

## **North County Jail Facility**

### **Agreement for Section 7 Consultation with U.S. Fish and Wildlife Service**

This Agreement is dated December 13, 2005, and is made and entered into by the County of Santa Barbara ("County") and the United States Immigration and Customs Enforcement Agency ("ICE").

#### **RECITALS**

**Whereas** Santa Barbara County is pursuing the design and construction of new North County Jail, and is preparing the required environmental documents to review a 1520 bed Adult Detention Facility, encompassing approximately 476,940 square feet to include administration, transportation, medical, food services, laundry, maintenance, warehousing, vocational programs and an arraignment court. The initial phase will consist of 808 beds with the support areas for full build-out. The first phase will encompass approximately 330,000 square feet. Subsequent phases are anticipated to add housing to accommodate 712 beds, as necessary, and may potentially include an arraignment court, emergency vehicle operation course, public safety training facility, and a lead free indoor firing range.

**Whereas** the Santa Barbara Sheriff's Department routinely houses, and will continue to house in the proposed facility criminal alien inmates who are: (a) born outside the United States or one of its territories with no reported or documented claim to U.S. citizenship; (b) in custody for four or more consecutive days during the reporting period; (c) convicted of a felony or second misdemeanor for violations of state or local law; and (d) identified and reported using due diligence;

**Whereas** the Santa Barbara Sheriff's Department has historically met the criteria for, has received, and is anticipated to continue to receive, federally sponsored State Criminal Alien Assistance Program ("SCAAP") funding which will assist in providing the Sheriff's department current and future facilities for this purpose;

**Whereas** Section 7(a)(2) of the Federal Endangered Species Act (ESA) of 1973, as amended ("Act")(16 U.S.C. 1531 et seq.) requires federal agencies to consult with the U.S. Fish & Wildlife Service ("USFWS") to ensure that actions they fund, authorize, permit, or otherwise carry out will not jeopardize the continued existence of any listed species or adversely modify designated critical habitats;

**Whereas** the U. S. Immigration and Customs Enforcement Agency, the beneficiary of the SCAAP and illegal alien housing programs, is defined by the Endangered Species Act as the "Action Agency" and the County as the non-federal

“Applicant”, and as such is required to request consultation with the U.S. Fish and Wildlife Service;

NOW, THEREFORE, the parties agree as follows:

1. The U. S. Immigration and Customs Enforcement Agency hereby agrees to participate with the County in the role of Action Agency for the North County Jail project, as provided in the Endangered Species Act [50 CFR 402]. As set forth in the Act, the Action Agency will meet its obligation to the Applicant through fulfillment of the following:

- a. Request an “Early Consultation” with the USFWS for the North County Jail Facility project, designating Applicant as Action Agency’s representative for this consultation.
- b. Provide the Applicant opportunity to submit information for consideration during the consultation.
- c. Provide the Applicant an estimated length of any extension of the 180-day timeframe the USFWS may require for preparing the biological assessment, with supporting reasons.
- d. Cooperate with the Applicant by allowing Applicant to review and comment on draft biological opinions by USFWS.
- e. Accept responsibility pursuant to the Act to ensure Applicant’s compliance with any requirements imposed by an incidental take permit issued, subject to the indemnification provision below.
- f. Cooperate in the preparation of environmental documents that satisfy the procedural and content requirements of both CEQA and NEPA, subject to the provisions of paragraphs 2 and 3 below.

2. The Applicant shall prepare all letters, certifications, assessments, environmental documentations, studies and other items required by the USFWS, on behalf of the Action Agency and for the Action Agency’s review and approval as it may desire, for purposes of this Section 7 consultation process.

3. Santa Barbara County shall indemnify and hold U.S. Immigration and Customs Enforcement agency, and its agents, officers and employees, harmless from and against all claims, damages, losses, causes of action and expenses, including attorneys’ fees, for any personal injury, bodily injury, loss of life or

damage to property, violation of any federal, state or municipal law, ordinance or constitutional provision, or other cause which arise out of, relate to, or result from the activities or omissions, negligent or otherwise, under this Agreement of the County of Santa Barbara, and its officers, agents and employees, including performing or authorizing the performance of, or in failing to perform or authorize the performance of any work, services or functions provided for, referred to in or in any way connected with any work, services or functions to be performed under this Agreement.

4. This Agreement shall be effective on the date on which the last of the County and the United States Immigration and Customs Enforcement Agency sign this Agreement, as reflected on the signature page hereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the dates set forth below.

Dated: \_\_\_\_\_

U. S. Immigration and Customs Enforcement

\_\_\_\_\_  
David Wales, Resident Agent in Charge

Dated: \_\_\_\_\_

COUNTY OF SANTA BARBARA

ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Board Chair, Susan Rose

By: \_\_\_\_\_

Approved as to form:  
COUNTY COUNSEL

By: \_\_\_\_\_