

County of Santa Barbara
General Services
Capital Projects Division

PROFESSIONAL SERVICES AGREEMENT

Between

THE COUNTY OF SANTA BARBARA

And

Kitchell/CEM, Inc.

For

**CONSTRUCTION MANAGEMENT, COMMISSIONING, AND RELATED
PROFESSIONAL SERVICES**

For

Northern Branch Jail- SB1022 STAR Project

PROJECT NUMBER: 8747

March 24, 2015

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PROFESSIONAL SERVICES AGREEMENT

FOR

CONSTRUCTION MANAGEMENT, COMMISSIONING, AND RELATED PROFESSIONAL SERVICES

ADULT DETENTION FACILITY

This is an agreement between THE COUNTY OF SANTA BARBARA (hereinafter "Owner" or "County") and Kitchell/CEM, Inc. (hereinafter "Consultant").

PART 1 - RECITALS

- 1.01 WHEREAS**, this Professional Services Agreement (hereinafter "PSA") sets forth the terms and conditions pursuant to which Consultant, as a Construction Management Professional and Commissioning services professional, will provide Construction Management, Commissioning, and related professional services (hereinafter "Services") for the Northern Branch Jail- SB1022 STAR Project (hereinafter "Project").
- 1.02 WHEREAS**, Consultant was selected by means of the County's consultant selection process, represents itself as a Construction Management and Commissioning Professional having the requisite qualifications, licenses and agrees to perform such Services.
- 1.03 WHEREAS**, Consultant will perform such Services pursuant to the scope of work defined in Project Phases, the compensation for which to be negotiated individually and collectively by both parties to this PSA and collectively establishing the full compensation of this PSA, and to be given Notice To Proceed on by Owner's Authorized Representative pursuant to this PSA.

NOW, THEREFORE, Owner and Consultant agree as follows:

PART 2 - PROJECT AUTHORIZATION, TERM AND MAXIMUM COMPENSATION

2.01 Agreement For Services.

- A. This Professional Services Agreement sets forth the terms and conditions pursuant to which Consultant, a construction management and commissioning Professional, will provide Construction Management and Commissioning services, including pre-construction phase services, to the County as it deems necessary to complete the Project. This PSA represents a negotiated scope of work and associated compensation for the entire Project. The entire Project is comprised of the sum of Project subsets, or work phases called Project Phases, for which partial compensation is identified. The County will authorize Consultant to perform the total Project, one or more phase at a time, by issuing Authorization to proceed with individual Project Phases. Each Project Phase will set forth the Project Phase title to reference the PSA Section defining the scope of services and deliverables for that phase, and the maximum compensation for the phase.

2.02 Maximum Compensation.

- A. Compensation for entire Project, which equals the sum of all Project Phases issued pursuant to this PSA, shall not exceed **\$2,396,006 (Two Million Three Hundred Ninety Six Thousand Six Dollars)**. If Consultant performs services or incurs expenses beyond this Maximum Compensation Limit, Consultant does so at Consultant's sole risk and expense. County shall not be obligated to pay more than the amount set forth in this paragraph except as may be provided in a written amendment signed by both parties.

2.03 Term

- A. This Agreement is effective upon the date of full execution by both parties, and shall remain in effect for a period of **60 months** ("Term"), unless earlier terminated under **Part 12** of this

Agreement. All Project Phases shall be executed, but Services not necessarily completed, within the Term of this Agreement.

2.04 Scope

- A. The Services and Deliverables identified in [Part 5, "Consultant's Responsibilities, Services, And Deliverables"](#), of this PSA, establish the full extent of the Services and Deliverables agreed to between parties, and include the Project Phases identified in [Part 4](#).
- B. Any act or event affecting any particular Project Phase, such as its completion, termination, acceptance, non-acceptance, continuation or modification, shall not affect any other Project Phase or this PSA unless specifically provided herein or agreed in writing by the parties.

2.05 Definitions.

- A. Construction Management- A professional management practice consisting of an array of services applied to construction projects and programs through the planning, design, construction and post construction phases for the purpose of achieving project objectives including the management of quality, cost, time and scope. A professional Construction Manager (CM) acts as an extension of staff to the Owner and manages the entire project with pre-planning, design, construction, engineering and management expertise that can assure the best possible project outcome no matter what type of project delivery method used.
- B. Commissioning - Per the American Society of Heating, Refrigeration, and Air Conditioning Engineers, Commissioning Guideline 0-2005, the commissioning process is defined as "a quality-focused process for enhancing the delivery of a project. The process focuses upon verifying and documenting that the facility and all of its systems and assemblies are planned, designed, installed, tested, operated, and maintained to meet the Owner's Project Requirements."
- C. Contractor or Sub Contractor - A separate party that the County contracts with to build the project.

PART 3 - OWNER'S RESPONSIBILITIES

3.01 Owner Provided Information.

- A. Owner shall provide the following for Consultant's use in connection with the Services:
 - 1. Senate Bill No. 1022
 - 2. Santa Barbara County Response to California Senate Bill (SB) 1022 Request for Applications, October 17, 2013.
 - 3. California Department of Corrections and Rehabilitation's (CDCR) "Capital Outlay and State Public Works Board (SPWB) Guidelines", March, 2014.
 - 4. Board of State and Community Corrections Title 15 Division 1, Chapter 1, Subchapter 6, "Construction Financing Program".
 - 5. Board of State and Community Corrections SB1022 – Requests for Proposals, Construction of Adult Local Criminal Justice Facilities, July 23, 2013.
 - 6. Owner's Project Manual.
 - 7. Capital Projects Standards.
 - 8. County of Santa Barbara Space Standards.
 - 9. Santa Barbara County Sheriff's Transition and Re-entry (S.T.A.R.) Space Outline, Rosser, September 2013.
 - 10. Owner's Project Requirements (OPR).
 - 11. Final Subsequent Environmental Impact Report (EIR, 07EIR-00000-00003), Rincon Consultants, February 27, 2008.

12. Addendum to EIR (07EIR-00000-00003) dated December 6, 2011.
 13. Addendum to EIR (07EIR-00000-00003) dated September 30, 2013.
 14. A certified survey of the Project site prepared by a California licensed Land Surveyor or Civil Engineer. The survey will include site boundaries, contours, drainage, grades and lines of streets, pavements, and adjoining properties, rights-of-way, easements, encroachments, zoning and other restrictions; information on available public and private utilities services, above and below grade, including inverts and depths.
 15. Professional Service Agreements with other consultants retained for the Project.
 16. Shop drawings, vendor support and all data and power requirements necessary for coordination of movable furniture & equipment unless otherwise provided in this PSA.
 17. Construction management plan originally prepared for the Northern Branch Jail AB900 project.
 18. Upon request, any information related to the AB900 project deemed necessary, at the County's discretion.
- B. Consultant shall make a written recommendation to the Owner regarding the completeness or sufficiency of any survey or specialized study, as it pertains to Consultant's Services, provided to Consultant, or the need for any study or survey that the Consultant believes is required for the Project that is not included within Consultant's Services.

3.02 Approval & Permit Fees.

- A. Owner will pay all fees required by any law, imposed by jurisdiction having authority over a Project for filing and checking of any item of Service prepared by Consultant, and such fees necessary to secure approvals and permits for the Project from any Governmental Agency.

PART 4 - PROJECT PHASES

4.01 Preparation and Approval.

- A. The Owner's Authorized Representative ("OAR") for this PSA is the Director of General Services Department, or that Director's Designee.
- B. Owner hereby approves all Project Phases executed by OAR within the limits of this PSA. OAR does not have the authority to negotiate or authorize payments or scope beyond the Maximum Compensation Limit or scope stated in this PSA.
- C. Commencement of each Project Phase is contingent on receipt by Consultant of an Authorization to Proceed issued by OAR. Consultant shall not commence work until Consultant receives the written Authorization to Proceed from the OAR.
- D. Any act or event affecting any particular Project Phase, such as its completion, termination, acceptance, non-acceptance, continuation or modification, will not affect any other Project Phase or this PSA unless specifically provided herein or agreed in writing by the parties.

4.02 Changes in Scope.

- A. If Owner requests a change in the requirements of a Project Phase that Consultant contends is material and justifies an increase in compensation, Consultant shall within fourteen (14) calendar Days of the Owner's request, advise Owner in writing before proceeding with such change. Said advisement shall include Consultant's opinion of the circumstances and reasons causing the change and Consultant's estimate of cost of the change. If written notice is not given to Owner within said fourteen (14) Days, such change will be deemed not material and Consultant will not be entitled to additional compensation for the change in the requirements of the Project Phase.
- B. If Owner causes a material change in the Service(s) or Deliverable(s), Consultant shall within fourteen (14) calendar Days of Consultant's discovery of the event that caused the material change, notify Owner in writing that Consultant contends Owner has caused a material change in their Service(s) or Deliverable(s). After said notification, Consultant shall provide

such Service or Deliverables as directed by Owner. If Owner concurs that there has been a material change in a Service or Deliverable, payment to Consultant will be adjusted in accordance with [Part 11.01.A.4, "Changes"](#).

- C. If Consultant discovers a means of achieving a material decrease in the scope of Services required to perform a Project Phase, Consultant shall immediately notify OAR and thereafter accept a reasonable reduction in compensation.

4.03 Project Phases.

- A. The Project Phases of this PSA under which Consultant shall provide Construction Management (CM) and CM related services, including review of Architect Engineer's work products in each phase, are as follows:
 - 1. Architectural Programming.
 - 2. Schematic Design.
 - 3. Design Development.
 - 4. Enhanced Design Development
 - 5. Construction Documents
 - 6. Bidding.
 - 7. Construction Administration.
 - 8. Operation/Project Close-Out.
 - 9. Warranty.
- B. The maximum compensation of each of the above listed phases is established within this PSA. The sum of these will equal the Maximum Compensation Limit of this PSA.

PART 5 - CONSULTANT'S RESPONSIBILITIES, SERVICES, AND DELIVERABLES

5.01 State of California SB 1022 Agreements

- A. The Project is primarily funded through a conditional award under State of California State Bill (SB) 1022 lease-revenue bond financing of new detention facilities. Accordingly, to remain eligible for the conditional award, the County of Santa Barbara is obligated to comply with the terms of primarily the following two agreements to be executed by the County of Santa Barbara on and the State of California Public Works Board ("SPWB"), California Department of Corrections and Rehabilitation ("CDCR") and Board of State and Community Corrections ("BSCC") . Consultant's work product and delivery shall comply with the terms and conditions of the following agreements and their Exhibits and Attachments. These agreements are attached to this PSA as Exhibits and made part of this agreement:
 - 1. Exhibit I: BSCC Jail Construction Agreement ("JCA"), Sample Document Provided.
 - 2. Exhibit J: CDCR Project Delivery and Construction Agreement ("PDCA"), Sample Document Provided.
- B. Consultant's responsibilities under the Agreements referred to in [Part 5.01.A](#) include but are not limited to the following:
 - 1. Books and Records. Consultant shall maintain adequate fiscal and Project books, records, documents, and other evidence pertinent to Consultant'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.
 - 2. Record Maintenance Period. These records shall be maintained for a minimum of three years after the date on which no Project bonds are outstanding (hereinafter "Expiration Date"), estimated to be 2041 if 20-year bonds are issued in 2018. If any litigation, claim,

negotiation, audit, or other action involving the records has been started before the Expiration Date, the records must be retained until the completion of the action and resolution of all issues which arise from it, or until the Expiration Date, whichever is later.

