jail facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section [ENTER STATUTE] of the California Government Code (the "[ENTER PROGRAM NAME] Financing Program"); and

WHEREAS, the Participating County has proposed to build a jail facility, the _____ project (the "Project"), to be located at [ENTER PHYSICAL ADDRESS], real property controlled by the Participating County through fee-simple ownership (the "Site"); and

WHEREAS, contemporaneous with entry into this License, Participating County intends to lease the Site to the Department pursuant to a Ground Lease executed by and between the Participating County and the Department and consented to by the Board (the "Ground Lease"); and

WHEREAS, the Department, as lessee under the Ground Lease intends to provide the Participating County access to the Site for the purpose of jail construction-related activities and for operation of the Project upon substantial completion of construction.

WITNESSETH

NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements by the Parties set forth herein and other good and valuable consideration, this License is subject to the following terms and conditions:

1. Grant of License – The Department hereby grants to the Participating County, its employees, consultants, representatives and contractors a non-exclusive, temporary license to enter the Site for site analysis, Project construction-related activities, and for operation of the Project upon substantial completion of construction (“Activities”), all as contemplated by that certain Project Delivery and Construction Agreement by and among the Department, the Board, the BSCC and the Participating County (the “PDCA”). This License is subordinate to all prior or future rights and obligations of the Department and the Board in the Site, except that the Department and the Board shall grant no rights inconsistent with the reasonable exercise by the Participating County of its rights under this License.
2. License Term – This License shall commence on the Effective Date of the Ground Lease and shall terminate on the date of termination of the PDCA (the “Term”).
3. Compliance with Laws – The Participating County shall conduct all Activities in compliance with all Federal, State and municipal statutes and ordinances, and with all regulations, orders and directives of appropriate governmental agencies (“Laws and Regulations”), as such Laws and Regulations exist during the Term of this License.
4. Inspections – The Department, the Board, and their representatives, employees, agents or independent contractors may enter and inspect the Site or any portion thereof or any improvements thereon, and the Project at any time and from time to time at reasonable times to verify the Participating County’s compliance with the terms and conditions of this License.
5. Special Condition – In the performance of the required studies and tests, the Participating County acknowledges that the Participating County will practice all due diligence to protect the Site.
6. Cooperation – In the event the Department or the Board has business on the Site or the Project, the Participating County agrees to coordinate the Activities with the Department or the Board to minimize any impairment of access to the Site or the Project and any inconvenience to or disruption of the Department’s or the Board’s business. Department and Board agree to coordinate their business at the Site or the Project so as to minimize any delay or disruption of the Participating County’s Activities.
7. Indemnity – As required by California Government Code Section [ENTER STATUTE] the Participating County hereby agrees that it shall indemnify, defend and save harmless the State, including but not limited to the Board, CDCR and BSCC, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants, and agents (collectively, “Indemnitees”) for any and all claims and losses arising out of the acquisition, design, construction, and operation of the Project, including, but not limited to all demands, causes of actions and liabilities of every kind and nature whatsoever arising out of, related to, or in connection with (a) any breach of this License by the Participating County; (b) operation, maintenance, use and occupancy of the Project; (c) any acts or omissions of any contractor hired by the Participating

County or its agents or subcontractor hired by such contractor; and (d) personal injury, bodily injury or property damage resulting from the Activities of the Participating County, its employees, consultants, representatives and contractors (collectively, "Claims"). The Participating County's obligation to indemnify, defend and save harmless the Indemnitees shall extend to all Claims arising, occurring, alleged, or made at any time, including prior to, during, or after the period that this License is in full force and effect. The Participating County shall not be obligated to provide indemnity or defense for an Indemnitee where the claim arises out of the active negligence or willful misconduct of the Indemnitee. The indemnification obligations of the Participating County set forth in this Section shall survive any termination of this License.

8. Insurance – The Participating County shall maintain the following insurances: 1) Commercial General Liability with limits of no less than one million dollars (\$1,000,000) per occurrence and Fire Legal Liability of no less than five hundred thousand dollars (\$500,000); 2) Automobile Liability with a combined single limit of no less than one million dollars (\$1,000,000) per accident and 3) Workers Compensation as required by law and Employers Liability with limits of no less than one million dollars (\$1,000,000) per occurrence. The Participating County shall be solely responsible for monitoring and ensuring that the necessary Workers Compensation Insurance is in effect for all persons entering onto the Site.
9. Utilities – The Department makes no guarantee as to the reliability or availability of utility services. The Department shall not supply any utility services to the Site or the Project.
10. Taxes and Assessments – It is expressly understood that this License is not exclusive and does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the Site or the Project to the Participating County. Any such acquisition of use rights shall be separate agreements at the sole discretion of the Department and the Board. Should taxes or assessments be levied upon any interest in this License, the Participating County agrees to pay all lawful taxes, assessments or charges created by this License. It is understood that this License may create a possessory interest subject to property taxation and the Participating County may be subject to the payment of property taxes levied on such interest.
11. Continuing Liability – No termination of this License shall release the Participating County from any liability or obligations hereunder resulting from any acts, omissions or events happening prior to the termination of this License and restoration of the Site to its prior condition.
12. Attorneys' Fees – In the event of a dispute between the Parties with respect to the terms or condition of this License, it is agreed that each Party, including the prevailing Party, must bear its own costs and attorneys' fees.
13. Assignment, Subletting and Change in Use – The Participating County shall not transfer or assign this License and shall not sublet, license, permit or suffer any use of the Site or the Project or any part thereof.

14. Notices –

- a. All notices or other communications required or permitted hereunder shall be in writing and shall be personally delivered (including by means of professional messenger service), sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below.
- b. All such notices or other communications shall be deemed received upon the earlier of 1) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notices or 2) if mailed as provided above, on the date of receipt or rejection.

[To the Department: California Department of Corrections and Rehabilitation
9838 Old Placerville Road, Suite B
Sacramento, CA 95827
Attention: Deputy Director, Facility Planning, Construction and Management
Facsimile: 916-322-5717]

To the Board: State Public Works Board
915 L Street, 9th Floor
Sacramento, CA 95814
Attention: Executive Director
Facsimile: 916-449-5739

To the Participating County: _____ [County Name]
_____ [Address 1]
_____ [Address 2]
Attention: _____
Facsimile: _____

- c. Notice of change of address or telephone number shall be given by written notice in the manner described in this Paragraph. The Participating County is obligated to notice all State offices listed above and the failure to provide notice to all State offices will be deemed to constitute a lack of notice.

15. Entire Agreement – This License contains all the agreements of the Parties regarding right of entry for construction and supersedes any prior License or negotiations. There have been no representations by the Department or understandings made between the Department and the Participating County regarding right of entry for construction and operation other than those set forth in this License. This License may not be modified except by a written instrument duly executed by the Parties hereto with the consent of the Board.

16. Counterparts – This License may be executed in one or more counterparts, each of which shall be deemed as original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this License by their duly authorized representatives on the date first above written.

THE COUNTY _____

By: _____
Name: _____
Title: _____

[DEPARTMENT OF CORRECTIONS
AND REHABILITATION OF THE
STATE OF CALIFORNIA]

By: _____
Name: _____
Title: _____

**CONSENT: STATE PUBLIC
WORKS BOARD OF THE
STATE OF CALIFORNIA**

By: _____
Name: _____
Title: [Executive Director or Deputy
Director]

**APPROVED: DEPARTMENT OF
GENERAL SERVICES OF THE
STATE OF CALIFORNIA**
(Pursuant to Government Code Section 11005)

By: _____
Name: _____
Title: _____

DOC # 2014-0509226



NOV 21, 2014 10:33 AM

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)

FB
2014
10/15

STRADLING YOCCA CARLSON & RAUTH)
660 Newport Center Drive, Suite 1600)
Newport Beach, California 92660)
Attention: Robert J. Whalen, Esq.)

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
Ernest J. Dronenburg, Jr., COUNTY RECORDER
FEES: 0.00

PAGES: 26



[Space above for Recorder's use]

FACILITY LEASE

by and between the

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

and

**DEPARTMENT OF CORRECTIONS AND REHABILITATION
OF THE STATE OF CALIFORNIA
as Lessee**

Dated as of October 15, 2014.

**(SAN DIEGO JAIL)
(SAN DIEGO 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 and 27383 of the California Government Code.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

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FACILITY LEASE

THIS FACILITY LEASE, dated as of October 15, 2014 (the "Facility Lease"), by and between the STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA (the "Board"), as lessor, and the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA (the "Department"), as lessee;

WITNESSETH:

WHEREAS, the Board has financed a portion of the costs of the 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 repay the Loan and finance the remaining costs of the construction of the Project (as defined herein) with a portion of the proceeds of the issuance and sale of the Board's Lease Revenue Bonds (Department of Corrections and Rehabilitation) 2014 Series D (Various Correctional Facilities) (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 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" means the State Public Works Board of the State of California Lease Revenue Bonds (Department of Corrections and Rehabilitation) 2014 Series D (Various Correctional Facilities) which are being issued by the Board under and pursuant to the Indenture, in part, to finance and refinance the costs of the construction of the Project and certain related costs.

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, and the State Treasurer dated the date of issuance and delivery of the Bonds.

The term "Department" means the Department of Corrections and Rehabilitation 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. The Facility is located at 451 Riverview Parkway, Santee, California 92071, and is known as the "San Diego Jail".

The term "Indenture" means, collectively, the Master Indenture as supplemented by the One Hundred Twenty-Fifth Supplemental Indenture, as said Indenture may from time to time be further amended or supplemented pursuant to the provisions thereof.

The term "Law" means Government Code sections 15820.90 through 15820.907, inclusive.

The term "Master Indenture" means the indenture for the Series I Projects, dated as of April 1, 1994, as amended by the Tenth Supplemental Indenture, dated as of September 1, 1996, the Forty-Second Supplemental Indenture, dated as of October 1, 2002, the Fifty-Second Supplemental Indenture, dated as of October 15, 2004, and the Ninety-Third Supplemental Indenture, dated as of October 12, 2009, each by and between the Board and the State Treasurer.

The term "One Hundred Twenty-Fifth Supplemental Indenture" means the One Hundred Twenty-Fifth Supplemental Indenture, dated as of October 15, 2014, between the Board and the State Treasurer, which is supplemental to the Master Indenture in accordance with the terms thereof.

The term "Participating County" means the County of San Diego 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) 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; (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; (5) the Ground Lease (as defined in the Site Lease); and (6) that certain Facility Sublease, dated as of October 15, 2014, to be entered into by and between the Department and the Participating County in accordance with the provisions of the Project Delivery and Construction Agreement dated as of September 13, 2013 by and among the Board, the Department, the Participating County and the Corrections Standards Authority of the State of California.

The term "Project" means the buildings, structures, 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.

The term "Site Lease" means the Site Lease, dated as of October 15, 2014, 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 his successor, acting as trustee under and pursuant to the Indenture.

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 only as part of a 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 September 1, 2029, unless such term is extended or sooner terminated as hereinafter provided. If on September 1, 2029, 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 set forth on Schedule I not being paid when due, or as a result of the Base Rental payable hereunder 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 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 September 1, 2039. If, prior to September 1, 2029, the portion of 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 provisions of Section 3(g) below, the Department shall pay to the Board Base Rental hereunder in the semiannual installments set forth on attached Schedule I. Such Base Rental shall be due and payable on or before February 15 and August 15 in each year through August 15, 2029 and the first Base Rental installment will be due on February 15, 2015. 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 payments of the Base Rental due on February 15 and August 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.

(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, 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 or 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.

(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 construction of the Project, 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 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 (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 and refinance the costs of the construction of the Project and certain related costs (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 all costs incidental to or connected with such construction, and to pay for the costs of issuance related to the Bonds.

SECTION 5. Maintenance, Utilities, Taxes and Assessments.

(a) During such time as the Department is in possession of the Facility, 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.

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 shall be in the 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 principal amount of the portion of the Outstanding Bonds issued to finance 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 Related Series of 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 discretion of the Board, either (i) to redeem Outstanding Bonds or a Related Series of 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 One Hundred Twenty-Fifth Supplemental Indenture would be sufficient to retire the 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.

(b) The Department shall maintain or cause to be maintained 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

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 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 in his 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 sole discretion of 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 issued to finance the Project, together with the interest thereon so as to enable the Board to retire such portion of the 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 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 Participating County shall in no way relieve the Department of any of its obligations under this Facility Lease.

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), all interests in the Facility previously transferred to the Board under the Site Lease shall transfer in accordance with the Ground Lease (as defined in the Site Lease).

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

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 Facility. 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 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 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 Facility in connection with maintaining and using the Facility 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 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 Department of Corrections and Rehabilitation at 9838 Old Placerville Road, Suite B, Sacramento, California 95827, Attention: Director, or, if to the Board, addressed to the Board, State of California, Department of General Services, Contracted Fiscal Services,

707 Third Street, 6th Floor, West Sacramento, California 95605, Attention: Manager of Contracted Fiscal Services, 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.

SECTION 25. 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 26. 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 27. 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.

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SPWB 2014 SERIES D
FACILITY LEASE
(SAN DIEGO JAIL)

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: Stephen Benson
Stephen Benson
Deputy Director

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: Jeffrey A. Beard, Ph.D.
Jeffrey A. Beard, Ph.D.
Secretary

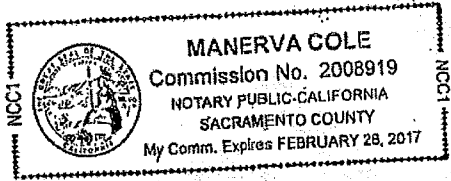
STATE OF CALIFORNIA)
)
COUNTY OF SACRAMENTO)

On October 24, 2014 before me, Manerva Cole, Notary Public, personally appeared Stephen G. Benson, 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

Manerva Cole
SIGNATURE OF NOTARY PUBLIC



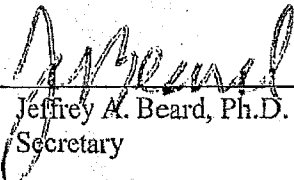
SPWB 2014 SERIES D
FACILITY LEASE
(SAN DIEGO JAIL)

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: _____
Stephen Benson
Deputy Director

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____

Jeffrey A. Beard, Ph.D.
Secretary

STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

On October 22, 2014 before me, Krystal Powell, Notary Public, personally appeared Jeffrey A. Beard, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

Krystal Powell
SIGNATURE OF NOTARY PUBLIC



SCHEDULE I

\$108,185,000

State Public Works Board of the State of California
 Lease Revenue Bonds
 (Department of Corrections and Rehabilitation)
 2014 Series D
 (Various Correctional Facilities)

**SCHEDULE OF BASE RENTAL PAYMENTS
 SAN DIEGO JAIL**

<i>Payment Date</i>	<i>Principal</i>	<i>Interest</i>	<i>Total Base Rental Payments</i>
2/15/2015		\$1,388,370.80	\$1,388,370.80
8/15/2015	\$3,990,000	2,031,700.00	6,021,700.00
2/15/2016		1,971,850.00	1,971,850.00
8/15/2016	4,130,000	1,971,850.00	6,101,850.00
2/15/2017		1,889,250.00	1,889,250.00
8/15/2017	4,300,000	1,889,250.00	6,189,250.00
2/15/2018		1,803,250.00	1,803,250.00
8/15/2018	4,500,000	1,803,250.00	6,303,250.00
2/15/2019		1,690,750.00	1,690,750.00
8/15/2019	4,730,000	1,690,750.00	6,420,750.00
2/15/2020		1,572,500.00	1,572,500.00
8/15/2020	4,970,000	1,572,500.00	6,542,500.00
2/15/2021		1,448,250.00	1,448,250.00
8/15/2021	5,225,000	1,448,250.00	6,673,250.00
2/15/2022		1,317,625.00	1,317,625.00
8/15/2022	5,495,000	1,317,625.00	6,812,625.00
2/15/2023		1,180,250.00	1,180,250.00
8/15/2023	5,775,000	1,180,250.00	6,955,250.00
2/15/2024		1,035,875.00	1,035,875.00
8/15/2024	6,075,000	1,035,875.00	7,110,875.00
2/15/2025		884,000.00	884,000.00
8/15/2025	6,385,000	884,000.00	7,269,000.00
2/15/2026		724,375.00	724,375.00
8/15/2026	6,710,000	724,375.00	7,434,375.00
2/15/2027		556,625.00	556,625.00
8/15/2027	7,055,000	556,625.00	7,611,625.00
2/15/2028		380,250.00	380,250.00
8/15/2028	7,415,000	380,250.00	7,795,250.00
2/15/2029		194,875.00	194,875.00
8/15/2029	7,795,000	194,875.00	7,989,875.00

EXHIBIT A

LEGAL DESCRIPTION OF SITE
SAN DIEGO JAIL

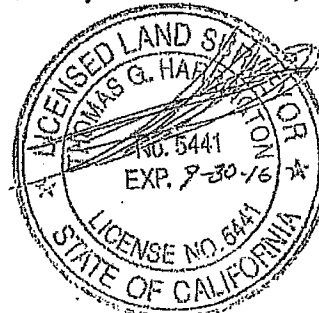
Parcel No. 2013-0171-A

(9-07-2013)

That portion of the Remainder Parcel of Parcel Map No. 20177, in the County of San Diego, State of California according to Parcel Map thereof filed in the Office of the County Recorder of said County, December 21, 2006 as instrument 2006-0905062, more particularly described as follows:

BEGINNING at the Northwest corner of said Remainder Parcel of said Parcel Map 20177, also being the Southerly 51 foot half width sideline of Riverview Parkway as shown on said Parcel Map;
THENCE along the Northerly line of said remainder parcel and said sideline, South 89°27'57" East, 851.84 feet to the beginning of a tangent 1349 foot radius curve concave Southerly;
THENCE continuing along the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, Easterly along the arc of said curve through a central angle of 12°32'02", an arc distance of 295.10 feet;
THENCE continuing along the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, tangent to said curve, South 76°55'55" East, 114.24 feet;
THENCE leaving the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, South 06°11'22" East, 198.57 feet;
THENCE South 01°30'36" West, 297.89 feet;
THENCE South 05°27'52" West, 389.08 feet;
THENCE South 12°24'57" East, 332.78 feet;
THENCE South 01°43'22" West, 259.86 feet to the Southerly line of said Remainder Parcel;
THENCE along said Southerly line, North 88°18'38" West, 729.15 feet to the centerline of Cottonwood Avenue as said road is shown in Map 817 filed in said County Recorder's Office;
THENCE leaving said Southerly line, North 03° 01' 15" East, 307.30 feet;
THENCE North 21° 39' 38" East, 210.76 feet;
THENCE North 68° 05' 20" West, 77.99 feet;
THENCE North 21° 39' 38" East, 221.62 feet;
THENCE South 68° 05' 20" East, 71.80 feet;
THENCE North 21° 39' 38" East, 113.92 feet;
THENCE North 68° 05' 20" West, 173.41 feet;
THENCE North 01° 50' 17" East, 242.66 feet;
THENCE North 87° 31' 24" West, 93.66 feet;
THENCE South 51° 07' 19" West, 13.91 feet to the beginning of a non-tangent 13.50 foot radius curve, concave Southeasterly, a radial to said curve at said point bears North 11° 42' 45" East;
THENCE Westerly and Southwesterly along the arc of said curve, through a central angle of 101° 10' 39" a distance of 23.84 feet;
THENCE South 51° 07' 19" West, 123.31 feet;
THENCE North 38 04' 45" West, 54.32 feet;
THENCE North 85 16' 31" West, 27.32 feet;
THENCE North 42 14' 44" West, 62.08 feet;
THENCE North 87 32' 23" West, 279.35 feet;
THENCE South 66 03' 42" West, 43.78 feet to a point on the Westerly line of said remainder parcel;
THENCE along the Westerly line of said remainder parcel, North 01°45'11" East, 400.00 feet to the POINT OF BEGINNING.

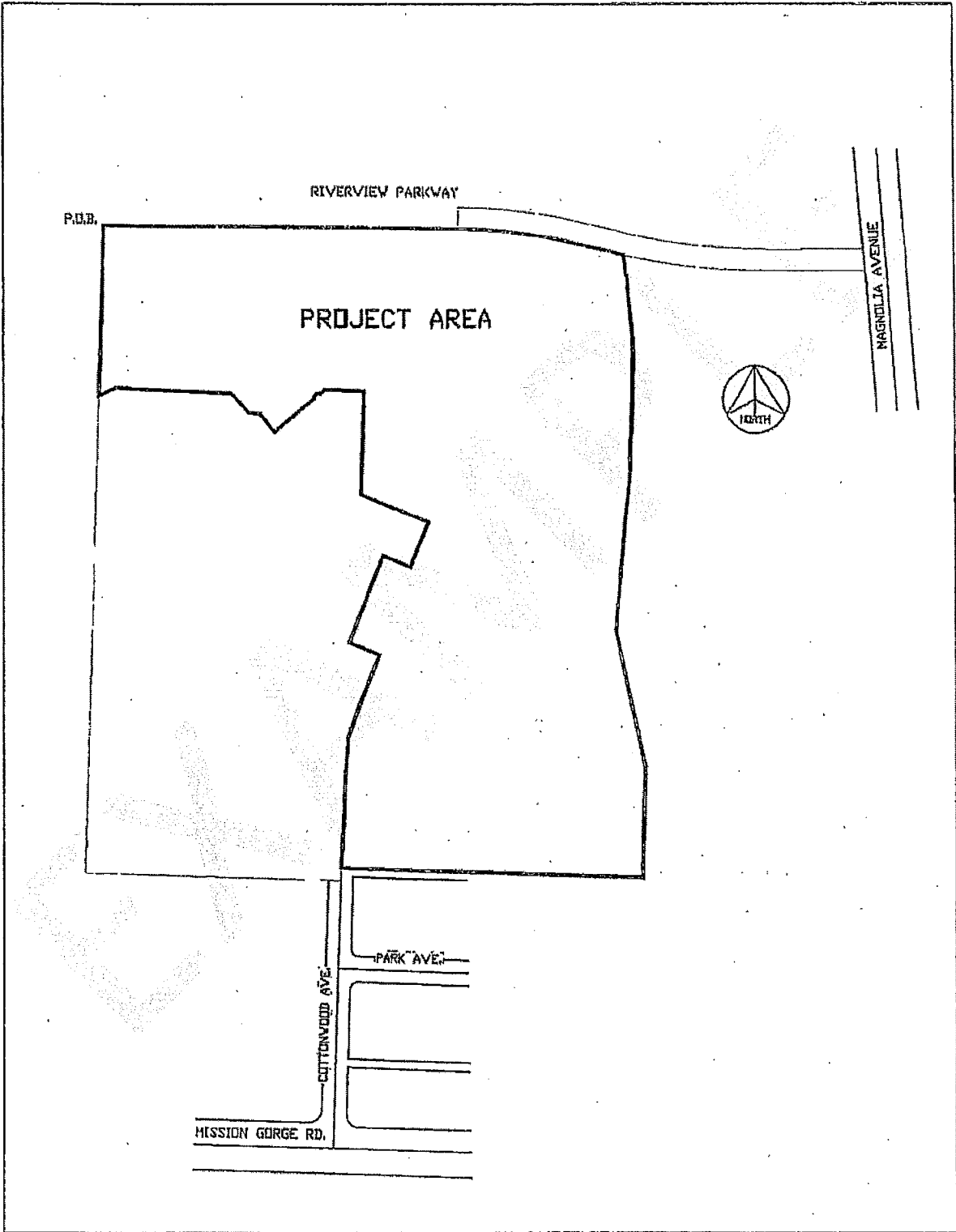
Said described parcel contains 28.05 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.



SHT 1 OF 1

A-1

**Map of Site
San Diego Jail**



**LEGAL DESCRIPTION OF PROJECT DRIVEWAY
SAN DIEGO JAIL**

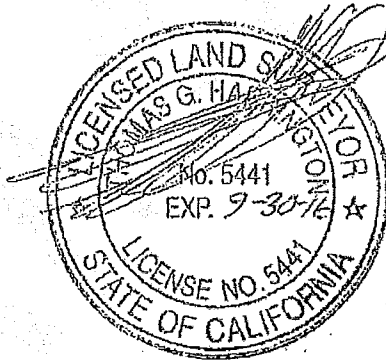
Parcel No. 2009-0171-C

(9-07-13)

That portion of the Remainder Parcel of Parcel Map No. 20177, in the County of San Diego, State of California according to Parcel Map thereof filed in the Office of the County Recorder of said County, December 21, 2006 as instrument 2006-0905062, being a private access easement 51 feet in width, also a portion of the Southerly 51 foot wide half width of Riverview Parkway as dedicated to and accepted by the City of Santee on said Parcel Map 20177, the Southerly line of said strip being more particularly described as follows:

COMMENCING at the Northeasterly corner of Parcel 6 of said Parcel Map 20177;
THENCE Easterly along the Southerly line Of Riverview Parkway per said Parcel Map 20177, a distance of 851.84 feet to the TRUE POINT OF BEGINNING;
THENCE continuing along the Southerly line of said Riverview Parkway, TERMINATING at the Westerly 51 foot half width sideline of Magnolia Avenue as shown on said Parcel Map 20177.

Said described parcel contains 2 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.



SHT 1 OF 1

A-3

**Map of Project Driveway
San Diego Jail**

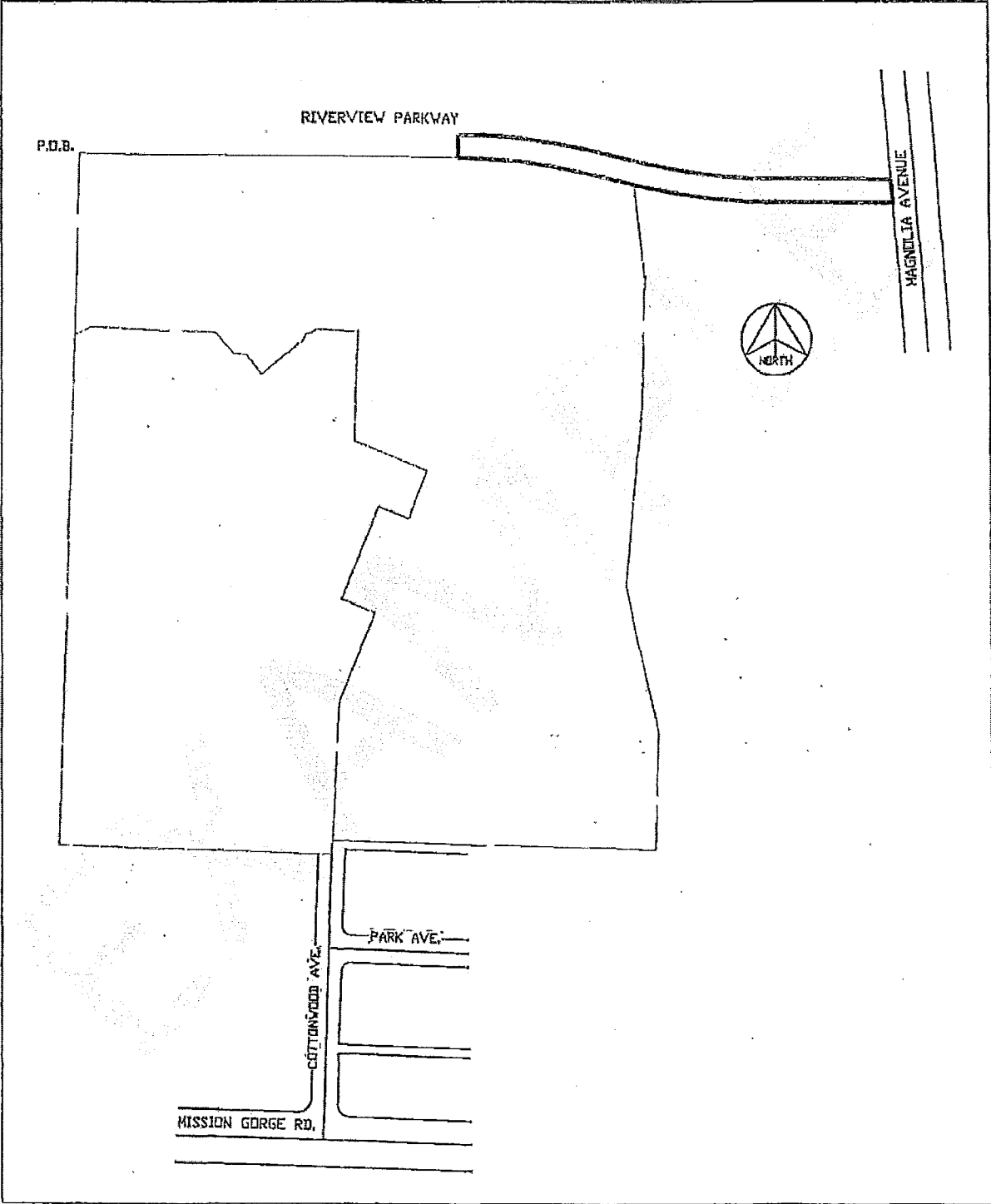


EXHIBIT B

DESCRIPTION OF PROJECT

San Diego Jail:

The San Diego Jail project (the "San Diego Project") is located within the City of Santee in San Diego County on approximately 28 acres of county owned land. The San Diego Project consists of the construction of a new women's detention facility. The San Diego Project consists of an approximately 350,000 square foot facility and includes 16 housing units in eight buildings, a medical services building, a visitation and administration building, and a food services building, as well as necessary associated administration, security, health care treatment, program, and support services space. The San Diego Project includes, but is not limited to, electrical; plumbing; mechanical; computerized heating, ventilation, and air conditioning; security; and fire protection systems. Approximately 240 parking spaces are provided for staff and visitor parking. The staff parking area includes a gate with access control and security cameras. The San Diego Project also includes a central plant.