3. Access to Books and Records. Consultant shall make such books, records, supporting documentations, and other evidence available to the BSCC or designees, the CDCR, the State Public Works Board, the State Department of General Services, the State Department of Finance, the Bureau of State Audits, or their designated representatives, during the course of the Project and the Records Maintenance Period and provide suitable facilities for access, monitoring, inspection, and copying thereof. Further, Consultant shall include a similar Record Maintenance Period and right of the state to audit records and interview staff in any subcontract related to the performance of this Agreement.
4. Contractor Advisement. By its execution of this Agreement, Consultant acknowledges that a partial source of financing for the agreement between the County and Contractor for construction of the Project is the State Financing, and that the County may not have funds to finance the Agreement for Construction independently of the State Financing. Consultant shall in all ways cooperate with the County and the BSCC in maintaining a good working relationship. Consultant shall cooperate as instructed by the OAR or other County designee in resolving any disputes arising under the Agreement.
5. Construction Specification Institute (“CSI”) Divisions. To the extent applicable to this Agreement, Consultant shall list construction costs according to CSI Division. CSI Divisions for Project will be set forth in the Schedule of Values to be approved by County.

5.02 Scope of Project.

- A. The Project scope is defined as provided in “Exhibit H”, “County of Santa Barbara Project Establishment Package” described as follows:
 1. This project will design and construct an expansion of the existing AB 900 county jail on county-owned land. The expansion will include housing, treatment, and program space and provide approximately 228 beds. The project will be dependent on the adjacent AB900 Phase II jail facility for several core operational components including food services, laundry, administration, and maintenance.
 2. The housing areas will include double occupancy and multi-occupancy cells, day rooms, exam rooms, a classroom, and program and visitation space. The project will also include outdoor recreation space, centralized program space, a conference room, and staff support and storage space.
 3. This project will also include, but is not limited to, electrical; plumbing; mechanical; heating, ventilation, and air conditioning; security; fire protection systems; and parking for staff and visitors. In addition, a portion of the facility will be separated by a fence to provide grounds security.
 4. This scope as defined in this [Part 5.02.A](#) may be modified only if the BSCC and CDCR give Owner written approval, and OAR gives subsequent direction to Consultant in writing.
- B. The project scope as outlined in Santa Barbara County Response to California Senate Bill (SB) 1022 Request for Applications, October 17, 2013:
 1. This project will design and construct approximately 52,000 gross square feet of housing, treatment, programming and reentry space on approximately 6± acres of the greater 50± acres of county owned land. The project will include one new

building constructed primarily of steel and concrete for long-term durability. The building will provide housing for transitional, step-down and reentry, and will have co-located resources from the adjacent jail. The housing space will include approximately 228 beds designated for treatment, programming and transitional housing and will contain day rooms, classroom, vocational training space and visitation space. Services provided by the adjacent jail facility include foodservice, laundry, administration, and maintenance. The treatment and programming space will provide areas for larger groups to assemble and includes a training kitchen, conference room and storage. The program areas will provide opportunities beyond those available in the housing units and space for interaction and involvement with the community. The reentry space will provide office space for staff including a conference room, locker room and supply storage.

5.03 Construction Delivery Method.

- A. The delivery method will be a single prime contractor design-bid-build (DBB).

5.04 Consultant as Independent Contractor.

- A. Consultant is performing all Services as an independent contractor and not an agent or employee of County. The expertise and experience of Consultant are material considerations for County's execution of this PSA. Consultant shall not assign or transfer any interest in this PSA nor the performance of any of Consultant's obligations hereunder, without the prior written consent of Owner, and any attempt to so assign this PSA, or any rights, duties or obligations arising hereunder, shall be void and of no effect.

5.05 Consultant's Use of Subconsultants.

- A. Consultant and Owner agree that Consultant's unique talents, knowledge and experience form a basis for this PSA and that the services to be performed by Consultant under this PSA are unique in character to Consultant. Therefore, Consultant shall not subcontract, assign or delegate any portion of this PSA or any duties or obligations hereunder unless approved by Owner in a written instrument executed and approved by the Owner in writing. Neither party shall, on the basis of this PSA, contract on behalf of or in the name of the other party. Any agreement that violates this Paragraph shall confer no rights on any party and shall be null and void.
- B. Consultant shall use the Subconsultants identified in this PSA, Exhibit B, and shall not substitute Subconsultants unless approved by written instrument executed and approved by the Owner in writing.
- C. To the extent Consultant is permitted by Owner in writing to subcontract, assign or subcontract any portion of this PSA or any duties or obligations hereunder, Consultant shall comply with all applicable prompt payment laws and regulations (including, without limitation, California Civil Code, Section 3321). Consultant shall remain fully liable and responsible for all acts and omissions of its Subconsultants in connection with the Services or the Project, as if it engaged it the acts and omissions directly.

5.06 Criteria Governing Consultant's Services on Project.

- A. The Project shall be developed in conformance with the following:
 - 1. Needs Assessment Study ("Needs Assessment Study") as included in the SB1022 proposal.
 - 2. JCA previously defined; a copy of which has been provided to Consultant.
 - 3. PDCA previously defined; a copy of which has been provided to Consultant.
- B. Compliance with Laws: Consultant shall comply with the standard of care applicable to similarly credentialed professionals in design of adult detention facilities, regarding complying

with all requirements of all applicable laws as if set forth in this PSA, including without limitation California Codes of Regulations (CCR) Titles 8, 14, 15, 19, 22 and 24.

1. Assist Owner in ensuring the Architect Engineer's submittals for the State are coordinated fully with BSCC, CDCR, SPWB, the State Fire Marshal and any other authority with jurisdiction, to secure timely review and approval of Project submittals by others including, but not limited to:
 - a. Determining the estimated time from submission to applicable State agencies of plans and specifications to approval of same, including time required for initial review of plans and specifications, and "agendizing" or docketing for approval by Boards members at Board Hearings, and incorporating same into Project schedule.
 - b. Assisting Owner with securing from BSCC budget modifications and related pre-approvals, where appropriate to minimize Project delays caused by such changes.
 - c. Securing early review and approval by applicable State agencies of deferred approval items, including advising Owner of the need to require immediate submission after construction contract award of all necessary submittals for such items, including specifications to this effect in final design documents, and review of proposed contract documents to assure presence of necessary enforcement provisions.
2. Coordinate and cooperate fully with applicable State agencies in its required observation of construction.
3. Advise on:
 - a. Selection of Inspector of Record (IOR), special inspectors, and testing laboratories.
 - b. Preparing addenda and change orders as required by conditions on the Project.
4. Perform general observation of the work of construction.
5. Assist Owner in Architect Engineer's fulfillment of the requirements imposed upon Architect Engineer under Title 24 including, but not limited to, observation and personal contact with the Project, Subconsultants, submitting information to BSCC, CDCR and the State Fire Marshal, and general direction of the work of the Project Inspector (as contemplated by Title 24).
6. Consultant shall review the Architect Engineer's list of testing of materials consistent with the needs of the Project, Architect Engineer's specific instructions to the testing agency prior to the start of construction, and Architect Engineer's notification to BSCC as to the disposition of materials noted on laboratory reports as not conforming to the approved specifications.
7. Consultant shall assist Owner in engaging Project Inspector(s) as required by the BSCC and Title 24, which Project Inspectors will have been approved by the Architect Engineer. Consultant shall submit Project Inspector(s) to BSCC as required. Said Project Inspector(s) shall be under the direction of County.
- C. State Communications: During the Bidding and Construction Phase, assist in securing necessary approvals from applicable State agencies, and assist with and coordinate any necessary approvals with other authorities having jurisdiction (AHJ's).
- D. Prior to the beginning of each design phase, identify all Owner decisions required to maintain the Master Schedule. Provide Owner with at least 15 working days-notice of all decisions required to maintain the Master Schedule.
- E. The Project will be developed and designed in close cooperation with the County's project team and their consultants. Consultant acknowledges its obligation to work with, coordinate with, interface with, exchange ideas with, and otherwise cooperate and collaborate with the

General Services and Sheriff's Offices, their independent consultants, including personnel required for transition planning for Project facility, and operational matters throughout development and design of the Project.

5.07 Consultant's General Responsibilities.

The following General Responsibilities shall apply to all Services under this PSA performed by Consultant personnel and Consultant's agents.

A. Standard of Care.

1. Consultant shall perform Services under each Project Phase in accordance with those standards of care that are generally recognized as being used by competent persons in Consultant's area of specialty in the State of California when performing similar services under similar conditions.
2. Consultant shall perform Services under this PSA in accordance the terms of the JCA and PDCA agreements.
3. Consultant shall perform Services under this PSA in compliance with applicable written federal, state and local codes, statutes, laws, regulations and ordinances in force at the time a Project Phase is awarded.
4. Consultant shall review Architect Engineer's Construction Documents for compliance with applicable California and local regulations and standards, including those of the Fire Marshal having jurisdiction over the Project, and in effect during performance of Architect Engineer's Services.

B. Construction Quality Control Systems.

1. Consultant shall review each of Architect Engineer's Technical Specification Sections to help ensure they include the requirements for the tests, controls, performances and certifications needed to verify the specified quality level of that Section.
2. Consultant shall review each of Architect Engineer's Technical Specification Sections to help ensure they include a subsection to identify and list required Contractor or subcontractor Submittals including but not limited to Shop Drawings, certificates of compliance, Product Data sheets, Samples, tests and test results, mix designs, required worker qualifications, off-site inspections, or all other necessary Contractor Submittals.

C. Testing and Inspection Requirements.

1. Consultant shall assist Owner in hiring a Certified Testing Lab to perform all required tests.
2. Consultant shall review all test results at the time of their generation.
3. Consultant shall review all test results applicable to commissioning at the time of their generation within 10 business days of receipt.

D. Funding by Governmental Agencies.

1. When a Project is to be constructed, wholly or in part, with funds from Federal, State, or other outside funding sources, Consultant shall comply with and incorporate the requirements of said Federal, State, or outside funding sources in the Construction Documents. As described herein, this project is predominately funded by State of California.

E. Sequence of Consultant's Services

1. In general, Consultant's Services will proceed sequentially by the Phases described in [Part 5.10, "Basic Services & Deliverables"](#).
2. At the commencement of each phase, Consultant shall submit a detailed schedule for the OPM's review and approval as required under [Part 6.02](#), which must include the Project Establishment milestones as well as the current and all future

phases identified in this PSA, and report any variances and a plan for accelerating the schedule to maintain the State milestones.

3. In the event of delays to the overall schedule, the Consultant shall communicate to the OPM variances which cannot be accommodated without impacts to the overall schedule, and will assist the OPM in providing all backup required for State review and approval.
 4. Each Project Phase will establish the Consultant's Milestone Schedule, including any additional interim milestones, for completion of the Consultant's Services applicable to that Project Phase.
 5. Commencement of each Project Phase is contingent on receipt by Consultant of an Authorization to Proceed issued by OAR. Consultant shall not commence work until Consultant receives the written Authorization to Proceed from the OAR.
- F. Signing and Stamping Documents.
1. Final Construction Documents and other submittal documents required by Permitting Authorities, which are the responsibility of Consultant, shall be signed (original ink – not printed) as appropriate to the submitted documents.
- G. Submittal of Deliverables
1. Consultant shall furnish to Owner, suitable for reproduction, electronic documents compatible with Microsoft PC systems, AutoCAD 2013 or newer, Microsoft Office 2010 or newer, and Revit 2013 or newer.
 2. Architect Engineer's 100%-level submittals for each phase will generally undergo the following process, accept as otherwise approved by the OAR in writing:
 - a. Architect Engineer submits deliverables to Owner electronically using the DMS (see [Part 5.10.C.5](#)).
 - (1) Consultant submits its Statement of Probable Construction Cost one week later than the rest of the deliverables.
 - b. Owner and Construction Manager will review and generate comments.
 - c. The OAR will review comments; either accepting or rejecting.
 - d. As directed by OAR, Architect Engineer submits deliverables to State agencies.
 - e. State agencies review submittal and provide comments to either be, at the direction of the OAR.
 - (1) incorporated by Architect Engineer and resubmitted to State agencies; or
 - (2) incorporated by Architect Engineer in the subsequent phase (except as provided for 100% Construction Documents phase).
- H. Printing & Reproduction.
1. Consultant shall pay for all printing and reproduction costs incurred in the performance of its Services.
 2. Owner will print Bid Documents for distribution to Bidders at Owner's expense, or shall provide electronic documents for direct purchase by bidders.
 3. At Owner's written request, Consultant shall print or reproduce selected documents. The Consultant may invoice the Owner for Owner-requested printing as a Reimbursable direct expense.
- I. Meetings.
1. "Meetings" include "workshops" and "site-visits".

2. In addition to meetings specifically identified in [Part 5.10, "Basic Services & Deliverables"](#), for each Project Phase, Consultant shall attend meetings as needed or required with the organizations or individuals listed as follows:
 - a. Owner's officials, staff, commissions and user groups as required for the performance of Consultant's Services pursuant to this PSA. This requirement includes meetings with Owner, applicable State agencies and user groups to develop, explain and refine Architectural Program and design criteria and for Consultant to present design solutions for acceptance. This also includes a pre-design kickoff meeting with the Owner's organization.
 - b. Owner-sponsored advisory groups and local officials to present the Project to the public.
 - c. Governmental Agencies having jurisdiction related to the Project or any part of the Project. The Consultant shall schedule and participate in preliminary meetings with all Governmental Agencies having jurisdiction for the Project prior to the start of the Schematic Design Phase and as needed or required thereafter.
 3. Unless otherwise requested by the OAR, Consultant shall prepare agendas for and take minutes of all meetings conducted by Consultant. In said meetings with facility personnel, all discussions that involve scope, a significant design element, or project cost shall be documented by Consultant in the meeting minutes. Minutes shall be distributed by Consultant, and posted on DMS (defined [Part 5.10.C](#) below) by consultant, to participants not later than 2 business days before meeting, and minutes shall be distributed not later than 5 business days after meeting.
 4. The Consultant's fee for attendance at and preparation of minutes for all meetings specifically identified in [Part 5.10, "Basic Services & Deliverables"](#), will be considered included in the overall fee identified in each Project Phase. For other meetings Owner may request Consultant to attend, Consultant will be compensated as set forth in [Part 11.03, "Additional Services"](#).
 5. On-Site Meetings: For Consultants Basic Services, all meetings which Consultant is required to attend shall be in Santa Barbara County, unless otherwise agreed by the OAR, and include Consultant's Project Manager (CMPM), unless otherwise agreed by the OAR. Meetings during pre-construction phases for which Consultant's Construction Phase Manager (CPM) shall also attend will specifically call for inclusion of the CPM. For Construction and post-construction phases, CPM is understood to attend all meetings, except for unavoidable reasons, and is therefore not specifically called out. These "On-Site Meetings" shall be considered to have a duration not exceeding one business day, unless otherwise specified in a Project Phase.
 6. Meetings which Consultant attends remotely and which are less than 1.5 hours in length and do not occur more than twice per week on average over the course of the Project shall be considered part of Consultant's Basic Services.
 7. For meetings Consultant attends remotely and which are 1.5 hours or more in length or occur more than once per week on average over the course of the Project, and which are not specified in [Part 5.10, "Basic Services and Deliverable"](#). Consultant shall be compensated as set forth in [Part 11.03, "Additional Services"](#) for number of Consultant's staff and Subconsultant's approved by the OAR in advance of the meeting.
 8. Owner's Authorized Representative will coordinate all meetings between Consultant, Owner's user groups, and the public.
- J. Consultant's Staff and Subconsultants.
1. Consultant's staff and Subconsultants are identified in [Exhibit B, "Consultant's Staff and Subconsultants"](#) and are subject to the requirements set forth therein.
 2. Changes to Consultant's staff and Subconsultants are subject to written approval as an amendment to the PSA.

- K. Local Labor: Consultant shall recognize it is the Owner's intent to maximize use of local labor in the construction of the Project. Consultant's deliverables in all work phases, where applicable, shall provide Owner with alternatives that provide opportunity to increase use of local labor, for Owner's consideration. Items for discussion shall include, but not be limited to:
1. Design approaches which maximize local production capability, skills, available materials and resources.
 2. Assembly and installation options to maximize local labor.
 3. Communication with local vendors and contractors to ensure proposed approaches are feasible and can be readily employed.
 4. Identification of options and cost impacts which can be weighed to further maximize local labor, local vendor inclusion.
- L. Energy Efficiency Commissioning Goals:
1. Consultant shall provide input on selection of state of the art system designs and equipment selections to minimize overall consumption of energy by the proposed Project (Includes active, such as variable frequency drives and controls, as well as passive, such as insulation selections and equipment positioning).
 2. Consultant shall assist in identifying alternate approaches which endeavor to increase the buildings energy efficiency at least fifteen percent (15%) more than required by Title 24.
 3. Consultant shall support the Architect Engineers toward requirements for meeting a Leadership in Energy and Environmental Design (LEED) Silver rating to the extent consistent with any Project budgetary and operational or usage limitations. Owner acknowledges multiple factors outside the Consultant's control also bear on achievement of LEED ratings with respect to the completed Project.
 4. Consultant shall meet the Owner's Project Requirement's (OPR) set forth in the Project Manual to the best of their ability. Should the criteria in the OPR prove unfeasible or undesirable in light of other factors, consultant shall clearly document the variances and secure the OAR's approval for revision of the OPR accordingly.

5.08 Coordination of Work with Owner's Other Consultants.

- A. For the Project, Owner will utilize and establish professional service agreements with several firms, including the Architect-Engineer and the Project Expert. If the provisions of one of Owner's professional service agreements indicate the same service is to be performed by more than one consulting firm and one such consulting firm is the Consultant for this PSA, Consultant of this PSA shall be responsible for the service, unless otherwise approved in writing by the OAR, and Consultant shall notify the OAR of any duplication or conflict immediately.
- B. Consultant consents to Owner's retaining of an Architect-Engineer and Project Expert who may perform some or all of the functions assigned to the OAR in this PSA, as delegated by Owner.

5.09 Overview of Water Supply and Waste Water Requirements.

- A. Water Supply Development: The point of connection for water shall be extended from the AB900 Jail project, from Golden State Water (potable) and Laguna County Sanitation District (recycled water) facilities to the south of the Project site along Black Rd. For purposes of developing a fee for this PSA, Consultant shall assume the Point of Connection POC extension will be designed and constructed by the AB900 project prior to commencing construction of the SB1022 project. Pursuant to [Part 5.10.B](#) of this PSA, Consultant may be tasked with assisting the Owner with developing a cost sharing plan to apportion a percentage of the water infrastructure to the SB1022 project, and to attain State concurrence with the sharing plan to allow eligible County match to apply accordingly to each project. The scope of this PSA covers all design work required to develop the needed water supply for the Project assuming it will be served by infrastructure already in place under the AB900 project.
- B. Waste Water: The tie into sewer infrastructure shall be accomplished under the AB900 Jail project, which will extend service from Laguna County Sanitation District facilities to the south of the Project site along Black Rd. Consultant shall assume the force main will be designed and constructed under the AB900 project and will allow the SB1022 project to be served from that same infrastructure.

5.10 Basic Services & Deliverables.

- A. Unless the requirements for the Services and Deliverables described herein are specifically modified in writing in a particular Project Phase, when a particular phase of Services is specified and authorized in an individual Project Phase, Consultant shall provide its Services and Deliverables for that phase in conformance with the requirements described in this Section 5.10.
- B. The systems to be included in the commissioning scope include:
 - 1. Heating, Ventilating, and Air Conditioning systems and controls;
 - 2. Indoor lighting systems and controls;
 - 3. Water heating systems and controls;
 - 4. California Energy Code Covered processes – including computer rooms, kitchen ventilation, compressed air systems, etc;
 - 5. Electrical distribution systems - Generators, uninterruptable power supplies, switchboards, panel boards;
 - 6. Sewage grinder and pump.
- C. Architectural Programming Phase.
 - 1. Period of Service: Consultant shall perform to completion all services called for in the Programming Phase within the period of time set forth in Part 6.01.B, beginning at the time of Owner's issuance of authorization to proceed.

2. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Project Kick-Off, 2 hours.
 - b. One Programming Workshop, 2 days.
3. Examine Owner-provided information and the proposed Project site in terms of:
 - a. BSCC-defined Scope, Budget and Schedule.
 - b. Owner provided Project Budget and Requirements.
 - c. Functions and Priorities.
 - d. Site Conditions.
 - e. Opportunities and Constraints.
 - f. Utilities Services and Constraints.
 - g. Access for Construction.
 - h. Other factors Consultant or Owner consider relevant to construction of the Project.
4. Construction Management Plan: Consultant shall update and submit for approval a detailed Construction Management Plan (originally prepared for the Phase 1 AB900 Jail project with, at a minimum, the following sections:
 - a. Directory of Participants.
 - b. Organizational Chart/Staffing Plan.
 - c. Master Project Schedule.
 - d. Project Budget.
 - e. Projection of Cash Flow Requirements.
 - f. Project Communication System and Protocol.
 - g. Document Control System.
 - h. Document Distribution.
 - i. Quality Assurance Plan.
 - j. Project Inspector Plan.
 - k. Video Documentation of Construction.
 - l. Plan for determining Construction Bid Package and Contracting Strategy.
 - m. Permit Plan.
 - n. Partnering Plan.
5. Document Management System (DMS): Within 10 days of award of the Programming Project Phase, Consultant shall submit, for OAR approval, a proposed DMS. Consultant shall provide any licensure fee during preconstruction, but Construction Documents will require Contractor to provide licensing fee during Construction Phase. The County reserves the right to select any outside document control system. After OAR has approved a DMS, Consultant shall establish, coordinate, and maintain the DMS until project closeout. The system shall ensure documents will be available by the entire project team, both County and non-County staff, by Internet. The DMS shall have capability to ensure that documents can be filed easily, may be retrieved quickly and easily, and that files are secure, with capability of setting different access levels for various team members. Consultant shall prepare and present an orientation of the system to the Project Team to familiarize and facilitate its ability to use the system. Project files are and will remain the property of the County. At project completion the

project documentation shall be audited, organized, boxed, and transferred to the County in accordance with the County's file turnover and document archive requirements specified in Part 14 of this PSA. The system shall provide for the control of, as a minimum but not limited to:

- a. Design Drawings and Specifications.
 - b. Commissioning activities.
 - c. Cost Tracking.
 - d. Scheduling.
 - e. Records.
 - f. Contractor Daily Reports.
 - g. Correspondence.
 - h. Reports.
 - i. Change Orders.
 - j. Field Modifications.
 - k. Submittals.
 - l. Punch Lists.
 - m. Electronic Media.
 - n. Project Videos and Photographs.
6. Schedule: Prepare and maintain a master design and construction project schedule that encompasses each component of the project using Critical Path Method techniques. Owner's Architect Engineer will provide its design work schedule as input. Meet with Design and Construction team to determine critical decisions needed to maintain schedule and to coordinate phasing, if any. Define schedule for County's project team members. Ensure schedule complies with the JCA and PDCA agreements. Prepare and submit schedule reports to Owner at least monthly.
 7. Commissioning Schedule: Prepare commissioning activities that encompasses each component of the project and provide to Construction Manager in a format acceptable to them for their incorporation into Master Project Schedule. Provide input on the commissioning activities to the CM monthly for maintainability.
 8. Design and Construction Budget: Consultant shall prepare a Project Budget based on all work and procurement required for the design and construction of the project, including costs of design, permitting, and other soft costs associated with the design and construction phases, and appropriate contingency amounts. Prepare and update cash flow requirements. Owner will provide soft costs to Consultant that Consultant is not responsible for managing, such as County project management costs and Architect Engineer design costs. Consultant shall submit the Budget to the OAR for acceptance. The Budget shall be revised as directed by Owner.
 9. Cost and Progress Reports: Consultant shall prepare and distribute Project Cost and Progress Reports no less than monthly. The reports shall show all expenditures on the project in the preceding month, and summarizes all payments made through the date of the report, in line items that correspond to the Budget. The Reports shall include initial contract costs, adjustments, contingency remaining, current budget, executed change orders, pending change orders, projected costs to complete, and current total projected cost at completion. Reports shall be in a format accepted by the OAR, and shall be distributed only as directed by the OAR, but may include one or more state agencies.
 10. Review of Architect Engineer's Deliverables: Review and provide written comment on Architect Engineer's completed, draft deliverables of the following:

- a. Draft conceptual master plan of the 50-acre site.
 - b. Recommendations for proceeding with water supply development, including a proposed scope of work for engineering and design, and a construction cost estimate and timeline. Timeline shall provide for construction completion prior to bidding phase of main building.
 - c. Recommendations for proceeding with sewage management development, including any revision in scope proposed in the initial engineering study provided by Owner (see Part 3), and a construction cost estimate and timeline. Timeline shall provide for construction completion prior to bidding phase of main building.
 - d. Design Schedule.
 - e. 25% Integrated Security Plan.
 - f. Conceptual Project Budget in format specified by Owner.
11. Deliverables: Based on Owner's acceptance of Consultant's proposed products and submittal formats, Consultant shall deliver the following work products by the completion of the project Programming Phase as defined in the Project Phase:
- a. Report and Recommendations on Architect Engineer's Deliverables.
 - b. Master Project Schedule.
 - c. Commissioning Schedule.
 - d. Commissioning activity updates to be included in CM Monthly Progress Report.
 - e. Project Budget.
 - f. Cost and Progress Report.
 - g. Management Plan.
 - h. DMS system and Orientation to Team.