The structural aspects of the buildings include structural steel framing, fully grouted Concrete Masonry Units ("CMU"), and metal stud framing. The second and tier levels of the housing units are constructed of fully grouted CMU walls. The roofs of the buildings are supported by structural steel framing and concrete on metal deck with insulation and membrane roofing above. The buildings are equipped with fire alarm, public address, intercom, radio, telephone, door control and personal duress systems. The San Diego Project also includes an emergency power backup system to accommodate fire and life safety, security, and operational functions in the event primary power is interrupted.

DOC # 2014-0509227



NOV 21, 2014 10:33 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
Ernest J. Dronenburg, Jr., COUNTY RECORDER
FEES: 0.00

PAGES: 28



FB
2014
10/21

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.

FACILITY SUBLEASE

by and between the

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

and

**COUNTY OF SAN DIEGO,
as Sublessee**

Dated as of October 15, 2014

**SAN DIEGO JAIL
(SAN DIEGO 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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EXHIBIT A LEGAL DESCRIPTION OF SITE.....A-1

FACILITY SUBLEASE

This Sublease, dated as of October 15, 2014 (this "Facility Sublease"), 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 SAN DIEGO, a political subdivision of the State of California, as sublessee (the "Participating County").

RECITALS

WHEREAS, pursuant to Chapter 3.11 of Part 10b of Division 3 of the California Government Code (the "Law"), the State Public Works Board of the State of California (the "Board") is authorized to finance the acquisition, design, and construction of a local jail facility approved by the Corrections Standards Authority¹ (the "CSA") pursuant to Section 15820.906 and following, as amended, of the Government Code of the State (the "AB 900 Jail Financing Program"); and

WHEREAS, the Participating County, the Board, the Department and the CSA have previously entered into that certain Project Delivery and Construction Agreement dated as of September 13, 2013 (the "Project Agreement") with respect to the construction of a jail facility (the "Project"); and

WHEREAS, pursuant to the provisions of the Project Agreement the Participating County has constructed the Project, which is located at 451 Riverview Parkway, Santee, California 92071, on the real property described 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 September 13, 2013, executed by and between the Participating County, as landlord, and the Department, as tenant, and consented to by the Board, and recorded on November 14, 2013 in the Official Records of the County of San Diego as Document No. 2013-0673995 (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 Easements dated as of September 13, 2013 and recorded on November 14, 2013 in the Official Records of the County of San Diego as Document No. 2013-0673994 (the "Easement Agreement") pursuant to which the Participating County granted to the Department and the Board certain appurtenant easements in certain property adjacent to the Site (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 (Department of Corrections and Rehabilitation) 2014 Series D (Various Correctional Facilities) (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 October 15, 2014 (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 October 15, 2014 (the "Facility Lease"),

¹ Pursuant to Penal Code Section 6024, as of July 1, 2012, the Corrections Standards Authority was abolished and replaced by the Board of State and Community Corrections.

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 April 1, 1994, as amended by the Tenth Supplemental Indenture, dated as of September 1, 1996, the Forty-Second Supplemental Indenture, dated as of October 1, 2002, the Fifty-Second Supplemental Indenture, dated as of October 15, 2004, and the Ninety-Third Supplemental Indenture, dated as of October 12, 2009 (collectively the "Master Indenture"), as supplemented by the One Hundred Twenty-Fifth Supplemental Indenture (together with the Master 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 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 15820.904, 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 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. 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 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 or Subletting of Facility.

(a) 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, which may be granted or denied in their sole discretion, to the form and substance of such sublease and 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 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 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.

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 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 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.

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. In the event that a lawsuit is filed that culminates in a judgment, then the prevailing party in such action shall be entitled to reasonable attorney's fees.

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 approval by the Board of State and Community Corrections, the Participating County shall, concurrently with the request for such approval(s), 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 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) subleases 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 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 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 required by Sections 7.1 and 7.2 of the Project Agreement and such other records 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 15820.905, 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 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: Department of Corrections and Rehabilitation
of the State of California
9838 Old Placerville Road, Suite B
Sacramento, CA 95827
Attention: Director, Facility Planning, Construction
& Management

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: Director, Public Finance Division

To the Participating County: County of San Diego
1600 Pacific Highway
San Diego, CA, 92101
Attention: County Administrative Officer

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.


SECTION 29. Board as Third Party Beneficiary. The Board is a third party beneficiary of this Facility Sublease.

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SPWB 2014 SERIES D
FACILITY SUBLEASE
(SAN DIEGO JAIL)

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.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: 
Name: Jeffrey A. Beard, Ph.D.
Title: Secretary

APPROVED (Pursuant to Government Code
section 11005.2):

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA

By: _____
Name: Michael Butler
Title: Chief Real Property Services Section

CONSENT AND ACKNOWLEDGEMENT OF
THE BOARD:

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Name: Stephen Benson
Title: Deputy Director

STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

On October 22, 2014, before me, KRYSTAL POWELL, Notary Public, personally appeared STEFFREY A. BEARD, who 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/hers/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal



SIGNATURE OF NOTARY PUBLIC



SPWB 2014 SERIES D
FACILITY SUBLEASE
(SAN DIEGO JAIL)

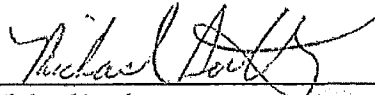
IN WITNESS WHEREOF, the Department and the Participating County have caused this Facility Sublease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
Name: Jeffrey A. Beard, Ph.D.
Title: Secretary

APPROVED (Pursuant to Government Code
section 11005.2):

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA

By: 
Name: Michael Butler
Title: Chief Real Property Services Section

CONSENT AND ACKNOWLEDGEMENT OF
THE BOARD:

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Name: Stephen Benson
Title: Deputy Director

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.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
Name: Jeffrey A. Beard, Ph.D.
Title: Secretary

APPROVED (Pursuant to Government Code
section 11005.2):

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA

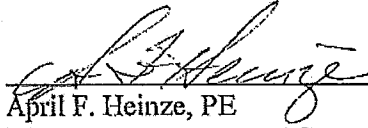
By: _____
Name: Michael Butler
Title: Chief Real Property Services Section

CONSENT AND ACKNOWLEDGEMENT OF
THE BOARD:

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

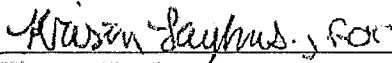
By: Stephen Benson
Name: Stephen Benson
Title: Deputy Director

COUNTY OF SAN DIEGO

By: 
Name: April F. Heinze, PE
Title: Director, Department of General Services

APPROVED AS TO FORM:

Thomas E. Montgomery
County Counsel

By:  for
Name: Thomas E. Montgomery
Title: County Counsel

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

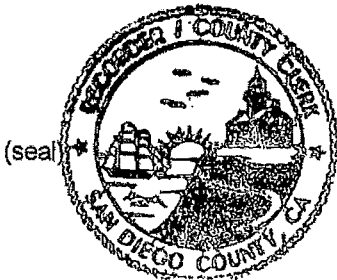
SS

On 10-23-14, before me, ANGELA JACKSON-LLAMAS, Deputy County Clerk in and for said County and State personally appeared April F. Heinze

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 by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Ernest J. Dronenburg, Jr.,
County Assessor, Recorder, County Clerk

ANGELA JACKSON-LLAMAS- Deputy

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the Facility conveyed under the foregoing to the County of San Diego, 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 San Diego, pursuant to authority conferred by resolution of the Board of Supervisors adopted on September 23, 2014 and the grantee consents to recordation thereof by its duly authorized officer.

Dated: October 22, 2014

COUNTY OF SAN DIEGO

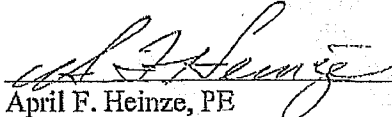
By: 
Name: April F. Heinze, PE
Title: Director, Department of General Services

EXHIBIT A

LEGAL DESCRIPTION OF SITE
SAN DIEGO JAIL

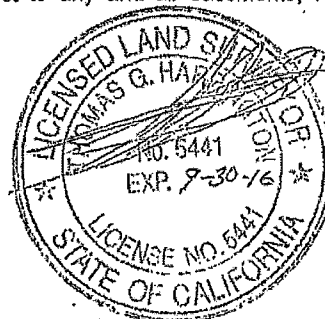
Parcel No. 2013-0171-A

(9-07-2013)

That portion of the Remainder Parcel of Parcel Map No. 20177, in the County of San Diego, State of California according to Parcel Map thereof filed in the Office of the County Recorder of said County, December 21, 2006 as instrument 2006-0905062, more particularly described as follows:

BEGINNING at the Northwest corner of said Remainder Parcel of said Parcel Map 20177, also being the Southerly 51 foot half width sideline of Riverview Parkway as shown on said Parcel Map;
THENCE along the Northerly line of said remainder parcel and said sideline, South 89°27'57" East, 851.84 feet to the beginning of a tangent 1349 foot radius curve concave Southerly;
THENCE continuing along the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, Easterly along the arc of said curve through a central angle of 12°32'02", an arc distance of 295.10 feet;
THENCE continuing along the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, tangent to said curve, South 76°55'55" East, 114.24 feet;
THENCE leaving the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, South 06°11'22" East, 198.57 feet;
THENCE South 01°30'36" West, 297.89 feet;
THENCE South 05°27'52" West, 389.08 feet;
THENCE South 12°24'57" East, 332.78 feet;
THENCE South 01°43'22" West, 259.86 feet to the Southerly line of said Remainder Parcel;
THENCE along said Southerly line, North 88°16'38" West, 729.15 feet to the centerline of Cottonwood Avenue as said road is shown in Map 817 filed in said County Recorder's Office;
THENCE leaving said Southerly line, North 03° 01' 15" East, 307.30 feet;
THENCE North 21° 39' 38" East, 210.76 feet;
THENCE North 68° 05' 20" West, 77.99 feet;
THENCE North 21° 39' 38" East, 221.92 feet;
THENCE South 68° 05' 20" East, 71.80 feet;
THENCE North 21° 39' 38" East, 113.92 feet;
THENCE North 68° 05' 20" West, 173.41 feet;
THENCE North 01° 50' 17" East, 242.66 feet;
THENCE North 87° 31' 24" West, 93.65 feet;
THENCE South 51° 07' 19" West, 13.91 feet to the beginning of a non-tangent 13.50 foot radius curve, concave Southeastly, a radial to said curve at said point bears North 11° 42' 45" East;
THENCE Westerly and Southwesterly along the arc of said curve, through a central angle of 101° 10' 39" a distance of 23.84 feet;
THENCE South 51° 07' 19" West, 123.31 feet;
THENCE North 38 04' 45" West, 54.32 feet;
THENCE North 85 16' 31" West, 27.32 feet;
THENCE North 42 14' 44" West, 82.08 feet;
THENCE North 87 32' 23" West, 279.35 feet;
THENCE South 66 03' 42" West, 43.78 feet to a point on the Westerly line of said remainder parcel;
THENCE along the Westerly line of said remainder parcel, North 01°45'11" East, 400.00 feet to the POINT OF BEGINNING.

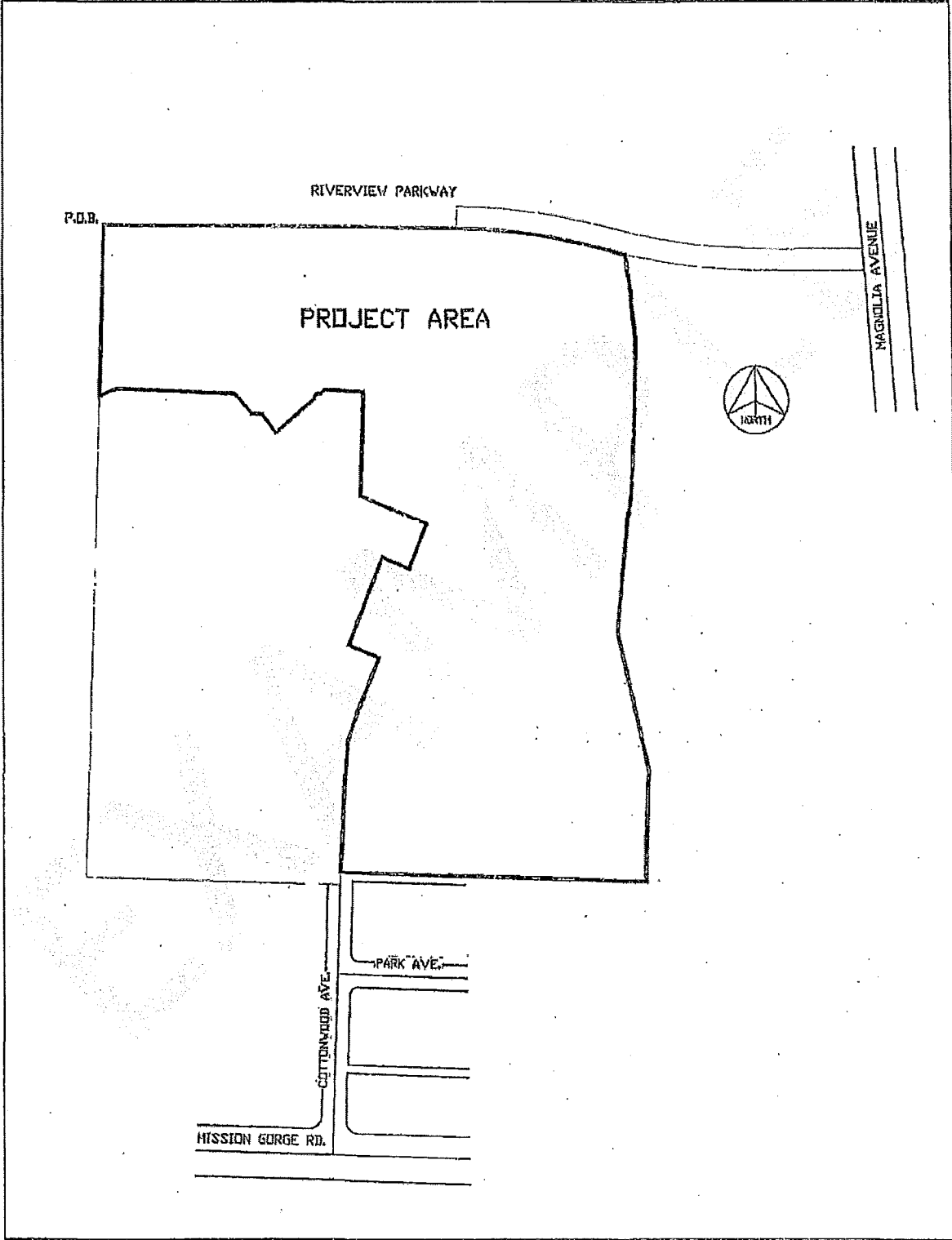
Said described parcel contains 28.05 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.