D. Schematic Design Phase.

1. Period of Service: After acceptance by Owner of the required deliverables in the Programming Phase, Consultant shall perform to completion all services called for in the Schematic Design Phase within the period of time set forth in Part 6.01.B, beginning at the time of Owner's issuance of authorization to proceed.
2. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Design Review Workshop, 2 days each – Quantity 2 (30% and 60% complete).
 - b. 100% Draft Submittal Review Comments Workshop, 2 days.
 - c. Participate in commissioning breakout meeting during 100% Draft Submittal Review Comments Workshop - 1 hour, (Note that overall workshop is 2 days in length, but not more than 1 hour meeting by Consultant is requested).
3. Design Review: For the 100% Draft Schematic Design (SD), Consultant shall review the Architect Engineer's submittals. In addition, in terms of commissioning, Consultant shall review the Basis of Design to ensure that the BOD reflects the OPR. The document review period shall be coordinated by Consultant with the Architect Engineer and shall be incorporated into Consultant's Master Project Schedule. Comments generated by all reviewers will be compiled by the Architect Engineer and transmitted to the design Team. Consultant accepts responsibility for its scope of services as described herein but is not responsible for the accuracy and adequacy of the design documents stamped or sealed by other professionals. The full set of Schematic Design documents submitted by Architect Engineer will include:

- a. Schematic design level drawings.
 - b. Outline specifications or narratives as applicable.
 - c. Schematic Design Report, to include.
 1. An analysis of how the schematic design meets the Owner's program requirements, including a comparison of square footage between Schematic Design and the Space program from Programming Phase.
 2. Alternate approaches.
 3. Preliminary Service Utility Capacity estimates.
 4. Integrated Security Plan.
 5. Fire Emergency Response Matrix.
 6. Preliminary Basis of Design for each discipline. The mechanical discipline will include:
 - a. Preliminary energy consumption.
 - b. Preliminary energy savings matrix.
 - c. General Sequence of Operations.
 7. Architect Engineer's recommendation of Additional Information required.
4. Consultant's review shall address at a minimum the following:
- a. Completeness in accordance with the Architect Engineer's PSA with Owner and with the standard of care generally recognized as applying to such Consultants.
 - b. Conformance with the JCA and PDCA.
 - c. Conformance to Project Budget.
 - d. Conformance to schedule for completion of Project.
 - e. Constructability.
 - f. Biddability.
 - g. Operability.
 - h. Errors and Omissions.
 - i. Intra Bid Package Coordination.
 - j. Coordination of Owner Furnished Contractor-Installed Items.
 - k. All CSI Discipline coordination of technical criteria and special system integration and interface.
 - l. Special Systems.
 - m. SWPPP.
 - n. Document Coordination, Inter-Discipline and Inter-Document coordination.
 - o. Document QA/QC including Field Quality Control Steps.
 - p. CEQA / EIR Mitigation Compliance.
 - q. Energy Efficiency of Designs.
5. Consultant's review shall address at a minimum all commissioning issues related to the following:
- a. Constructability.
 - b. Biddability.

- c. Operability.
 - d. Errors and Omissions.
 - e. Intra Bid Package Coordination.
 - f. Coordination of Owner Furnished Contractor-Installed Items.
 - g. All CSI Discipline coordination of technical criteria and special system integration and interface.
 - h. Special Systems.
 - i. Document Coordination, Inter-Discipline and Inter-Document coordination.
 - j. Document QA/QC including Field Quality Control Steps.
 - k. Energy Efficiency of Designs.
6. Operability and Maintainability Review: Consultant shall review design and construction documents for operability, optimized operating costs, maintainability, and durability, and make recommendations on alternate approaches.
 7. Cost Estimating: At 100% SD submittal, Consultant shall prepare an independent Preliminary Statement of Probable Construction Cost (SPCC). Cost estimates shall assume implementation of a Project Stabilization Agreement to be negotiated by the County and provided to the Consultant prior to producing any project cost estimates. Consultant shall submit its SPCC within 2 weeks of Architect Engineer's submittal of the design documents needed for the SPCC. Consultant shall work with Owner, Architect Engineer and Project Expert to revise the design as needed to bring the SPCC within the OACC. Consultant's SPCC shall be fully reconciled with all previous estimates by Consultant and by Architect Engineer, and with the Project Budget. The estimates shall be prepared in a format and level of detail approved by the County prior to the preparation of each estimate. Consultant shall prepare a report to the County and Project Architect Engineer identifying any variances from previous estimates for the Project and Construction Budget.
 8. Commissioning Schedule: Update the commissioning activities developed in the previous phase. Show Consultant's work activities throughout the project. The portion of Consultant's schedule for the Construction Phase may be shown as a single activity depicting the estimated start and completion dates for each Construction Phase Milestone.
 9. Local Vendor Outreach Plan: Consultant shall update the AB900 plan for Owner to maximize use of local vendors and local labor on the STAR Project, conforming to the California Public Contract Code and other applicable codes and restrictions. Owner may present this plan to the County Board of Supervisors early in the Schematic Design phase. Consultant shall prepare a PowerPoint presentation suitable for such a presentation, in a format approved by Owner.
 10. Life Cycle Cost Analyses: Consultant shall prepare life cycle cost analyses to the County on the following project components. The results of these studies shall be in report form and shall be distributed to the County:
 - a. HVAC Systems.
 11. Consultant shall prepare an updated Master Project Schedule for design and construction of the Project, including the Architect Engineer's Schedule detailing the progression and submittal of Drawings and Project Manual in the subsequent Phases. The portion of the Project Schedule for the Construction Phase may be shown as a single activity depicting the estimated start and completion dates for each construction phase Milestone and/or bid package.
 12. Building Information Modeling (BIM).

- a. Note: This Section on BIM will be included in both this PSA, the Architect Engineer's PSA, and the Construction Contract.
- b. Consultant shall meet the requirements of this BIM Section in all phases of the project.
- c. Architect Engineer's Design and Initial Hosting of BIM.
 1. Architect Engineer shall develop a Building Information Model (BIM) based on the architectural and structural designs throughout schematic design, design development, including development of the Design Development Phase Drawings, the final Construction Drawings, and any modifications approved by Owner.
 2. Architect Engineer shall develop the BIM based on best practices within applicable architectural and engineering disciplines, including without limitation the applicable level of development for each element of the Project, and shall provide Owner with a report identifying such matters and areas for further (or lesser) development. Following Owner approval, Architect Engineer will develop the BIM as directed or approved by Owner.
 3. Architect Engineer shall host and manage the BIM during development of the Project's design. Architect Engineer's hosting and managing responsibilities shall include without limitation: (i.) collecting, coordinating, and the usability of incoming models from Project participants; (ii.) maintaining periodic record copies; (iii.) aggregating incoming models and making the BIM available for use and viewing by Project participants; (iv.) performing and assisting in performing clash detection in the model and/or with any Owner-approved modifications; (v.) issuing periodic clash detection reports; (vi.) managing access rights; and (vii.) updating the BIM to reflect current designs and revisions.
 4. Architect Engineer shall correct and clarify any clashes, coordination or issues resulting from the BIM within Architect Engineer's Basic Services. Coordination and design corrections and clarifications resulting from such further modeling (whether performed by Architect Engineer, Construction Manager, Contractor or subcontractors) shall be within Consultant's Basic Services.
- d. BIM Workshop and Pre-Construction Phase BIM Activities.
 1. Architect Engineer shall meet with Owner, Owner's Construction Manager and other design team members, Contractor and all subcontractors that will be interacting with or using BIM information to develop protocols for developing, implementing, reviewing, and exchanging information through the BIM ("**BIM Workshop**"). Through the BIM Workshop, Construction Manager and Contractor or major subcontractors and Architect Engineer's design team will discuss, coordinate, test and adjust their BIM practices, to allow information to be used, to the greatest practical extent, by all parties for their respective purposes.
- e. Transfer to and Hosting of BIM by Construction Manager and/or Contractor.
 2. Upon the completion of Final Construction Document, Architect Engineer will provide the BIM to Contractor if construction delivery is Single prime, or to the Construction Manager if delivery is Multiple Prime (to be determined by Owner as described herein elsewhere). Construction Manager will host and manage the BIM through construction and until completion of the Project for some trades, depending on subcontractor capability, or transfer it to general contractor or subcontractors, as appropriate, and as a minimum oversee the collective model through construction and until completion of the Project. Construction Manager and Contractor/subcontractors will use the BIM to assist Contractor in its work to coordinate the construction and the

implementation of any design changes by Contractor and its subcontractors. Construction Manager, or Contractor/subcontractors as delegated by Construction Manager, will manage the clash detection and coordination process throughout the construction phase, through preparation of all shop drawings and submittals necessary for construction, and shall utilize BIM to record changes in record drawings.

f. General.

1. Architect Engineer, Construction Manager and Contractor and each major subcontractor must be capable of utilizing the BIM to perform the functions assigned to them in paragraph 3 above.
2. The BIM and any portion of the BIM is a work for hire for the benefit of Owner and will be provided to Owner as a contract deliverable that may be used by Owner without restriction for the use on this Project. Architect Engineer and Construction Manager grants to Owner a license in perpetuity to use and reproduce the BIM and any portion of the BIM for any purpose whatsoever related to this Project. Architect Engineer, Construction Manager and Contractor and its subcontractors shall transfer to Owner copyrights or licenses necessary for Owner to use the BIM and supporting information.
3. The BIM is not a Construction Document or Contract Document, and does not supplement or supersede the final permitted Drawings or Specifications.

13. Deliverables: At 100% completion of the Schematic Design Phase, Consultant shall furnish to Owner the following:

- a. Comments on the full set of Schematic Design documents.
- b. Monthly Progress and Cost reports.
- c. Independent SPCC at this phase.
- d. Updated Master Project Schedule.
- e. Updated Commissioning Schedule.
- f. Updated Project Budget.
- g. Local Vendor Outreach Plan.