SHT 1 OF 1

A-1

Map of Site
San Diego Jail



**LEGAL DESCRIPTION OF PROJECT DRIVEWAY
SAN DIEGO JAIL**

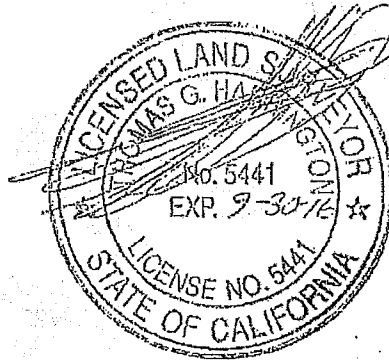
Parcel No. 2009-0171-C

(9-07-13)

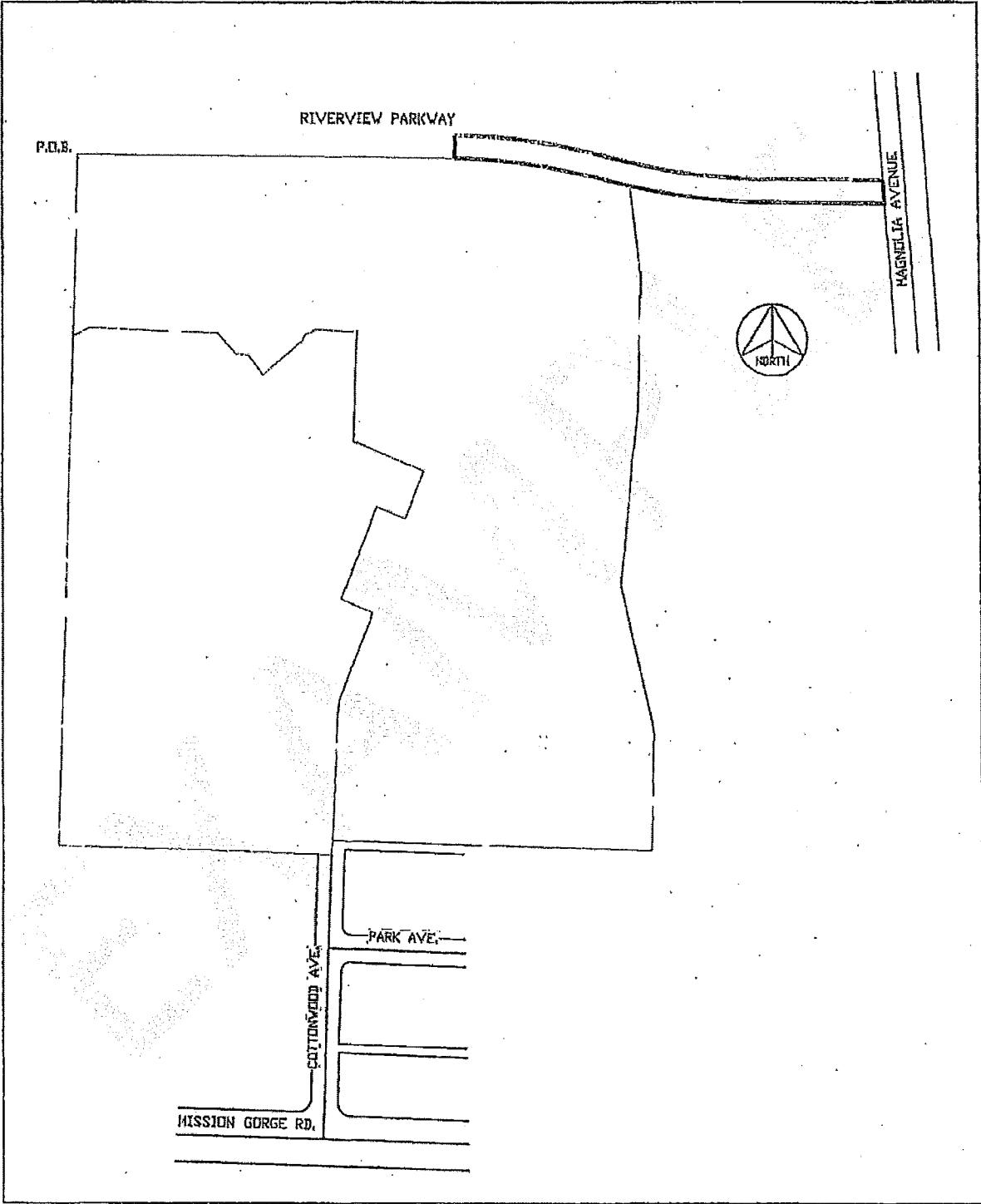
That portion of the Remainder Parcel of Parcel Map No. 20177, in the County of San Diego, State of California according to Parcel Map thereof filed in the Office of the County Recorder of said County, December 21, 2006 as instrument 2006-0905062, being a private access easement 51 feet in width, also a portion of the Southerly 51 foot wide half width of Riverview Parkway as dedicated to and accepted by the City of Santee on said Parcel Map 20177, the Southerly line of said strip being more particularly described as follows:

COMMENCING at the Northeasterly corner of Parcel 6 of said Parcel Map 20177;
THENCE Easterly along the Southerly line Of Riverview Parkway per said Parcel Map 20177, a distance of 851.84 feet to the TRUE POINT OF BEGINNING;
THENCE continuing along the Southerly line of said Riverview Parkway, TERMINATING at the Westerly 51 foot half width sideline of Magnolia Avenue as shown on said Parcel Map 20177.

Said described parcel contains 2 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.



**Map of Project Driveway
San Diego Jail**



DOC # 2014-0509225



RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)

NOV 21, 2014 10:33 AM

FF
1312
1CON

STRADLING YOCCA CARLSON & RAUTH)
660 Newport Center Drive, Suite 1600)
Newport Beach, California 92660)
Attention: Robert J. Whalen, Esq.)

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
Ernest J. Dranenburg, Jr., COUNTY RECORDER
FEES: 0.00

PAGES: 13



[Space above for Recorder's use]

SITE LEASE

by and between the

**DEPARTMENT OF CORRECTIONS AND REHABILITATION
OF THE STATE OF CALIFORNIA,
as Lessor**

and the

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

Dated as of October 15, 2014.

**(SAN DIEGO JAIL)
(SAN DIEGO 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 and 27383 of the California Government Code.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SITE LEASE

THIS SITE LEASE, dated as of October 15, 2014 (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 DEPARTMENT OF CORRECTIONS AND REHABILITATION 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 the construction of the Project as defined in the Facility Lease dated as of October 15, 2014 between the Board and the Department (the "Facility Lease") on the Site (as defined below) (the Site, together with the Project, the "Facility");

WHEREAS, the Board intends to lease the Facility 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 the 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 (the "Site"), which was leased to the Department by the County of San Diego (the "Participating County") pursuant to the terms of that certain Ground Lease dated as of September 13, 2013, by and between the Participating County, as landlord, and the Department, as tenant, and recorded on November 14, 2013 in the Official Records of the County of San Diego as Document No. 2013-0673995 (the "Ground Lease");

WHEREAS, simultaneous 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 September 13, 2013 and recorded on November 14, 2013 in the Official Records of the County of San Diego as Document No. 2013-0673994 (the "Easement Agreement") pursuant to which the Participating County granted to the Department and the Board certain easements in certain property adjacent to the Site (the "Property");

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; and

WHEREAS, the Board wishes to lease the Site hereunder and to obtain rights to the Property as described herein.

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 and all rights appurtenant thereto, including rights granted under the

Easement Agreement with respect to the 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 and initial delivery of the Bonds (as defined in the Facility Lease) and shall end on September 1, 2029, unless such term is extended or sooner terminated as hereinafter provided. If on September 1, 2029 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 September 1, 2039. If, prior to September 1, 2029, 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 under the Indenture. The Department agrees that the payment of such rental is adequate consideration for the lease by the Department to the Board of the Site hereunder.

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. Termination. The Board agrees that upon the termination or expiration of this Site Lease, 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 the Ground 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 Department of Corrections and Rehabilitation, 9838 Old Placerville Road, Suite B, Sacramento, California 95827, Attention: Director, or, if to the Board, addressed to the Board, c/o Department of General Services, Contracted Fiscal Services, 707 Third Street, 6th Floor, West Sacramento, California 95605, Attention: Manager of Contracted Fiscal Services, 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 is 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 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 face amount of the indebtedness evidenced by any outstanding bonds or notes of the Board issued to finance or refinance the 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.

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. 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.

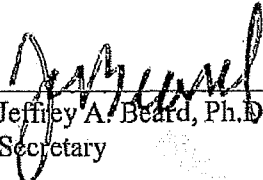
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SPWB 2014 SERIES D
SITE LEASE
(SAN DIEGO JAIL)

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.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____


Jeffrey A. Beard, Ph.D.
Secretary

STATE PUBLIC WORKS BOARD OF THE STATE
OF CALIFORNIA

By: _____

Stephen Benson
Deputy Director

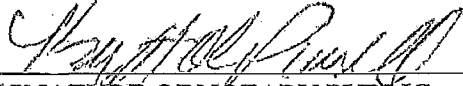
STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

On October 22, 2014 before me, Krystal Powell, Notary Public, personally appeared Jeffrey A. Beard, 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 ~~she~~ they executed the same in ~~his~~ her ~~her~~ their authorized capacity(ies), and that by ~~his~~ her ~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal


SIGNATURE OF NOTARY PUBLIC



SPWB 2014 SERIES D
SITE LEASE
(SAN DIEGO JAIL)

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.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
Jeffrey A. Beard, Ph.D.
Secretary

STATE PUBLIC WORKS BOARD OF THE STATE
OF CALIFORNIA

By: Stephen Benson
Stephen Benson
Deputy Director

STATE OF CALIFORNIA)
)
COUNTY OF SACRAMENTO)

On October 24, 2014 before me, Manerva Cole, Notary Public, personally appeared Stephen G. Benson, 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

Manerva Cole

SIGNATURE OF NOTARY PUBLIC

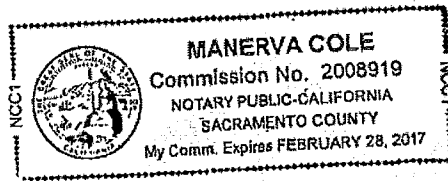


EXHIBIT A

LEGAL DESCRIPTION OF SITE
SAN DIEGO JAIL

Parcel No. 2013-0171-A

(9-07-2013)

That portion of the Remainder Parcel of Parcel Map No. 20177, in the County of San Diego, State of California according to Parcel Map thereof filed in the Office of the County Recorder of said County, December 21, 2006 as instrument 2006-0905062, more particularly described as follows:

BEGINNING at the Northwest corner of said Remainder Parcel of said Parcel Map 20177, also being the Southerly 51 foot half width sideline of Riverview Parkway as shown on said Parcel Map.;

THENCE along the Northerly line of said remainder parcel and said sideline, South 89°27'57" East, 851.84 feet to the beginning of a tangent 1349 foot radius curve concave Southerly;

THENCE continuing along the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, Easterly along the arc of said curve through a central angle of 12°32'02", an arc distance of 295.10 feet;

THENCE continuing along the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, tangent to said curve, South 76°55'55" East, 114.24 feet;

THENCE leaving the Northerly line of said remainder parcel line and the Southerly sideline of said roadway, South 06°11'22" East, 198.57 feet;

THENCE South 01°30'36" West, 297.89 feet;

THENCE South 06°27'52" West, 389.08 feet;

THENCE South 12°24'57" East, 332.78 feet;

THENCE South 01°43'22" West, 259.86 feet to the Southerly line of said Remainder Parcel;

THENCE along said Southerly line, North 88°16'38" West, 729.15 feet to the centerline of Cottonwood Avenue as said road is shown in Map 817 filed in said County Recorder's Office;

THENCE leaving said Southerly line, North 03° 01' 15" East, 307.30 feet;

THENCE North 21° 39' 38" East, 210.76 feet;

THENCE North 68° 05' 20" West, 77.99 feet;

THENCE North 21° 39' 38" East, 221.62 feet;

THENCE South 68° 06' 20" East, 71.80 feet;

THENCE North 21° 39' 38" East, 113.92 feet;

THENCE North 68° 05' 20" West, 173.41 feet;

THENCE North 01° 50' 17" East, 242.66 feet;

THENCE North 87° 31' 24" West, 93.66 feet;

THENCE South 51° 07' 19" West, 13.91 feet to the beginning of a non-tangent 13.50 foot radius curve, concave Southeasterly, a radial to said curve at said point bears North 11° 42' 45" East;

THENCE Westerly and Southwesterly along the arc of said curve, through a central angle of 101° 10' 39" a distance of 23.84 feet;

THENCE South 51° 07' 19" West, 123.31 feet;

THENCE North 38° 04' 45" West, 54.32 feet;

THENCE North 85° 16' 31" West, 27.32 feet;

THENCE North 42° 14' 44" West, 62.08 feet;

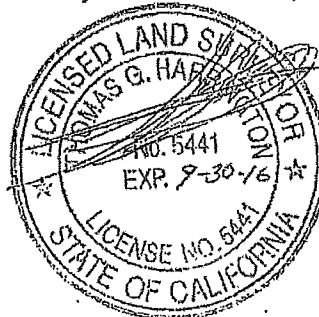
THENCE North 87° 32' 23" West, 279.35 feet;

THENCE South 66° 03' 42" West, 43.78 feet to a point on the Westerly line of said remainder parcel;

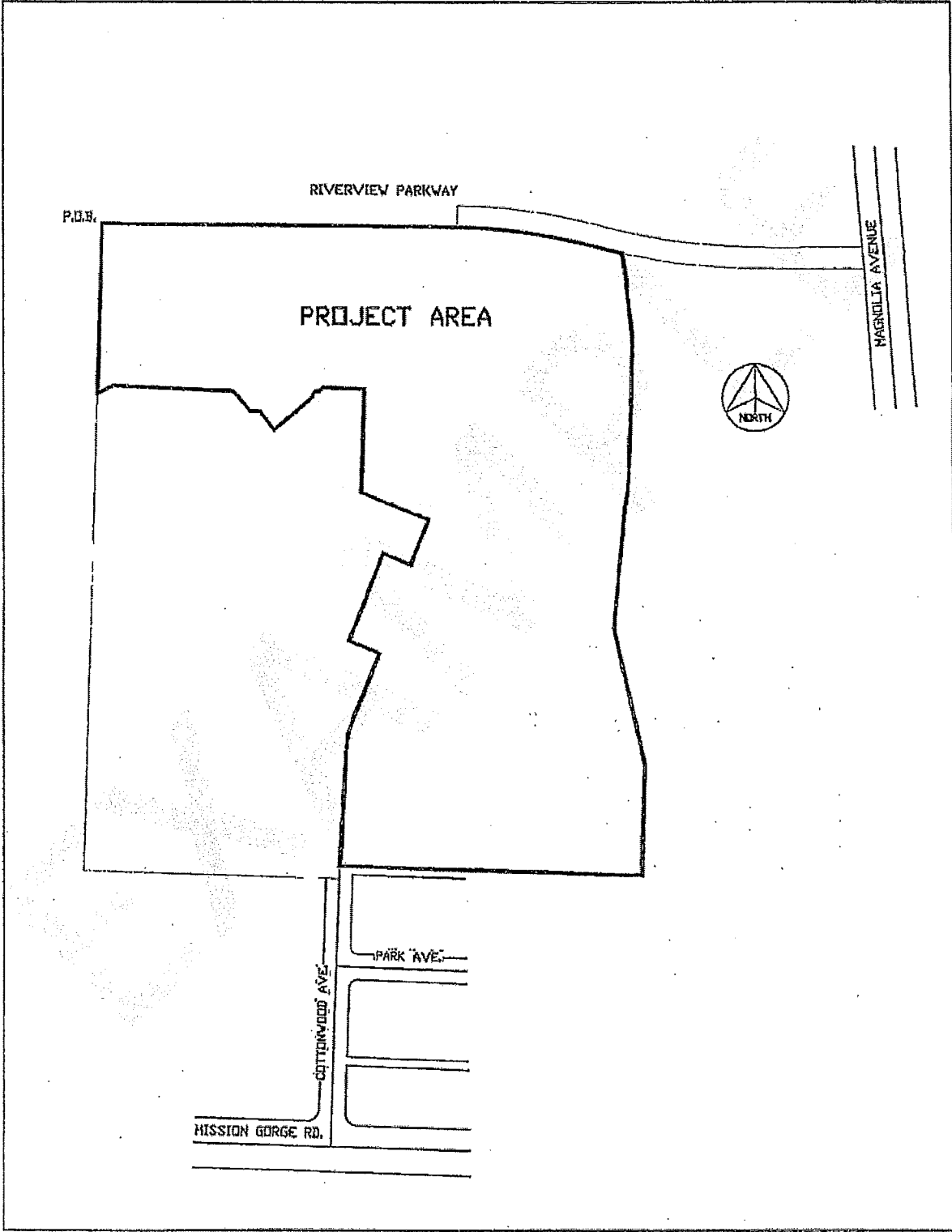
THENCE along the Westerly line of said remainder parcel, North 01°45'11" East, 400.00 feet to the POINT OF BEGINNING.

Said described parcel contains 28.05 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.

SHT 1 OF 1



**Map of Site
San Diego Jail**



LEGAL DESCRIPTION OF PROJECT DRIVEWAY
SAN DIEGO JAIL

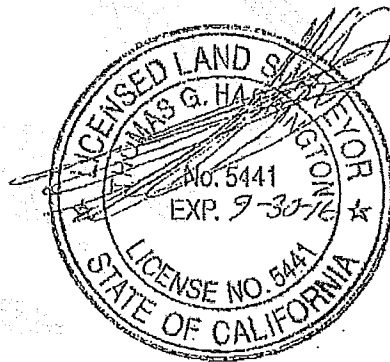
Parcel No. 2009-0171-C

(9-07-13)

That portion of the Remainder Parcel of Parcel Map No. 20177, in the County of San Diego, State of California according to Parcel Map thereof filed in the Office of the County Recorder of said County, December 21, 2006 as instrument 2006-0905062, being a private access easement 51 feet in width, also a portion of the Southerly 51 foot wide half width of Riverview Parkway as dedicated to and accepted by the City of Santee on said Parcel Map 20177, the Southerly line of said strip being more particularly described as follows:

COMMENCING at the Northeasterly corner of Parcel 6 of said Parcel Map 20177;
THENCE Easterly along the Southerly line Of Riverview Parkway per said Parcel Map 20177, a distance of 851.84 feet to the TRUE POINT OF BEGINNING;
THENCE continuing along the Southerly line of said Riverview Parkway, TERMINATING at the Westerly 51 foot half width sideline of Magnolia Avenue as shown on said Parcel Map 20177.

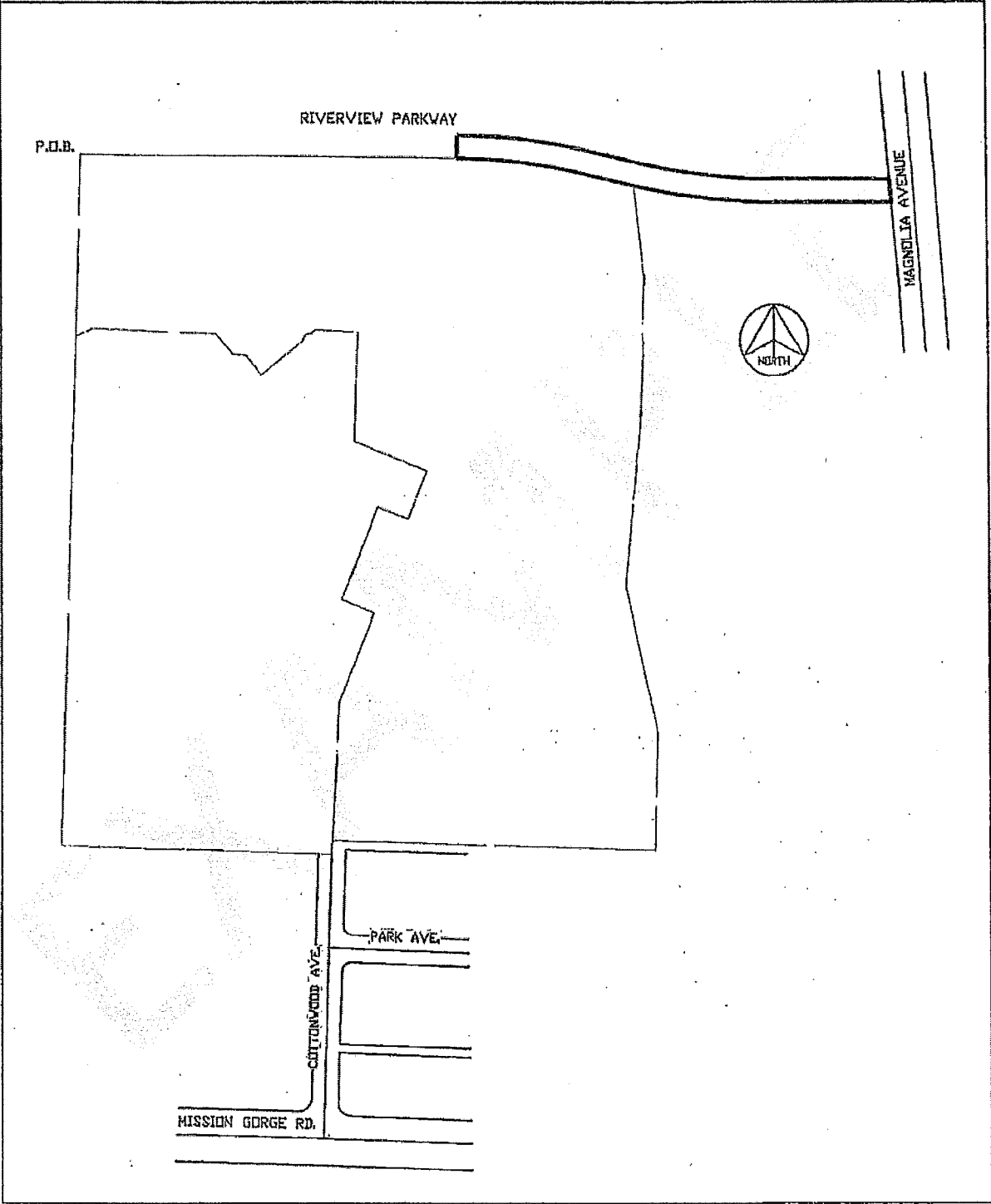
Said described parcel contains 2 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.



SHT 1 OF 1

A-3

**Map of Project Driveway
San Diego Jail**





**OFFICE OF THE SHERIFF
CITY AND COUNTY OF SAN FRANCISCO**

1 DR. CARLTON B. GOODLETT PLACE
ROOM 456, CITY HALL
SAN FRANCISCO, CALIFORNIA 94102



**VICKI HENNESSY
SHERIFF**

January 23, 2017
Ref: 2016-012

2017 JAN 23 AM 10:53

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Dear Ms. Calvillo;

Attached please find an original single-sided and two single-sided, black and white copies of the proposed Resolution, for the Board of Supervisors approval, which authorizes the Sheriff's Department to apply for funding provided by California Senate Bill 844 to renovate the Sheriff's facility at 425 7th Street.

If approved, and if the Sheriff's Department is successful in obtaining the funding, the renovations will allow for safely housing some of the high security prisoners currently housed in the seismically compromised Hall of Justice to County Jail #2, where they will have greater access to programs and treatment services. The renovations will also address structural issues including the roof and ventilating system.


The resolution must be approved by the Board of Supervisors no later than February 14 in order for us to meet the February 28 submission deadline set by the Board of State and Community Corrections.

The following person may be contacted regarding this matter:

Eileen Hirst
415-554-7225
Eileen.hirst@sfgov.org

Thank you.

Sincerely,


VICKI L. HENNESSY
Sheriff



Form of Documents

Board of State and Community Corrections Agreement (Form Of – Design-Build) – [PDF](#)

Board of State and Community Corrections Agreement (Form Of – Design-Bid-Build) – [PDF](#)

Project Delivery and Construction Agreement (Form Of – Design-Build) – [PDF](#)

Project Delivery and Construction Agreement (Form Of – Design-Bid-Build) – [PDF](#)

Ground Lease (Form Of) – [PDF](#)

Right of Entry for Construction and Operation (Form Of) – [PDF](#)

Facility Lease – [PDF](#)

Facility Sublease – [PDF](#)

Site Lease – [PDF](#)

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CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

February 1, 2017

Honorable Members of the Board of Supervisors
City Hall
San Francisco, CA 94102

Dear Members of the Board of Supervisors,

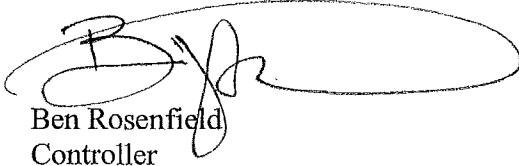
This letter serves to certify that funding will be made available to meet the State's Community Corrections 10% County match required to apply for a grant to construct jail facilities. The County is qualified to receive up to \$70 million of state funding through the SB 844 RFP, which amount would require a matching County contribution of \$8.2 million. If the County receives a conditional intent to award SB 844 financing for the Proposed Facility (a "Notice of Funding Intent"), staff will submit legislation authorizing the use of \$8,200,000 of commercial paper for the Proposed Facility to the Board of Supervisors for consideration within 30 days of receiving the Notice of Funding Intent from the BSCC. As of January 2017, the outstanding principal amount of commercial paper notes is \$211.5 million, out of a total authorization of \$250 million. The Controller attests to the terms and conditions identified in the resolution of the Board of Supervisors approving this grant as follows:

- (1) The City's cash contribution funds have been derived from lawfully available funds.
- (2) Payment of City's cash contribution funds (i) is within the power, legal right and authority of City, (ii) is legal and will not conflict with or constitute on the part of City a material violation of, a material breach of, a material default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of City under the provisions of any charter instrument, bylaw, indenture, mortgage, deed of trust, pledge, note, lease, loan, installment sale agreement, contract, or other material agreement or instrument to which City is party or by which City or its properties or funds are otherwise subject or bound, decree, or demand of any court or governmental agency or body having jurisdiction over City or any of its activities, properties or funds; and (iii) is duly authorized by all necessary and appropriate action on the part of the governing body of City.
- (3) The City's cash contribution funds are not and will not (i) be mortgaged, pledge, or hypothecated by City in any manner or for any purpose, (ii) the subject of a grant of a security interest by City, (iii) mortgaged, pledged or hypothecated for the benefit of City or its creditors in any manner or for any purpose, or (iv) the subject of a grant of a security interest in favor of the City or its creditors.
- (4) The City shall not in any manner impair, impede or challenge the security, rights and benefits of the owners of any lease-revenue bonds sold by the State Public Works Board for the Proposed Facility (State Bonds) or the trustee for the State Bonds.

Honorable Members of the Board of Supervisors
February 1, 2017
Page 2

Kindly let me know if you have any questions regarding the legality or availability of the County match appropriated for the jail construction project.

Sincerely,

A handwritten signature in black ink, appearing to be "Ben Rosenfield", enclosed within a large, hand-drawn oval. The signature is stylized and somewhat cursive.

Ben Rosenfield
Controller

cc Melissa Whitehouse, Mayor's Budget Director
Carol Wong, City Attorney
Vicki Hennessy, Sheriff



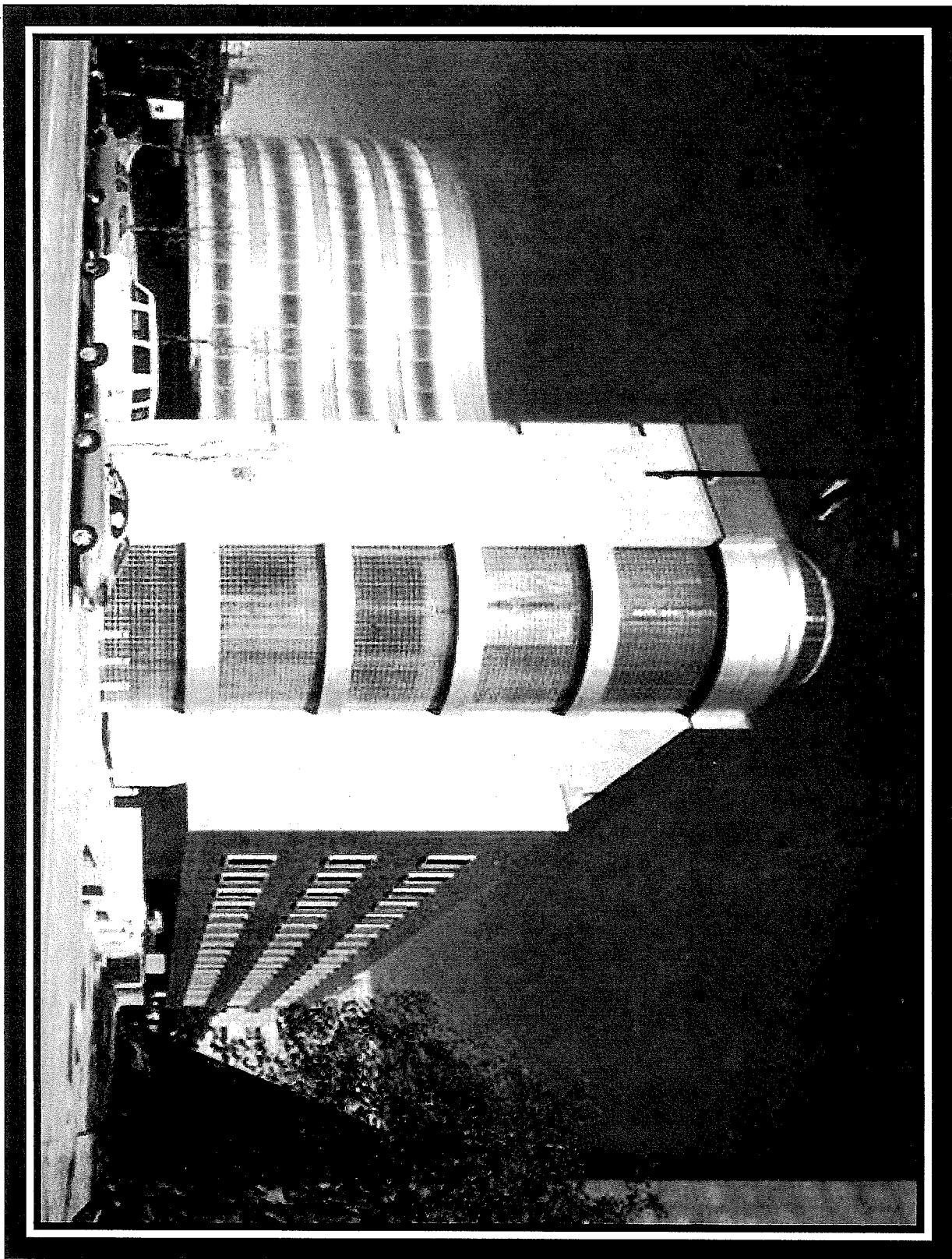
SAN FRANCISCO
SHERIFF

File # 170065
Received in Committee - 2/9/11

Resolution Authorizing the
Sheriff's Department
to Apply for SB 844 Funding
from the
California Board of State and Community
Corrections
For Partial Renovation of
425 7th Street
County Jail #1 and County Jail #2