D. Design Development Phase.

1. Period of Service: After acceptance by Owner of the required deliverables in the Schematic Design Phase, Consultant shall perform to completion all services called for in the Design Development Phase within the period of time set forth in Part 6.01.B, beginning at the time of Owner's issuance of authorization to proceed.
2. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Design Review workshop at 30% complete, 2 days.
 - b. Design Review Workshop at 60% complete, 2 days, followed by Value Engineering Workshop, 1 day.
 - c. Draft 100% Review Comments Workshop, 2 days.
 - d. In-Person meeting: Draft 100% Commissioning Review Comments Workshop, 1 day.
3. Design Review: For the 100% Draft Design Development (DD), Consultant shall review the Architect Engineer's submittals. The document review period shall be coordinated with the Architect Engineer and shall be incorporated into Consultant's Master Project Schedule. Comments generated by all reviewers will be compiled by the Architect Engineer and transmitted to the design Team. Consultant accepts responsibility for its

scope of services as described herein but is not responsible for the accuracy and adequacy of the design documents stamped or sealed by other professionals. The full set of DD documents submitted by Architect Engineer will include:

- a. Design Development level drawings.
 - b. Project Manual Augments.
 - c. Outline Specifications.
 - d. Design Development Phase Report, to include:
 1. Engineering Calculations.
 2. Revised Room Data Sheets.
 3. Revised Service Utility Capacities.
 4. Updated Integrated Security Plan.
 5. Revised Fire Emergency Response Matrix.
 6. Revised Basis of Design for each discipline. The mechanical discipline shall include updates for:
 - a. Preliminary Energy Consumption.
 - b. Energy Savings Matrix.
 - c. General Sequence of Operations.
 - d. Values for Adjustable Settings and Setpoints.
 2. Consultant's recommendation of any Additional Information required.
 - e. Exterior Renderings.
 - f. Updated Code Analysis.
 - g. BIM Clash Detection Report.
 - h. Updated Project Schedule.
 - i. Preliminary Statement of Probable Construction Cost.
 - j. Cost Element Changes Chart.
4. Design Development Phase Commissioning Services
- a. Design Review: For the 100% Draft Design Development (DD), Consultant shall review the Architect's submittals relevant to Cx. The document review period shall be coordinated with the Architect and shall be incorporated into Consultant's Commissioning Schedule. Comments generated by all reviewers will be compiled by the Architect and transmitted to the design Team. Consultant accepts responsibility for its scope of services as described herein but is not responsible for the accuracy and adequacy of the design documents stamped or sealed by other professionals.
 1. Consultant's commissioning review shall address at a minimum the same considerations listed in the Schematic Design Phase commissioning services.
 - b. Commissioning Plan:
 1. Consultant shall develop a Commissioning Plan that provides an overview of the commissioning process including activities during all phases of the project. The plan will be used to plan logistics for accessibility, efficient operations, and low cost maintainability.
 2. The Commissioning Plan shall identify roles and responsibilities of the various commissioning participants, identify project equipment and systems to

- be commissioned, equipment submittal requirements, and include project schedule milestones supporting the commissioning program.
3. The Owner, Construction Manager, and Architect will review the Plan and provide comments to the Consultant.
 4. Consultant shall include an assessment of the methods needed to operate the commissioned systems at partial loads available during initial startup, commissioning and functional testing.
 5. Consultant shall include samples of project-specific preliminary pre-functional and functional test forms for all equipment and systems to be commissioned.
 6. Consultant shall identify any seasonal or deferred commissioning activities that the contractor may be responsible to fulfill during the warranty phase. Consultant shall continue to develop and refine the Plan throughout the commissioning / design process.
- c. Commissioning Schedule: Update the Commissioning Schedule developed in the previous phase. Show Consultant's work activities throughout the project. The portion of Consultant's schedule for the Construction Phase may be shown as a single activity depicting the estimated start and completion dates for each Construction Phase Milestone.
 - d. Specifications: Consultant shall provide draft commissioning specification sections for review by Owner. Draft specifications shall be approximately 80% complete with scope of commissioning clearly defined and project-specific customization made.
 - e. Deliverables: At 100% completion of the Design Development Phase, Consultant shall furnish to Owner the following:
 - (1) Comments, in the detail described at Section 3.02(C)(5), on the full set of 100% Design Development documents.
 - (2) Commissioning Plan
 - (3) Updated Commissioning Schedule.
 - (4) DD-Level Commissioning specifications and requirements for incorporation into bid documents.
5. Consultant's review shall address at a minimum the same considerations listed in the Schematic Design Phase services of this PSA.
 6. Operability and Maintainability Review: Consultant shall review design and construction documents for conformance with County needs for operability, optimized operating costs, maintainability, and durability.
 7. Cost Estimating: At 100% DD submittal, Consultant shall prepare an independent Preliminary Statement of Probable Construction Cost (SPCC) in the same manner as specified for Consultant in the SD Phase. The 100% level SPCC will be used for the Value Engineering Workshop Consultant shall conduct (see below).
 8. Commissioning: Review commissioning plans to be included with the design documents.
 9. Value Engineering (VE): Consultant shall conduct a formal Value Engineering Workshop on a day immediately following the Design Review Workshop at 100% DD completion, involving the Architect Engineer and other members of the design team. The intent of the Workshop is to analyze each discipline in terms of architecture, mechanical, electrical, plumbing and security in order to identify areas for potential cost savings without negatively impacting the design. Once the items are identified, their cost savings shall be estimated by Consultant, then Consultant shall participate in a meeting with the Architect Engineer and other members of the design team to, on an

individual basis, accept or reject each VE item. Both the positives and negatives shall be identified by Consultant for each suggestion so as to ensure that no decision is made in a vacuum, and to assist Owner's effort to achieve economic integrity of the proposed jail. Value engineering sessions shall be conducted according to the Society of American Value Engineers (SAVE) process. Consultant shall consolidate and disseminate results of the VE Workshop.

10. Life Cycle Cost Analyses: Based on results of the VE Workshop, Consultant shall prepare and provide life cycle cost analyses to Owner on the following project components. Consultant's compensation for these analyses will be paid in addition to Consultant's Basic Services, as provided for in [Part 11.03](#). To be INCLUDED in Consultant's compensation for Basic Services are life cycle cost analyses of the following items. The results of all analyses shall be in report form and shall be distributed to the County:
 - a. Modular versus Site Constructed Cells.
 - b. Lighting.
11. Consultant shall prepare an updated Master Project Schedule for design and construction of the Project, including the Architect Engineer's Schedule detailing the progression and submittal of Drawings and Project Manual in the subsequent Phases. The portion of the Project Schedule for the Construction Phase may be shown as a single activity depicting the estimated start and completion dates for each construction phase Milestone and/or bid package.
12. Deliverables: At 100% completion of the Design Development Phase, Consultant shall furnish to Owner the following:
 - a. Comments on the full set of Design Development documents.
 - b. Monthly Progress and Cost reports.
 - c. Independent SPCC at 100% complete for this phase.
 - d. Updated Master Project Schedule.
 - e. Updated Project Budget.
 - f. Commissioning Plan
 - g. Updated Commissioning Schedule.
 - h. DD-Level Commissioning specifications and requirements for incorporation into bid documents.
 - i. Life Cycle Cost Analyses report.
 - j. VE Workshop Results report.

E. Enhanced Design Development Phase.

1. Period of Service: After acceptance by Owner of the required deliverables in the Design Development Phase, Consultant shall perform to completion all services called for in the Enhanced Design Development Phase within the period of time set forth in [Part 6.01.B](#), beginning at the time of Owner's issuance of authorization to proceed.
2. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Design Review Workshop at 30% complete, 2 days.
 - b. Draft 60% Submittal and Review Comments Workshop, 2 days, followed by Local Vendor Outreach and Prequalification workshop, 2 hours (organized by Construction Manager).

3. Design Review: For the Draft 100% Enhanced Design Development Phase (EDD), Consultant shall review the Architect Engineer's submittals. Consultant shall ensure the document review period is coordinated with the Architect Engineer and shall be incorporated into Consultant's Master Project Schedule. Comments generated by all reviewers will be compiled by the Architect Engineer and transmitted to the design Team. Consultant accepts responsibility for its scope of services as described herein but is not responsible for the accuracy and adequacy of the design documents stamped or sealed by other professionals. The full set of Construction Documents submitted by Architect Engineer will include:
 - a. Project Manual and Drawings for Bidding.
4. Consultant shall work with Owner, Architect Engineer and Project Expert to revise the design as needed to bring the SPCC within the OACC.
5. Consultant's review shall address the same considerations as listed in the Design Development phase of this PSA.
6. Construction Milestones: Consultant shall make recommendations to Owner concerning milestones to be included in the construction bid documents.
7. Consultant shall prepare an updated Master Project Schedule for design and construction of the Project, including the Architect Engineer's Schedule detailing the progression and submittal of Drawings and Project Manual in the subsequent Phases.
8. Commissioning Schedule: Update the Commissioning Schedule developed in the previous phase. Show Consultant's work activities throughout the project. The portion of Consultant's schedule for the Construction Phase may be shown as a single activity depicting the estimated start and completion dates for each Construction Phase Milestone.
9. Deliverables: At 100% completion of the Enhanced Design Development Phase, Consultant shall furnish to Owner the following:
 - a. Comments on the full set of Enhanced Design Development Documents.
 - b. Monthly Progress and Cost reports.
 - c. Independent SPCC at this phase.
 - d. Updated Master Project Schedule.
 - e. EDD-Level commissioning specifications and requirements for incorporation into bid documents.
 - f. Updated Commissioning Schedule.
 - g. Updated Project Budget.
 - h. Recommended Construction Milestones.

F. Construction Documents Phase.

1. Period of Service: After acceptance by Owner of the required deliverables in the Design Development Phase, Consultant shall perform to completion all services called for in the Construction Documents Phase within the period of time set forth in [Part 6.01.B](#), beginning at the time of Owner's issuance of authorization to proceed.
2. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Design Review Workshop at 30% complete, 2 days.
 - c. Draft 60% Submittal and Review Comments Workshop, 2 days, followed by Local Vendor Outreach and Prequalification workshop, 2 hours, with CPM.
 - d. Draft 100% Submittal and Review Comments Workshop, 2 days, with CPM.

- e. Call In Meeting: Commissioning specific Draft 100% Submittal and Review Comments Meeting, 2 hours.
3. Design Review: For the 60% and 100% Draft Construction Documents (CD), Consultant shall review the Architect Engineer's submittals. Consultant shall ensure the document review period is coordinated with the Architect Engineer and shall be incorporated into Consultant's Master Project Schedule. Comments generated by all reviewers will be compiled by the Architect Engineer and transmitted to the design Team. Consultant accepts responsibility for its scope of services as described herein but is not responsible for the accuracy and adequacy of the design documents stamped or sealed by other professionals. The full set of Construction Documents submitted by Architect Engineer will include:
 - i. Project Manual and Drawings for Bidding.
4. Consultant's review shall address the same considerations as listed in the Design Development phase of this PSA.
5. Front-end (Divisions 0 & 1) Document Review: Owner will provide to Architect Engineer and to Consultant all specialized forms and documents required for the bidding and administration of Construction Contracts, including but not limited to the Notice to Bidders, the General Conditions, Special Conditions, General Requirements, Special Requirements and Prevailing Wage Rates. Consultant shall review and become familiar with these forms and documents and verify that the Divisions 2-16 and the Drawings are coordinated with the requirements of Divisions 0 & 1. Consultant shall assist Owner with any deficiencies Consultant discovers in the front-end documents.
6. Contractor Quality Control (CQC): Consultant shall review Architect Engineer's Construction Documents and Owner's Project Manual and determine if the CQC requirements are sufficient. Consultant shall also determine if the CQC requirements are specified in a manner that provides for Consultant to perform verification, or "Quality Assurance" of the CQC to Consultant's satisfaction, and where it does not, Consultant shall submit proposed modification to Owner.
7. Cost Estimating: At 100% CD submittal, Consultant shall prepare an independent Preliminary Statement of Probable Construction Cost (SPCC) in the same manner as specified in the Design Development (DD) phase of this PSA.
8. Construction Milestones: Consultant shall make recommendations to Owner concerning milestones to be included in the construction bid documents.
9. Liquidated Damages: Consultant shall make recommendations to Owner concerning establishing liquidated damages to be included in construction bid documents for all construction milestones. The recommendations shall be in writing and provide a justification and detailed calculation sheet indicating the rationale behind the establishment of the Liquidated Damages values.
10. Long Lead Items: Assist Owner in the identification and strategy of long lead items in an effort to meet schedule requirements.
11. Consultant shall prepare an updated Master Project Schedule for design and construction of the Project, including the Architect Engineer's Schedule detailing the progression and submittal of Drawings and Project Manual in the subsequent Phases.
12. Commissioning Schedule: Update the Commissioning Schedule developed in the previous phase. Show Consultant's work activities throughout the project. The portion of Consultant's schedule for the Construction Phase may be shown as a single activity depicting the estimated start and completion dates for each Construction Phase Milestone.
13. Deliverables: At 100% completion of the Construction Document Phase, Consultant shall furnish to Owner the following:
 - j. Comments on the full set of Construction Documents.