SAN FRANCISCO
SHERIFF





425 7th Street

- Opened in 1994
- Contains two jail facilities:
 - County Jail #1 – Intake and release facility on first floor
 - County Jail #2 – Detention facility on floors two through six
 - Current inmate capacity: 392 beds
 - Post-Renovation inmate capacity: 392 beds
- Originally designed and constructed as minimum security work furlough facility.
- Operated as a medium to high security detention facility.
- Deferred maintenance has resulted in deterioration of roof and HVAC system, and failure of critical security systems.
- Requires significant improvement and upgrades in all areas

**Total project cost to repair and upgrade all sections
without adding beds
estimated at \$220M**



Board of State and Community Corrections Adult Local Criminal Justice Facilities Construction Grant (SB844)

- **\$70 million available in Large Counties category**
- **San Francisco is in competition with Contra Costa, San Joaquin and San Mateo**
- **Award requires a 10% match; \$12 million has been identified in the General Fund Certificates of Participation program through the City's Capital Planning Program.**
- **Eligibility Requirements:**
 - **Project must be for acquisition, design, renovation or construction of an adult local correctional facility under the jurisdiction of the Sheriff**
 - **Project must include space to provide onsite, in-person visitation**
 - **Proposal must include a description of efforts to address sexual abuse in the facility to be renovated or constructed**
 - **Open only to counties who have not recently received an award**
- **Acceptable projects may include:**
 - **Improved housing with an emphasis on expanding programmatic and treatment space**
 - **Custodial housing, reentry program, mental health, or treatment space**



Project Budget Estimate

▪ Total Construction Cost	\$45M
▪ Contingencies	\$20.3M
▪ Soft Costs	<u>\$16.7M</u>
TOTAL BUDGET	\$82M

Project Scope for Partial Upgrade & Improvement

Included within available budget of \$82,000,000:

Phase 1

- **Upgrade housing pods A & D to safer standards to house and provide programs to high security inmates**
 - **Install 12 two-person rooms in upper mezzanine, replacing 12 double bunks in open dormitory area**
 - **Install safety and sound barriers on mezzanine level**
 - **Install flexible classification dividers**
 - **Add two two-person ADA cells in each upper mezzanine**

Project Scope for Partial Upgrade & Improvement

Included within available budget of \$82,000,000:

Phase 1 - continued

- **Infill one atrium to provide additional inmate program and visiting areas**
- **Renovate non-operational kitchen to serve CJ#1, CJ#2 and the Hall of Justice facilities**
- **Replace dilapidated and failing HVAC system and repair associated roof areas**
- **Perform targeted seismic structural strengthening**

Not included in Phase 1 – Possible enhancements dependent on final cost of Phase 1

- **Replace entire roof membrane = \$3.2M**
- **Bring entire facility up to ADA compliance = \$3M**
- **Install safety/sound barriers on mezzanine level of remaining pods B,D,E and F = \$3.7M**
- **Retrofit safety cells at County Jail 1 to meet current standards = \$0.63M**
- **Redesign and improve sightlines for mental health observation rooms and medical isolation rooms in C Pod = \$0.2M**

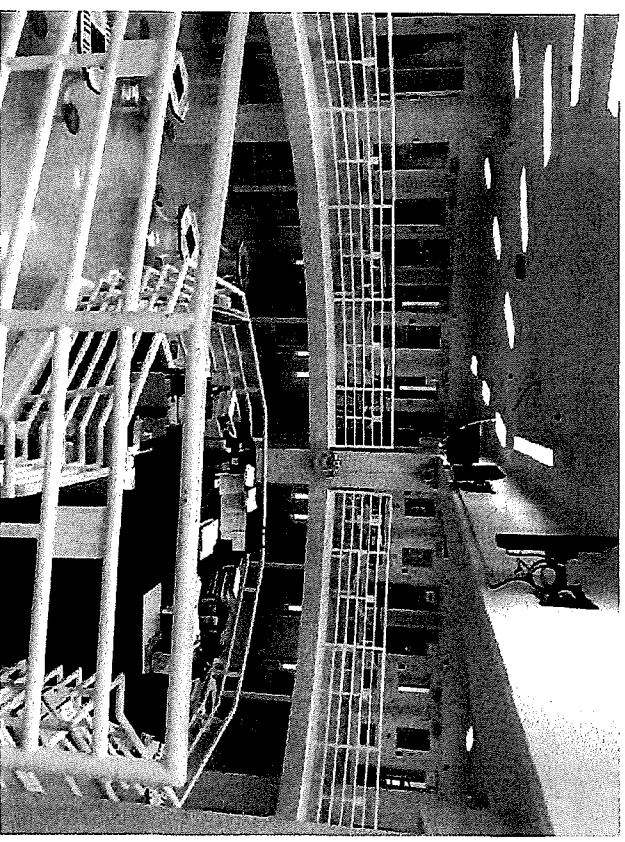
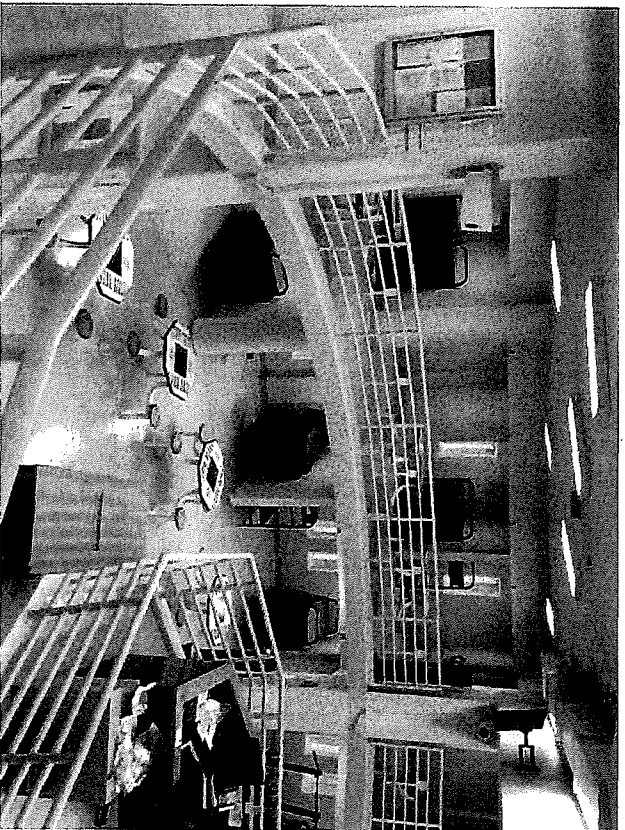
Total \$10.73M



SAN FRANCISCO
SHERIFF

Upgrade two open dormitory-style pods to mixed-use pods by adding two-person rooms to the upper mezzanine levels

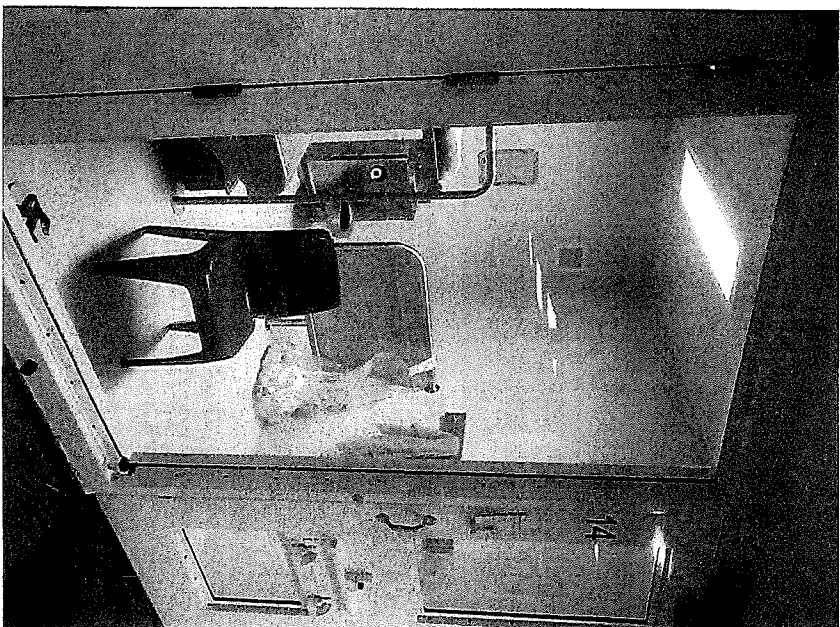
Open upper level dormitory pods → Enclosed rooms on upper level





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SHERIFF**

From open dorm bed to secure room

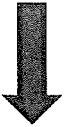
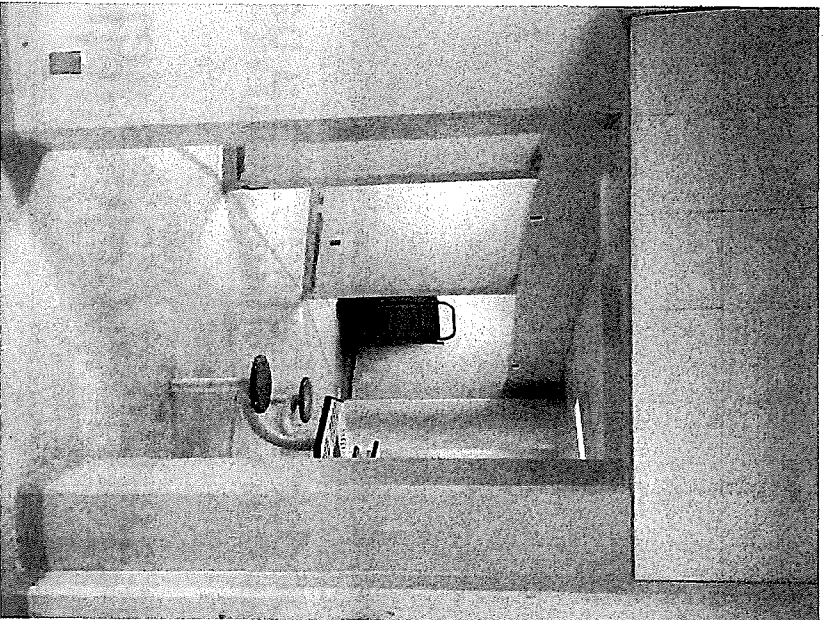




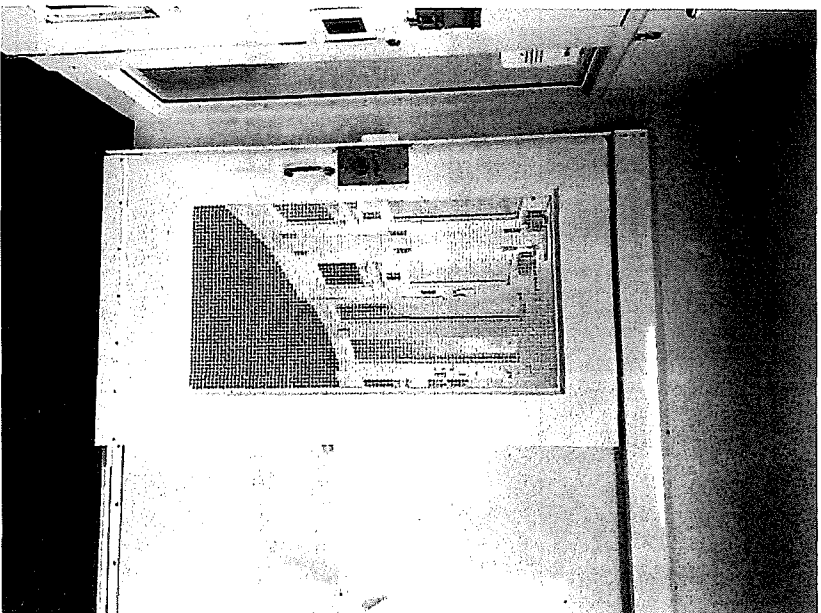
SAN FRANCISCO
SHERIFF

Install flexible classification dividers A and D Pods

Lack of housing area divisions



Can be left open or closed

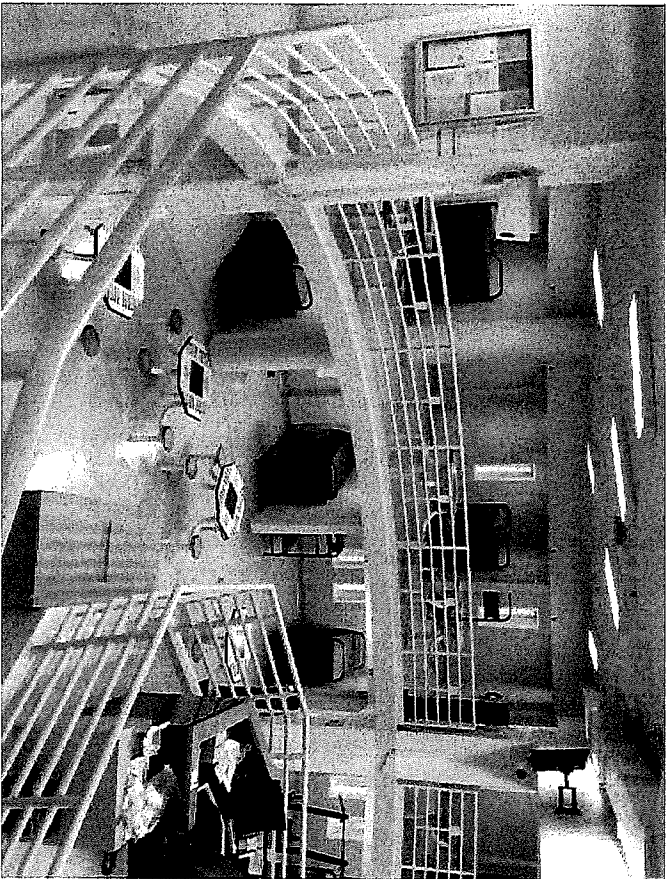




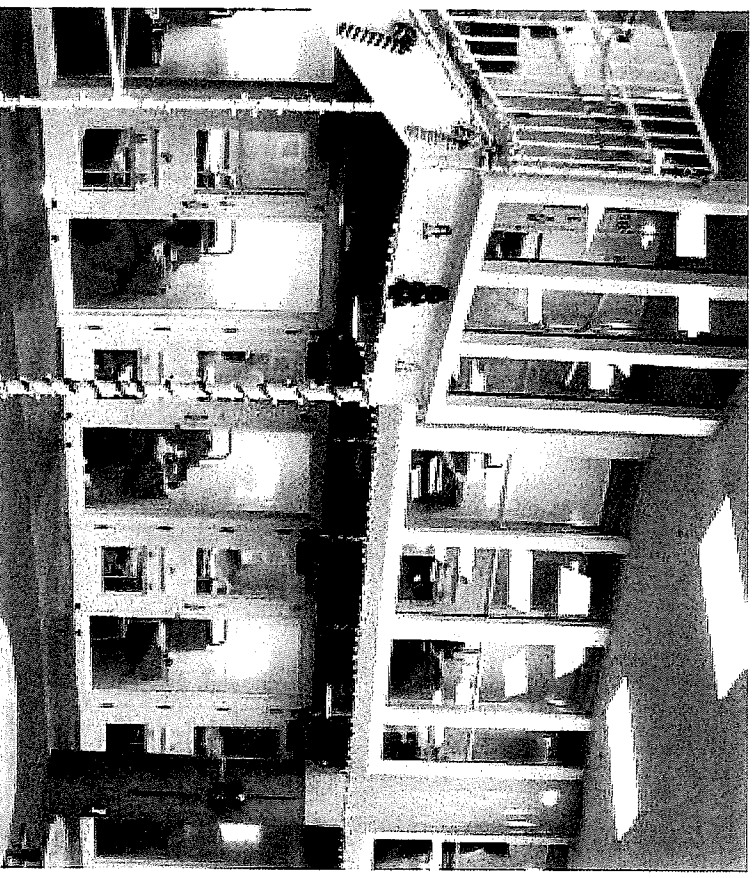
**SAN FRANCISCO
SHERIFFS**

Install safety barriers in Pods A and D

Open mezzanines on upper level



**Enclosed mezzanines – clear
barriers for safety and noise
abatement (CJ#5)**

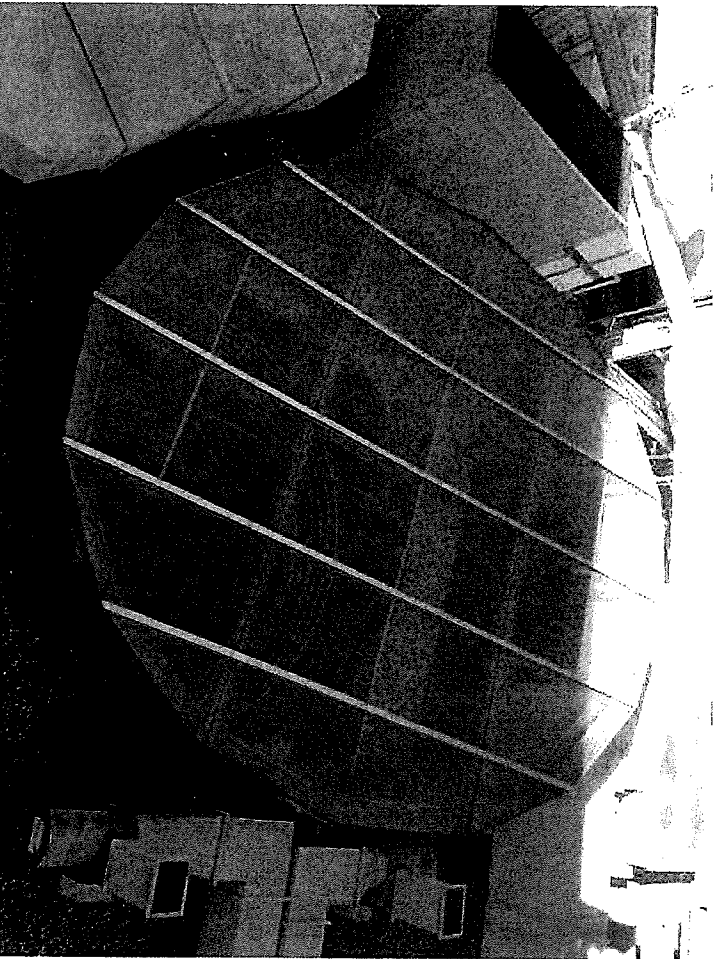




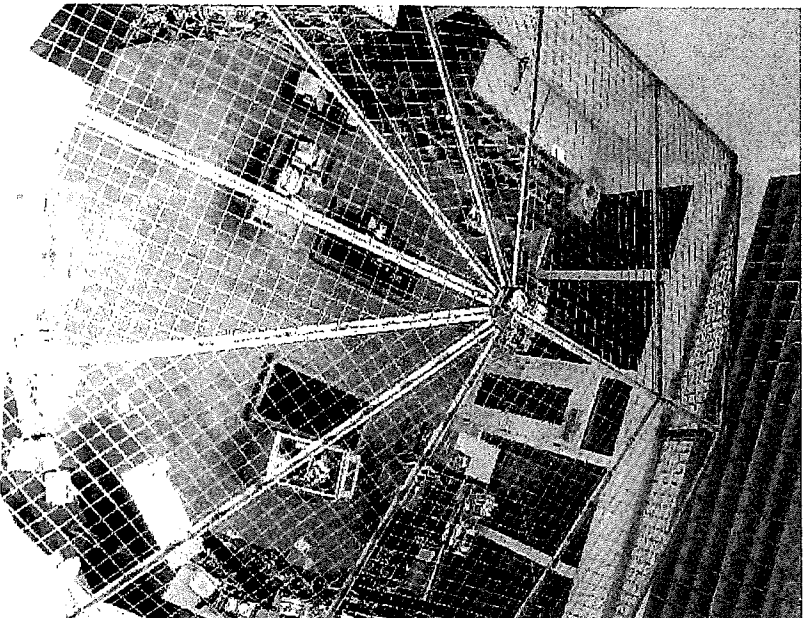
SAN FRANCISCO
SHERIFF

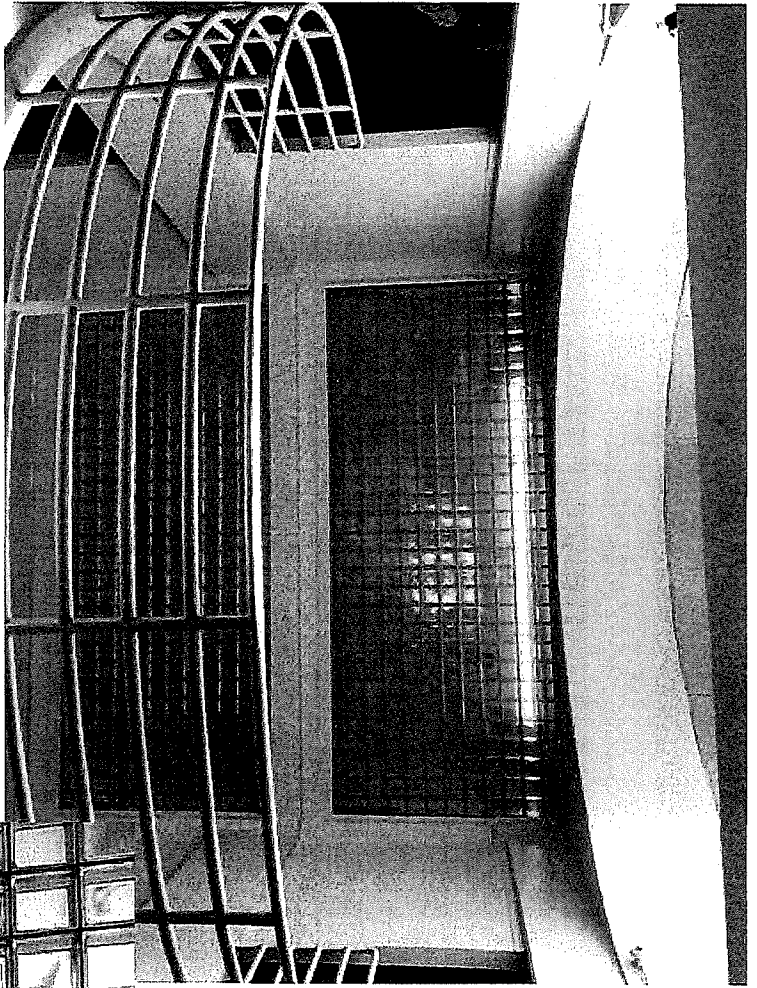
Infill atrium to create additional program space

**Open atrium space from floor 2 to 6
as seen from roof**



**Create additional floors for
program space**





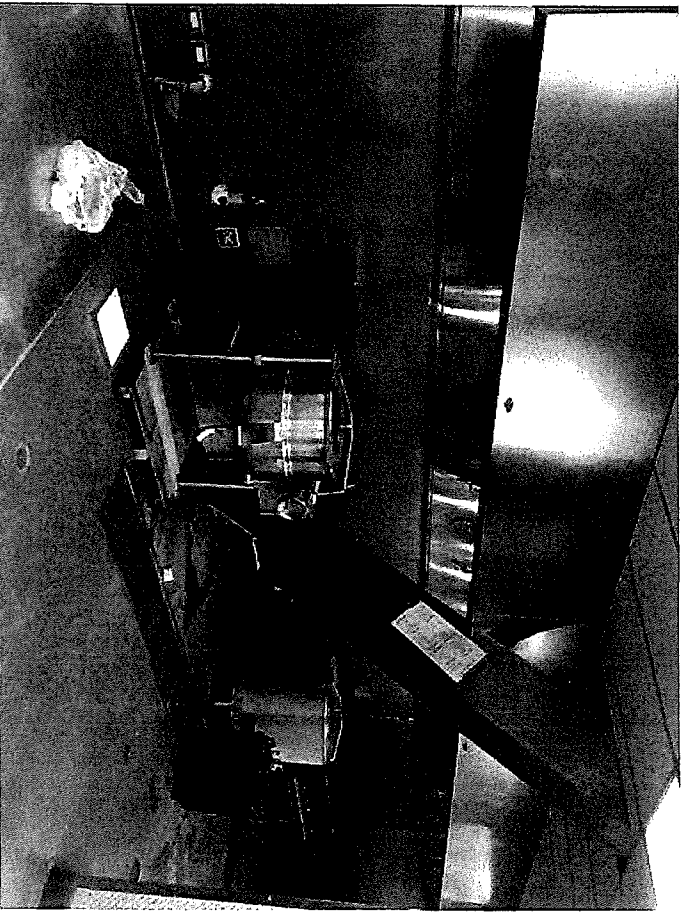
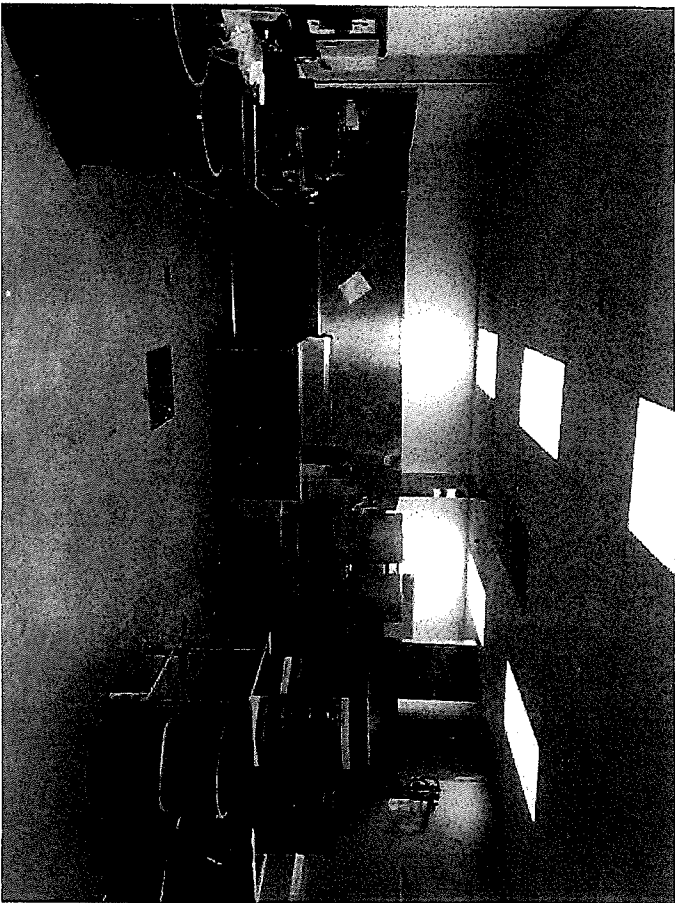
**Additional views of
CJ#2 atriums**

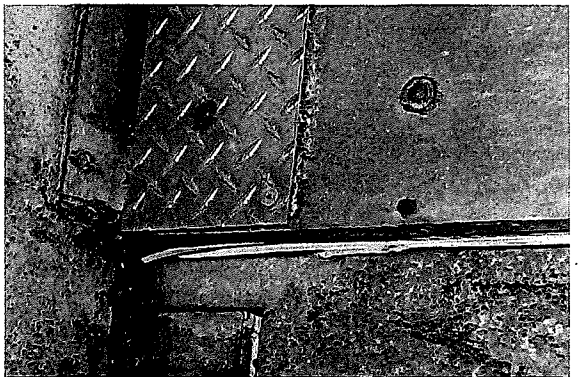
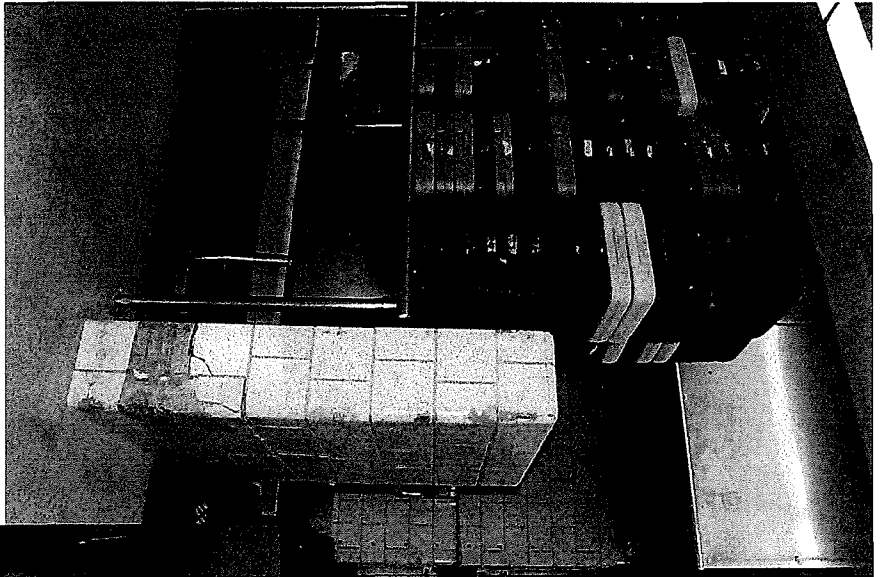
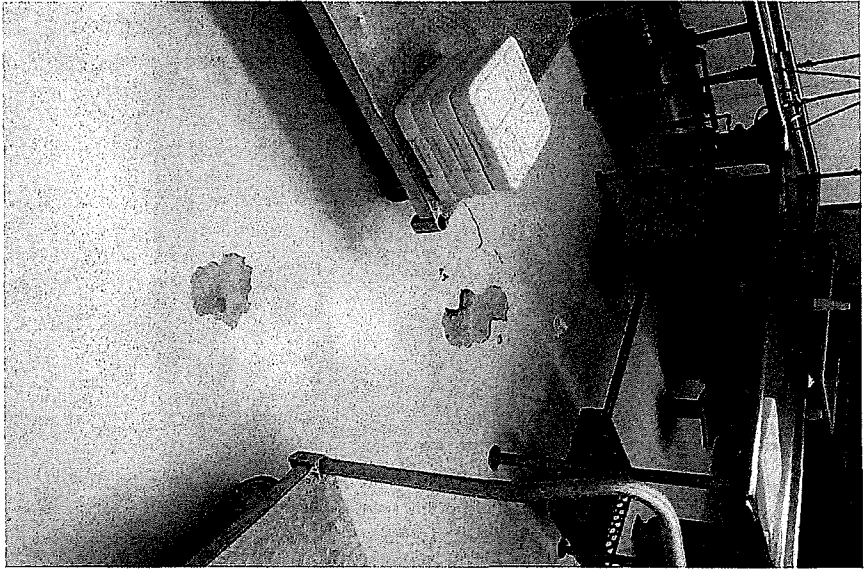