- k. Monthly Progress and Cost reports.
- l. Independent SPCC at this phase.
- m. Updated Master Project Schedule.
- n. CD-Level commissioning specifications and requirements for incorporation into bid documents.
- o. Updated Commissioning Schedule.
- p. Updated Project Budget.
- q. Recommended Construction Milestones.
- r. Liquidated Damages Estimate.
- s. Long Lead Items.

F. Bidding Phase.

1. Consultant shall proceed with the Bidding Phase only after:
 - a. Owner's written authorization to proceed with the Bidding Phase.
 - b. Owner acceptance of the 100% CD back-check documents.
2. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Pre-Bid Conference and Job-Walk, with CPM.
 - b. Bid Opening, with CPM.
 - c. Post-Bid Conference, with CPM.
3. Consultant shall administer the Bidding process.
4. Bid Packages Management: Consultant shall complete bid packages for contractor bidding. Architect Engineer will provide all drawings and all Divisions of specifications, and assist Consultant to ensure documents are complete.
5. Prequalifying Bidders: Consultant shall assist Owner in developing lists of possible Contractors, Subcontractors, and Vendors and prequalify such entities. Consultant shall follow applicable contractor prequalification procedures and provide the following services: preparation of advertisements, preparation and distribution of questionnaires; receiving and analyzing completed questionnaires; soliciting references and qualifications, contacting references; interviewing possible bidders, bonding agents and financial institutions; and preparing recommendations for Owner. Consultant shall prepare and maintain a bidders list for each bid package. Consultant shall conduct a telephone and correspondence campaign to attempt to increase interest among qualified bidders. Consultant shall conduct a Prequalification Workshop.
6. Job Walk and Pre-Bid Conference: Consultant shall conduct a mandatory Job Walk and Pre-bid Conference for the General Construction Contract or multiple trade subcontracts. The conference shall be forums for the County, Consultant and Architect Engineer to explain the project requirements to the bidders, including information concerning schedule requirements, time and cost control requirements, access requirements, BIM requirements, and the County's administrative requirements and technical information. Consultant shall prepare minutes from the meeting and include the minutes in an Addendum.
7. Addenda: Consultant shall receive from the Architect Engineer a copy of all Addenda. Consultant shall review Addenda for clarity, consistency and coordination. Where required or appropriate as determined and directed by the Owner, Consultant shall

ensure Architect Engineer or Owner has obtained BSCC and/or CDCR approval for such Addenda.

8. Bid Proposal Review and Recommendations: Consultant shall attend the bid opening. Consultant shall evaluate the bids or proposals for responsiveness and price, including alternate prices and unit prices, and shall make recommendations to Owner concerning the acceptance or rejection of bids or proposals.
9. Construction Contracts: Consultant shall assemble, deliver and coordinate execution of the Contract Documents in accordance with BSCC JCA requirements. Consultant shall assist Owner in issuing to the Contractor or Subcontractors a notice of award and the Notice to Proceed.
10. Permits, Licenses, And Insurance: Consultant shall verify that all Contractors and Subcontractors have secured the required licenses, bonds, and insurance. Consultant shall request and receive certifications of insurance from Contractors and Subcontractors and verify that each is in accord with contract requirements. Consultant shall maintain a current project file of certificates of insurance. Such actions by Consultant will not relieve the Contractors of their responsibilities to comply with the provisions of their Contract Documents.
11. Post-Bid Conference: Consultant shall conduct a post-bid conference with the bidder(s) submitting the apparent low bid(s) to review contract award procedures and other pertinent issues.
12. Consultant shall monitor Architect Engineer's recommendation on acceptability of, then incorporate substitute materials and equipment proposed by bidders.
13. Architect Engineer will provide a conformed set of drawings and specifications, reflecting the changes made and approved by the Owner during the Bidding Phase.
14. Where Bids Exceed Budget: If the cumulative total of all lowest responsible, responsive bid(s) plus amounts otherwise payable to Contractor, Consultant or Owner reasonably determines that they will exceed the latest approved Estimate of Probable Total Construction Costs, (as contained within the Statement of Probable Construction Cost), Owner may, at its discretion:
 - a. Award the contracts to the lowest responsible, responsive bidders, and give written approval of an increase in Owner's budget.
 - b. Reject some or all bids and rebid the applicable contracts.
 - c. If the cumulative bid amount is or is reasonably expected to be more than 10% greater than the Consultant's latest accepted Statement of Probable Construction Cost (SPCC) rendered during the Construction Documents Phase, Owner may require Consultant to revise the scope of work to be performed the Contractor so as to reduce the Project Construction Cost for the work, while still meeting Owner's Project objectives and the Project Scope of Work stated in the BSCC JCA and CDCR PDCA. Consultant shall at its expense, if so directed by Owner, modify the Construction Documents in order to reduce the Project Construction Costs for the work to be performed by the Contractor within the OACC Project budget. If Consultant's modifications are unable to achieve the JCA and PDCA-defined scope of work, as determined by the BSCC and CDCR, for the cost of the OACC budget, Consultant shall prepare the documents and provide the assistance necessary to achieve BSCC and CDCR approval of a scope change.
 - d. Abandon the Project and terminate this Agreement.
15. Deliverables: At 100% completion of the Bidding, Consultant shall furnish to Owner the following:
 - a. Completed Bid Package(s).
 - b. Pre-Qualified Bidders List.

- c. Job Walk Results.
- d. Minutes from commissioning portions of Pre-Bid Job Walk.
- e. Addenda.
- f. Bid Results Report.
- g. Construction Contract(s).
- h. Comments on applicable Addenda and Submittals.

G. Construction Phase.

1. Period of Service: The Construction Phase will commence with the issuance to the Construction Manager of the Notice to Proceed with Construction, and will terminate as provided in [Part 12, "Term And Termination"](#).
2. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Preconstruction Conference.
 - b. BIM Workshop.
 - c. Commissioning Scoping/Kickoff Meeting.
 - d. Weekly Construction Phase Progress Meetings.
 - e. Demonstration and Training Pre-instruction Conference.
 - f. Punch List Walk-through, 3 days.
 - g. Closeout Conference.
3. Contract Administration: Provide Owner's representation by assisting the County with the County's contractual responsibility to Contractor and/or subcontractors, and monitor compliance with their contractual obligation. Consultant shall provide and maintain a full-time management team on the project site, in accordance with the management plan approved by Owner in the Programming Phase, to provide contract administration. Consultant shall oversee the work of contractors and vendors engaged at the project site and coordinate the staging and activities of each. Consultant shall ensure Architect Engineer specifies Contractor to supply on-site (field) temporary office space, furniture, and supplies, for Consultant's use and one office for Owner's use, as required and approved by Owner. Four weeks prior to the start of construction, Consultant shall submit for approval a completed set of construction phase administrative procedures. The procedures shall be consistent with the requirements of this PSA, the approved Construction Management Plan, and the Contract Documents. The requirements include but are not limited to processing requests for information, shop drawings, material and equipment submittals, contract schedule adjustments, change orders, scheduling, inspection, substitution and payment requests, record documents, and closeout, as further defined below.
4. Commissioning Specific Scope: During Construction Phase, the consultant's general scope shall include managing the commissioning activities including but not limited to:
 - a. Start-up documentation
 - b. Test procedure acceptance
 - c. Planning and documenting training.
 - d. Evaluating the working effectiveness and operation of the systems' seasonal performance, control systems settings, response times and logic, and interactions with the life/safety systems.
 - e. Verification of controls graphics for all applicable scope systems

- f. Facility-wide power loss integrated test for power systems switchover and security, lighting, and HVAC system recovery.
- g. This scope is inclusive of Leadership in Energy and Environmental Design (LEED) equivalency and California Title 24, 2013, Part 6, equivalency.
- h. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - i. In Person: Commissioning Kickoff Meeting for Construction Team (Up to 1 Day)
 - j. In Person: Acceptance Meeting to review commissioning issues log and recommendations, training plan, and O&M deliverables. Prior to substantial completion. Meeting to be held in conjunction with current site activities. (Up to 2 hours)
 - k. Call-in: Contractor coordination meetings. (Up to 40 hours)
 - l. In-person: Contractor coordination meetings. (Up to 6 meetings prior to equipment startup, up to 12 meetings after equipment startup)
- m. Call-In: Meetings as required with Project Architect to address outstanding RFIs, submittals, design changes and Contractor change order requests so as not to disrupt work on the project. (Up to 8 hours)
- n. Submittal and Shop Drawing Review: Consultant shall provide scope system submittal reviews for commissioning in parallel with the design team. This includes monitoring the status of all submittals for commissioned systems, review submittals for commissioning considerations including but not limited to constructability, maintainability, energy efficiency, and agreement with the Owner's Project Requirements and general completeness once submitted by the Contractor in DMS within five (5) Business Days from time of receipt by Consultant. In addition, Consultant shall work with Architect on the interpretation of Plans and Technical Specifications and shall notify the OAR in writing in cases of disagreement on interpretation that cannot be resolved between the Contractor and Architect. In such notification, Consultant shall make a recommendation to Owner on the interpretation.
 - (1) Confirm and communicate to the Construction Manager early the list of submittals that are planned for review by Consultant.
- o. Specialty Testing and Inspections: Consultant shall review Architect's specified testing and specialty inspections relevant to commissioned systems and advise Owner on recommended testing programs. Consultant shall monitor the testing and specialty inspection of the work. Consultant shall review reports and track the repair of non-complaint work. Consultant, in consultation with the Architect and Construction Manager, may recommend that the Owner reject work that does not conform to the requirements of the Contract Documents.
- p. Test and Balance Review: Consultant shall review the test and balance report for deficiencies or other "Issues". Issues shall be communicated to the Owner and recorded on the Commissioning Issues Log. Review and verify resolutions using random sampling of the test and balance (TAB) results on site prior to the start of functional acceptance testing.
- q. System Readiness Review: Consultant shall conduct a final on-site system readiness review of the specific systems and equipment to be commissioned. Issues noted during this process shall be documented by the Consultant in the Commissioning Issues Log. Functional testing shall not commence until all critical issues identified during the installation verification process are resolved.
- r. Issue Tracking and Resolution: As part of the project control system, document and track the resolution of Issues affecting the design, construction, and transition to operations. Work with the Construction Manager, Architect, Contractor and

other stakeholders in a pro-active manner to resolve outstanding issues including issues discovered in the field. Report to the Owner the status of outstanding issues at minimum monthly prior to equipment installation and then bi-weekly until the conclusion of functional testing and issue resolution. Provide and record current status and final disposition of all Issue items. Establish acceptable communications formats for various types of documentation for distribution.

- s. Trending Plan: Provide the Contractor with a list of required trend log definitions to be implemented as a basis for reviewing performance during functional testing at least three (3) weeks prior to the start of final functional acceptance testing.
- t. Functional Testing:
 - (1) At least three (3) weeks prior to the start of final functional acceptance testing, develop a functional test plan with the Subcontractors to fully test the sequences of operation and intended operation of all commissioned systems.
 - (2) The test forms shall include the test procedures and expected results of each test point. Review the test plans and forms for each commissioned system with the Owner, Architect, Construction Manager, and Contractor and modify as necessary to perform functional tests in a manner that does not compromise the safety of tested equipment or personnel performing the test.
 - (3) Document results and review revised Issues List with Owner.
 - (4) Acting as agent of the Owner, pursue Issue resolution directly with Contractor in coordination with the Construction Manager.
 - (5) Witness and document all functional testing to confirm commissioned systems perform in compliance with all test scripts. Issues noted during the functional performance tests shall be documented by the Consultant.
 - (6) Issues should be resolved at the time of discovery and functional testing should continue to conclusion.
 - (7) Note that functional testing shall be performed during both normal shift hours and off –hour periods.
 - (8) Consultant shall document all Issues or deficiencies impacting the successful completion of functional testing activities. If appropriate, Consultant shall assist the Construction Manager with resolving issues in a timely manner.
 - (9) Provide a final log with all resolutions documented in the Final Commissioning Report.
 - (10) Trend Review: Verify system operation by reviewing a minimum of three (3) weeks of trend data for all commissioned systems during functional testing and prepare a report summarizing results and identifying any deficiencies.
- u. Trip Report: In a form developed by the Consultant and approved by the OAR, Consultant shall submit a trip report after each site visit to the Owner on Consultant's and Contractor's progress on work related to scope systems, which shall include:
 - (1) Narrative of the current project status (work completed this period; status of schedule; anticipated or potential problems; and required actions by Owner in upcoming month).
 - (2) Current version of the commissioning issues list.
 - (3) Milestone schedule update.
 - (4) Photographs if relevant to monthly report.
 - (5) Consultant's report shall highlight any significant variance from prior reports for the project.

- v. Deliverables: At 100% completion of the Construction Phase, Consultant shall furnish the required deliverables to Owner including, but not limited to, the following:
 - (1) Final Record of All Meeting Minutes during project.
 - (2) Updated Commissioning Issues Log.
 - (3) Required Progress Reports.
 - (4) Updated Schedules.
 - (5) Inspection and Field Witnessing Reports.
 - (6) Test and Balance Review.
 - (7) System Readiness Review and Signed System Readiness Checklists.
 - (8) Trending Plan.
 - (9) Functional Testing Plan and Results.
- 5. Document Management System: Consultant shall utilize the approved DMS system to file, distribute and manage all reports and submittals of Consultant, as wherever possible, and ensure contractors have done the same.
- 6. Single Point of Contact: As Owner's representative at the construction site, Consultant shall be included in all submissions of requests for information, submittals, Contractor schedule adjustments, substitution requests, change order requests and payment applications, etc. Consultant shall process each such item as required by this PSA or the Contract Documents.
- 7. Pre-Construction Conference: Consultant shall conduct a pre-construction conference in accordance with the Contractor's General Conditions requirements. Consultant shall prepare and ensure timely distribution of minutes of this meeting to the OAR, Architect Engineer, Contractor, and others.
- 8. Progress Meetings: Consultant shall conduct regular construction progress meetings at the project site with the Contractor. The Consultant shall also conduct regular project coordination meetings with Contractor, Owner and Project Architect Engineer as required to pursue and record progress of the project. Consultant shall attend all project meetings, and ensure that agendas and minutes are prepared and distributed to parties having an interest. Consultant shall schedule and attend any other required meetings or inspections with local, state, city, or other code authorities having jurisdiction over the project, and provide minutes and action taking reports of the results of these meetings or inspections. Consultant shall distribute minutes to all attendees, OAR and the Architect Engineer. Regularly scheduled meetings shall include, but not be limited to:
 - a. Weekly Contractor coordination meetings.
 - b. Meetings as required with Project Architect Engineer to address outstanding RFIs, submittals, design changes and Contractor change order requests so as not to disrupt work on the project.
 - c. Monthly pay requests reviews.
 - d. Start-up meetings with each Contractor and their key Subcontractors to ensure conformance to project insurance and bonding requirements, plan and specification review, site restrictions, and conformance to required workmanship standards.
- 9. Pre-schedule Submission Meeting: Consultant shall conduct a pre-schedule submission meeting with the Contractor to ensure that the Contractor is informed of their responsibilities regarding the development and submission of their baseline schedule.
- 10. Requests for Information: Consultant shall coordinate and manage the Request For Information (RFI) review and approval process. Establish a log to track the status, topic,

and pertinent dates associated with obtaining a response for each RFI. Determine required response suspense date to avoid Contractor delay. This includes tracking the status of all RFI's, advising the Architect Engineer of unusual site conditions affecting RFI review, and review of RFI's for appropriateness, format, content, and general completeness prior to forwarding to Architect Engineer.

11. Construction Phase Logs and Period Reports: Consultant shall create or monitor the following reports and logs, as shown below, to record the progress of the project and distribute them as appropriate for action:
 - a. Monitor and log Daily Force, Progress and Activity Report including labor, material, equipment, staffing, weather, inspections, visitors, meetings and other events significant to progress of the Work.
 - b. Create and log Project Photos and Videos.
 - c. Monitor Consultants/Designers Field Reports and Inspections.
 - d. Monitor Contractor Quality Control Compliance.
 - e. Perform, report and log Consultant's Quality Assurance of CQC.
 - f. Monitor and log Copies of Contractor's Daily Reports.
 - g. Monitor and log Laboratory Inspection and Testing Reports.
 - h. Monitor Submittals Tracking Log.
 - i. Monitor Requests for Information (RFI) Tracking Log.
 - j. Create and monitor Field Order Log.
 - k. Create and monitor Deficient Work Tracking Log.
 - l. Create and monitor Dispute Tracking Log.
 - m. Create and monitor Potential Claims File.
 - n. Monitor Change Order Tracking Logs.
 - o. Create and monitor Owner's and Consultant's Action Items/Approvals/Permits Tracking Log.
 - p. Create and monitor OFCI Tracking Log.
12. Dispute Resolution and Claims Prevention: When probable claims arise, Consultant shall work collaboratively to gather information, form alternatives, and guide decisions that result in solutions. Consultant's field team shall attempt to resolve issues on site. If Consultant suspects a problem exists that may result in a claim, Consultant shall gather all key team members to (1) evaluate the risk, (2) explore alternatives for resolving the problem with the contractor, (3) prepare supplemental guidance for issuance to the contractor to clarify contract requirements when directed, and (4) if appropriate, initiate a change order to compensate contractor for changed conditions. Consultant shall keep a "potential claim file" to capture all correspondence, reports, meeting minutes, photos and other documents relevant to the issue.
13. Dispute/Claim Reports: During the Construction Phase, Consultant shall make all reasonable efforts to review and resolve disputes on behalf of Owner. Consultant shall maintain documentation and records on all relevant decisions and facts relating to disputes on an ongoing basis. Said records shall be maintained in an orderly manner and made available to County personnel upon request. When Contractor files a notice of potential claim or dispute in accordance with the Contract Documents, Consultant shall as a minimum:
 - a. Immediately, notify the Contractor the Notice was received.
 - b. Notify the Architect Engineer and OAR of the dispute.

- c. Assign a dispute tracking number to the dispute and create a dispute file. The following information shall be prepared and continuously updated and maintained in the dispute file by Consultant.
 - d. Compile any formal data, pertinent data, and records such as daily Contractor reports, progress pay reports, special meeting notes, reports, and summaries.
 - e. Prepare a summary of the dispute, by issue, clearly stating the Contractor's position on each issue, providing:
 - (1) A summary sheet with a chronological listing of events and/or items such as letters to Contractor, meetings, etc., and a brief statement of content.
 - (2) Documentation of pertinent conversations with Contractor.
 - (3) All pertinent inspection reports.
 - (4) Captioned and dated photos and video recordings.
 - f. Compile additional documents such as:
 - (1) Drawings, shop drawings and Technical Specifications with the areas in question highlighted or noted by other appropriate means.
 - (2) Correspondence between the Consultant and Contractor, Consultant and Architect Engineer, and with other pertinent parties.
 - (3) Any other documentation that supports the position of the Contractor, Consultant, and Architect Engineer.
14. Claims Support: If a potential claim is not resolved by the completion of the Project or at the direction of Owner, Consultant shall prepare a formal claims report stating the Consultant's recommendation for resolution of the dispute or claim. The claims report shall be prepared in a format approved by Owner, and solely to assist Owner. Support may include receiving the claim, reviewing for merit, making recommendations to the County for settlement, building history files, attending alternative dispute resolution meetings and/or arbitration.
15. Change Orders and Substitutions.
- a. Establish and maintain a change order control system that tracks all issues that affect cost or time during the entire life of the project including all deviations from the approved architectural program. Analyze Contractor's submitted requests for adjustment to price or for substitutions, and assist Owner in negotiations. Consultant shall develop and implement procedures to ensure compliance with the Contract Documents with respect to the cost of change order work from the Contractor. Analyze Contractor's requests for time extensions and prepare findings of fact for extending or not extending time, prepare a letter to the Construction Contractor for the OAR's review and approval, and forward to the OAR for processing. Maintain a record of all contract modifications on Owner-approved forms and submit copies to the OAR with monthly report. All change orders over \$50,000 require that an estimate of cost be prepared by Consultant's on-site staff, and must include the following statement:
 - (1) "This estimate was prepared as an Independent County Estimate and has been checked for mathematical accuracy. The source(s) used for estimating pricing on this modification/Change Order is _____".
 - b. The estimate shall be signed and dated by the individual who prepared the estimate. At least twice a month, Consultant shall prepare and distribute a Change Order Report. The report shall list all pending and Owner-approved change orders by number, provide a brief description of the change order, and state the cost proposed or established for the proposed change. Changes to the Agreement between the Owner and Contractor(s) shall be only by change orders executed by Owner.

16. Construction Cost Reduction Proposals (CCRP): Consultant shall review and evaluate the cost, schedule and other impacts of all Contractor submitted Construction Cost Reduction Proposals, obtain Architect Engineer's analysis and recommendations regarding the proposal, and present its written recommendations to Owner concerning acceptance or rejection of the CCRP.
17. Management of Contractor's Schedule: Consultant shall review the Contractor's and/or subcontractors schedule submissions in accordance with the Contractor's contract requirements. Consultant shall review the Contractor's preliminary schedule and recommend approval to the OAR. Consultant shall provide analyses to assess the impact of proposed changes. Consultant shall review for logical sequencing, appropriate durations, buildability, reasonable resource loading and compliance with contractual milestones and contract period. The Contractor is fully responsible for scheduling the work in a manner necessary to fulfill the Contractor's contractual obligation. Review and approval of the Contractor's scheduling does not in any way relieve the Contractor of their responsibility to schedule and complete the work within the requirements of the contract.
18. Allocation of Cost to the Contractor's Construction Schedule: The Contractor's Schedule shall have the total contract price, allocated among the Contractor's scheduled activities so that the sum of the prices of the activities shall equal the total contract price. Consultant shall review the contract price allocations and verify that such allocations are made in accordance with the requirements of the Contract Documents. Consultant shall plot, monitor and report on the Contractor's monthly actual cost versus time, compared to Contractor's original projections. Progress payments to the Contractor shall be based on the Contractor's percentage of completion of the approved schedule of values and activities, and in accordance with other provisions the Contract Documents.
19. CDCR Requirements: Consultant shall develop, or translate the Contractor's approved schedule of values, into the cost categories required in CDCR's "3-Page Estimate", (see Owner provided document , "Capital Outlay and State Public Works Board (SPWB) Guidelines" referenced in [Part 3.01](#) of this PSA), as provide updates to this as required in the CDCR PDCA.
20. Contractor's Construction Schedule: Consultant shall review Contractor's preliminary, baseline, updated, revised, and recovery schedules and shall verify that the schedule is prepared in accordance with the requirements of the Contract Documents.
21. Construction Schedule Report: Consultant shall, on a monthly basis, review the progress of construction of the Contractor, evaluate the percentage complete of each construction activity as indicated in the Contractor's Construction Schedule, and review such percentages with the Contractor. This evaluation shall be included in the monthly Construction Schedule Report to be prepared by Consultant in a format approved by the OAR, and distributed to the OAR and Project Architect Engineer. The Report shall indicate the actual progress compared to scheduled progress. Consultant shall advise and make recommendations to Owner concerning the alternative courses of action that the County may take in its efforts to achieve contract compliance by the Contractor.
22. Consultant Review of Time Extension Requests: Prior to the issuance of any change order, Consultant shall advise the County as to the effect on the Master Schedule and construction cost of time extensions requested by the Contractor.
23. Recovery Schedules: After approval by Owner, Consultant may require the Contractor to prepare and submit a recovery schedule demonstrating its program and proposed plan to make up a lag in scheduled progress and to ensure completion of the Contractor's Work within the Contract Time. Consultant shall review and propose when necessary all recover schedules.
24. Submittal and Shop Drawing Review: Consultant shall monitor the submittal and shop drawing review and approval process. This includes monitoring the status of all required submittals, review submittals for format, compliance and general completeness once submitted by the Contractor in DMS within two (2) Business Days from time of receipt by Consultant. In addition, Consultant shall work with Architect Engineer on the interpretation

of Plans and Technical Specifications and will notify the OAR in writing in cases of disagreement on interpretation that cannot be resolved between the Contractor and Architect Engineer. In such notification, Consultant shall make a recommendation to Owner on the interpretation.