**SAN FRANCISCO
SHERIFFS**

Renovation of kitchen to replace kitchen at CJ#4 and serve Hall of Justice area facilities

Existing CJ#2 kitchen



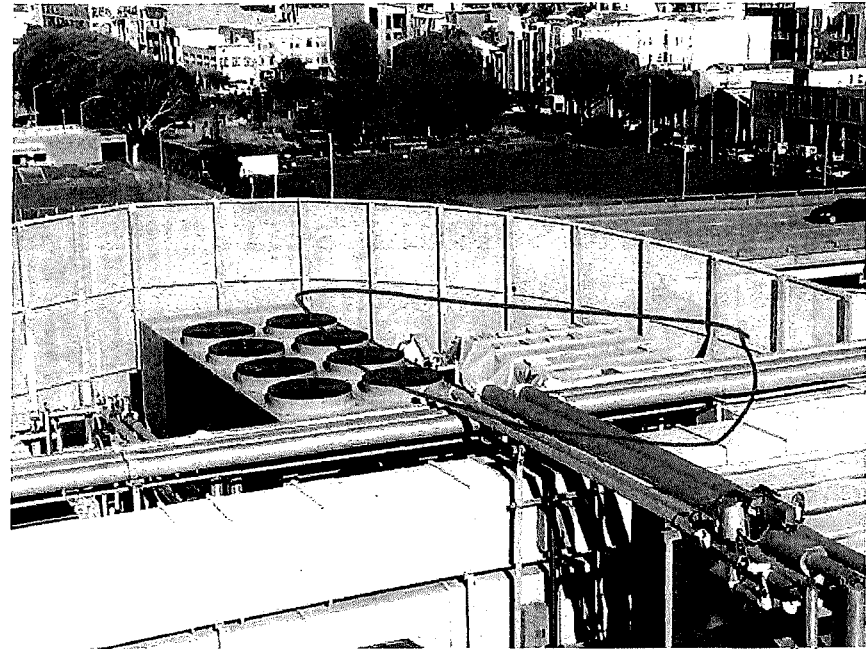


Existing CJ#4 kitchen at Hall of Justice



Infrastructure Repair and Upgrades

- **Replace dilapidated and failing HVAC system**
- **Perform targeted seismic structural strengthening**
- **Achieve partial code compliance for ADA and Fire/Life Safety**
- **Repair and replace portions of the roof due to serious water intrusion**





BSCC renovation funding will result in:

- **Enhanced safe and secure housing**
- **More flexibility for housing some higher risk inmates outside of CJ#4 – Hall of Justice**
- **Additional program availability**
- **Increased opportunities for family visits**
- **Essential repairs to the roof and HVAC systems**
- **Renovation to the kitchen that will initiate the beginning of divestment of critical services from the Hall of Justice**



Considerations

- **When this project begins in 2019, CJ #2 will need to be vacated for 18 to 24 months. Based on our current census, approximately 200 inmates will need to be moved to alternative housing.**

Possibilities include:

- **Prepare now-vacant CJ #3 at the Hall of Justice for re-population at an estimated cost of \$3M and move the prisoners to that jail.**
- **Rent space outside of San Francisco at an estimated cost of \$125 per prisoner per day, for a total of \$13.5 M for 18 months, not including transportation.**



What This Project Does Not Do

- **Due to a limited budget, this project does not address many of the remaining deficiencies at County Jail #2, including but not limited to:**
 - **A complete repair of the facility roof**
 - **Replacement of failing showers throughout the facility**
 - **Replacement of bunks to current standards**
 - **Replacement of room doors with access slots**
 - **Movement of master control room to interior of facility**
 - **Installation of security sally port doors**



What This Project Does Not Do:

- **This project does not fully divest 425 7th Street from dependence on critical infrastructure and systems provided by the Hall of Justice.**
 - **Data Lines**
 - **Steam lines**
 - **Natural Gas Lines**
 - **Emergency Generator**
 - **Loading Dock**
 - **Storage Freezer**
 - **Loading Dock**
 - **Supply Storage**
 - **Inmate Court Transport Holding**



SAN FRANCISCO
SHERIFF

What This Project Does Not Do:

- It does not permanently close County Jail 3 and 4





SAN FRANCISCO
SHERIFF

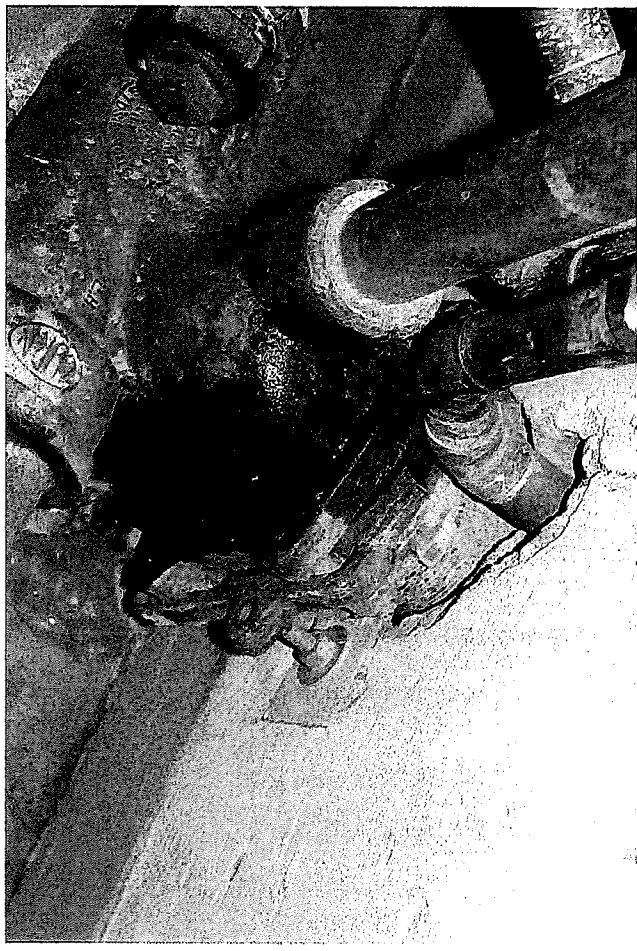
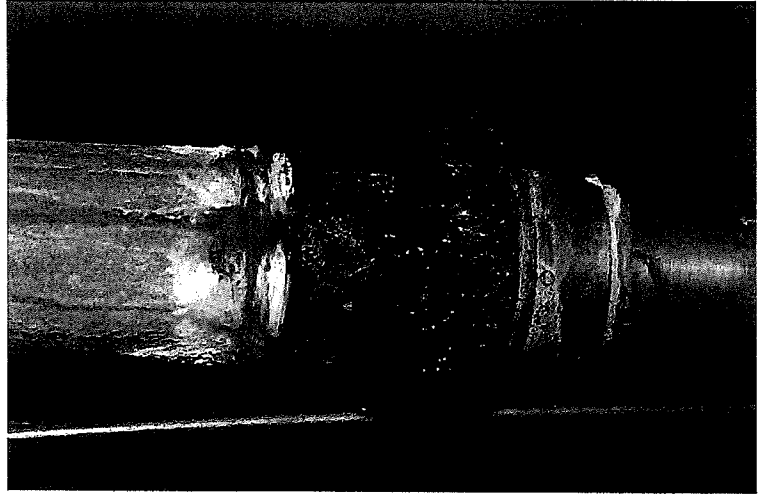
Hall of Justice – County Jail #4





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SHERIFF

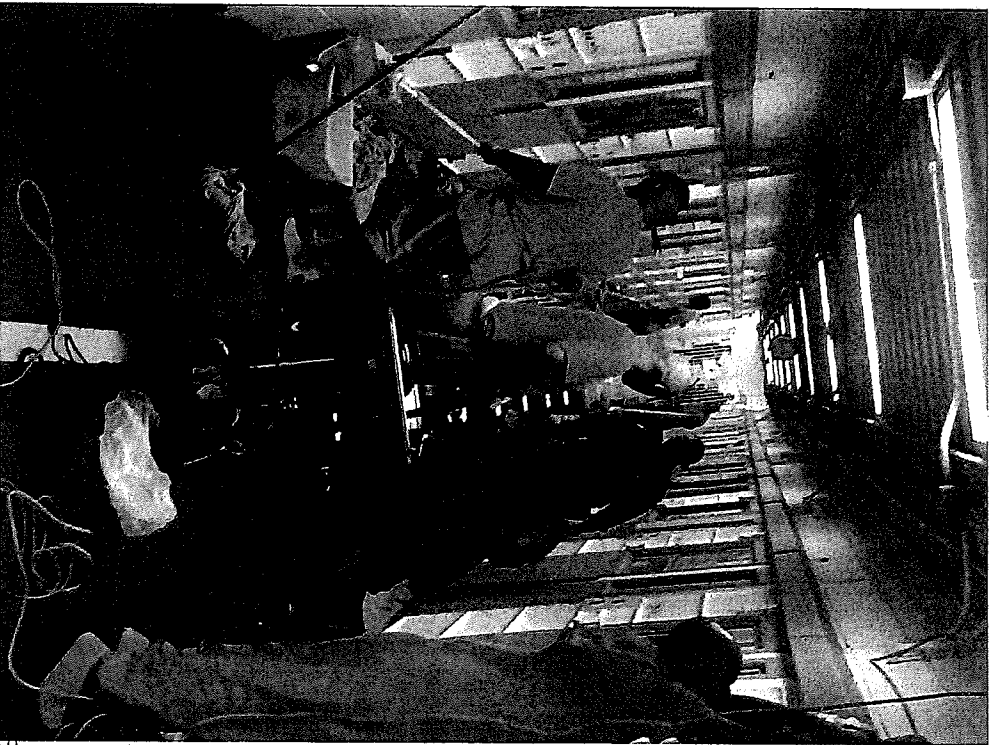
Hall of Justice County Jail #4 Plumbing Deficiencies





SAN FRANCISCO
SHERIFF

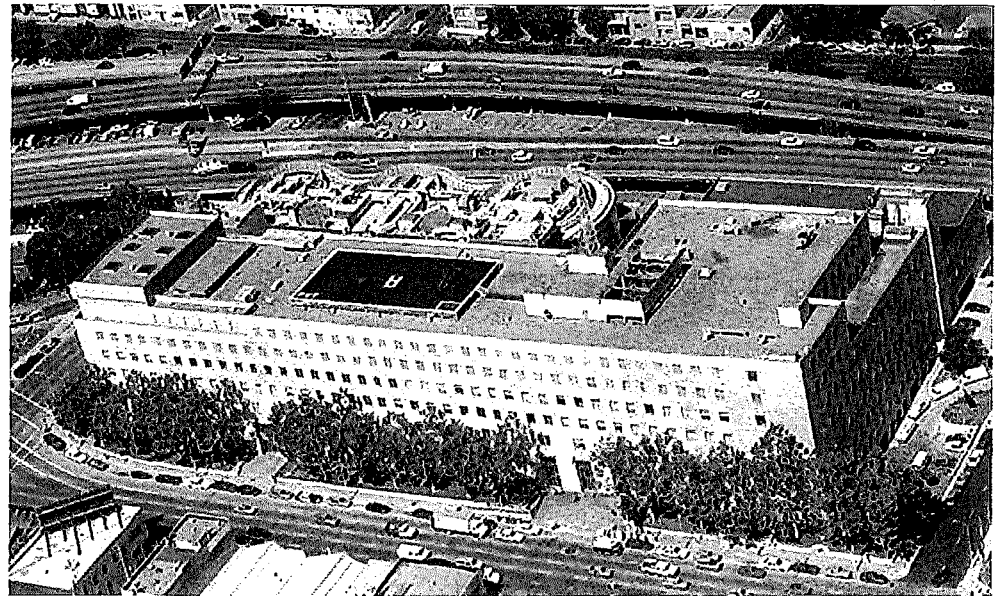
**County Jail #4 – Plumbing
Overflow**
January 27, 2017





Next Steps / Important Dates

- February 6 – Capital Planning Committee
- February 9 - Budget & Finance Hearing
- February 14 - Board of Supervisors Hearing
- February 28 - RFP submission deadline



Member, Board of Supervisors
District 10



City and County of San Francisco

MALIA COHEN
馬莉亞郭嫻

DATE: February 2, 2017

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Malia Cohen *MC*

RE: Budget and Finance Committee
COMMITTEE REPORT

RECEIVED
SAN FRANCISCO
2017 FEB -3 AM 11:35
BY *MC*

Pursuant to Board Rule 4.20, as Chair of the Budget and Finance Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, February 14, 2016, as Committee Reports:

170065 Funding Application - Board of State and Community Corrections - Renovation of County Jail No. 2 - \$70,000,000 of State Funding - \$12,000,000 of Additional City Funding

Resolution authorizing the Sheriff's Department to submit a funding application to the Board of State and Community Corrections pursuant to California State Senate Bill 844 (2016) for \$70,000,000 for a proposed project to renovate County Jail No. 2; outlining the matching cash contribution of \$8,200,000 and additional funds of \$3,800,000 for a total of \$12,000,000 needed for the proposed project; and conditionally approving the form and execution of associated financing and construction documents.