25. Code Compliance Inspections: Owner will hire and provide Project Inspector(s), (PI) for the project to perform code compliance inspection on behalf of the County Building Official. Consultant shall monitor the work of the PI to maximize effectiveness. Consultant shall receive and process PI's reports or cause the PI to process its reports into the DMS.
26. Testing and Specialty Inspections: Consultant shall review Architect Engineer's specified testing and specialty inspections, and advise County on recommended testing programs. Consultant shall monitor the testing and specialty inspection of the work. Consultant shall review reports and cause the PI to track the repair of non-complaint work. Consultant, in consultation with the Architect Engineer, may recommend that the Owner reject work that does not conform to the requirements of the Contract Documents. Consultant shall cause PI to verify that contractors have received Architect Engineer's response to deficient test and inspections results, and has coordinated the testing and specialty inspections with all agencies having jurisdiction over the project, including both code authorities and other agencies specified by the County. Consultant shall cause the PI to utilize the DMS for tracking notices of non-compliance.
27. Field Observations for Contract Compliance and Quality Review: Consultant shall perform field observations for compliance with the construction documents and to review CQC. Consultant shall review the Contractor's quality control plan for compliance and make recommendations to the County for approval. Consultant shall monitor the Contractor's adherence to their plan in accordance with Consultant's submitted QA plan. Consultant shall advise the OAR if the Contractor is not meeting their quality control obligation. During construction phase, observe and document, with written reports, the status, progress, quality, of work in coordination with the County's Project Architect Engineer.
 - a. Consultant may recommend the rejection of work and transmit to the OAR and Contractor a notice of nonconforming work when it is the opinion of the Consultant, PI, or Architect Engineer that the Work does not conform to the requirements of the Contract Documents. Consultant may authorize minor variations in the work from the requirements of the Contract Documents that do not involve an adjustment in the contract price or the contract time period, and which are consistent with the overall intent of the Contract Documents. Except for minor variations as stated herein, Consultant is not authorized to change, revoke, alter, enlarge, relax or release any requirements of the Contract Documents or to approve or accept any portion of the Work not performed in accordance with the Contract Documents.
 - b. Communication between Consultant and Contractor with regard to Quality Review shall not in any way be construed as releasing the Contractor from the fulfillment of any of the terms of his Contract Documents. Consultant is not responsible for, nor does Consultant control, the means and methods of construction for the project. It is understood that Consultant's action in providing Quality Review as stated herein is a service to the County, and no action taken by Consultant shall relieve the Contractor from their obligation to perform their work in strict conformity with the Contract Documents and in strict conformity with all other applicable laws, rules and regulations.
28. Consultant shall provide daily field observations of the work performed by contractors. Consultant shall review the work for compliance with the contract documents and CQC assurance and report on those activities Consultant is responsible for monitoring as defined herein. Consultant shall provide a daily report of field observations. Consultant shall notify the OAR immediately of any non-compliant work, and shall notify contractors of deficiencies and monitor their correction.
29. Consultant shall monitor any video system provided by Contractor to monitor the construction progress.

30. Safety Program Review: Consultant shall verify that contractors have on file a safety program as required by the Contract Documents. Consultant shall not be responsible for Contractor's implementation of or compliance with its safety programs, or for initiating, maintaining, monitoring or supervising the implementation of such programs or the procedures and precautions associated therewith. Consultant shall not be responsible for the adequacy or completeness of Contractor's safety programs, procedures or precautions.
31. Consultant Safety Program: Consultant shall develop and implement an adequate safety program and provide a safe work place for its employees and the employees of its subconsultants.
32. Contractor Payment: Consultant shall review the payment applications submitted by the Contractor, Consultants, and Vendors to determine whether the amount requested accurately reflects the progress of that party's work. Consultant shall verify and monitor current status of stop notices, labor dispute assessments, liquidated damages, withholds, and retention and adjust amounts payable accordingly. The Report shall state the total contract price, payment to date, current payment requested, retainage and withholds, and actual amounts owed for the period, and the time period from invoice submission to invoice payment. Based on Consultant's observations and evaluations of each application for payment, Consultant shall recommend payment in the amounts due the respective Contractor, Consultants, and Vendors. Consultant's recommendation for payment shall constitute a representation to the County that, to the best of Consultant's knowledge, information, and belief, the work of the Contractor, Consultant or Vendor has progressed to the level of completion indicated and that payment in the amount certified is due and owing under the applicable contract.
33. Owner Invoicing of State: During the Construction Phase, Consultant shall assist Owner prepare invoicing to BSCC monthly, meeting the requirements of the JCA and PDCA. Consultant shall prepare for Owner a clear segregation of contractor and other invoicing between what is eligible for State reimbursement and what is not, as provided for in the JCA.
34. Cash Flow Analysis and Monitoring: During the Construction Phase, Consultant shall prepare an analysis of construction, and all other project related expenses, and of State reimbursement payments and any other project revenue, with data provided by Owner, to determine, monitor and plot on a time scale the historical and projected project cash flow by month.
35. Monthly Project Report: In a form approved by the OAR, Consultant shall submit a monthly progress report to the County, including information on each Consultant and Contractor's work and the general status of the entire project. Consultant will meet with the County monthly to review this report, which shall include:
 - a. Executive Summary.
 - b. Narrative of the current project status (work completed this period; status of schedule; anticipated or potential problems; and required actions by County in upcoming month).
 - c. Current versions of all other logs managed by Consultant.
 - d. Financial reports (costs to date, initial contract value, costs committed, exposure, projections to completion, cash flow).
 - e. Milestone schedule update.
 - f. Photographs.
 - g. Consultant's report shall highlight any significant variance from prior reports for the project and additionally advise the Owner as to any variances between actual costs and approved budgets.

36. **Prevailing Wage Monitoring and Control:** Consultant shall assist the County ensure compliance with prevailing wage laws utilizing resources such as the Center for Construction Compliance.
37. **Utilities:** Consultant shall assist the County with preparation and submission of applications required for municipal and private utilities serving the Site. Consultant shall assist the County in coordinating with public and private utilities for all project utility services including assisting with preparation of agreements, approvals, field surveys and inspections, transmittal of documents, document reviews, and scheduling.
38. **Consultant's Record Set of Plans and Specifications:** Consultant shall maintain onsite a current and independent set of plans and specifications. Consultant shall update the Record Set daily. All addenda, RFIs, material and equipment selections, change orders, bulletins, and other pertinent information shall be posted to the record set. The record set shall be used to assist the field inspectors in performing their inspection duties and to assist Consultant in verifying the Contractor's monthly and final as-built submissions for accuracy and completeness. Consultant's Record Set shall be provided to Architect Engineer at the conclusion of the Construction Phase for their use in completing the Record Documents pursuant to Architect Engineer's PSA.
39. **For Change Orders** resulting from Owner requests or unknown site conditions, pursuant to [Part 11.03, "Additional Services"](#) the Owner may negotiate a corresponding fee increase to the Consultant's Project Phase for Consultant preparation of supporting data, Drawings, Technical Specifications and other documentation, and provision other Services as needed to assist Owner in evaluating Contractor's proposals for Change Orders and Field Modifications.
40. **Time Extension of Construction Phase.**
 - a. Any prolonged construction phase services past the construction completion date defined in the Construction Contract, due in whole or in part to Consultant's failure to perform its obligations under this PSA, shall be included in Basic Service.
 - b. Prolonged construction phase services not due in whole or in part to any failure of Consultant to perform under this PSA, and which exceed by less than 30 days the actual construction duration defined in the Construction Contract, or which exceed by less than 5% of the expected construction duration defined in this PSA, whichever is longer, shall be included in Basic Service.
41. **Owner's Architect Engineer:** During the Construction Phase the Project Architect will have significant roles in the areas listed below, for which Consultant shall coordinate with Architect Engineer, and Consultant is advised to make itself familiar with those roles using the Architect Engineer's PSA provided to Consultant.
 - a. Interpretation of the Contract Documents.
 - (1) Response to RFIs.
 - (2) Claims and Disputes resolution.
 - b. Testing and Inspection.
 - (1) Review of Reports.
 - (2) Recommendations to obtain compliance with Contract Documents.
 - c. Review of Contractor Submittals.
 - d. Change Orders and Field Modifications.
 - e. Owner Move-in/Training Orientation.
 - f. Milestone Acceptance and Project Closeout.
 - g. Final Observations.

- h. Record Documents.
42. Deliverables: At 100% completion of the Construction Document Phase, Consultant shall furnish the required deliverables to Owner including, but not limited to, the following:
- a. Meeting Minutes.
 - b. Required Logs.
 - c. Required Progress Reports.
 - d. Updated Project Schedules.
 - e. Dispute Reports.
 - f. Claims Reports.
 - g. CCRPs.
 - h. Monthly Schedule of Values converted to CDCR format.
 - i. Inspection Reports.
 - j. Consultant Safety Plan.
 - k. Contractor Pay Claims.
 - l. Cash Flow Analyses.
 - m. Utility Applications.
 - n. Record Drawings.

H. Operation/Project Close-Out Phase.

1. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. Punch-list follow-up, 1 day each – Quantity 2.
 - b. In-Person: Meeting with Owner's Building Engineer and Facilities Operations staff to perform an in-depth review the Systems Manual when complete. (This will be held in conjunction with other site activities.) (2 hours)
2. Completion of transition, occupancy and start of operations will require 3 months after beneficial occupancy for Owner's transition team to train staff and perform the facility shakedown. During the Operation/Project Close-Out Phase, Consultant shall perform the following services at a time requested by Owner.
3. Assist Architect Engineer in, start-up, testing and placing in operation special equipment and systems.
4. Together with OAR, assist Architect Engineer with Architect Engineer's preparation and submission of all final required deliverables under Title 24, the JCA and the PDCA for its final Project approval.
5. Punch List: Work with the Architect Engineer and applicable County agencies to monitor the development of a punch list of items necessary for completion. Monitor the Contractors work to address the deficiencies. Maintain punch list items on the DMS and cause the PI to track each item to resolution.
6. Substantial Completion: Assist the Architect Engineer in the determination of Substantial Completion of the Work. In consultation with the Project Architect Engineer, Consultant shall cause the PI to prepare a list of work that does not conform to the Contract Documents. This list shall be attached to the Certificate of Substantial Completion.
7. Occupancy Permit: Consultant shall assist Owner in obtaining all occupancy permits by accompanying governmental officials during inspections of the project, coordinating the preparation and submittal of documentation to agencies having jurisdiction, and coordinating final testing and other required activities.

8. Operations and Maintenance Manuals. Consultant shall receive from the Contractor operation and maintenance manuals, warranties and guarantees for materials and equipment installed in the project. Consultant shall review the materials for completeness per contract requirements and request additional information as necessary to ensure that Owner receives all necessary materials. Consultant shall cause the Contractor to create a list of all manuals so received, and record their transfer to Owner for subsequent training on facility operation. Consultant shall cause the Contractor to provide on this list a contact person and telephone number for the contractor and appropriate subcontractor for County staff to use when requesting warranty or guaranty service.
9. Systems Manual: Develop a Systems Manual for all commissioned systems. The System Manual shall be a complete document describing the components, operation, integration, commissioning and maintenance of each system. This System Manual shall provide future operating staff the information needed to understand and optimally operate the commissioned systems. Include a narrative outlining a process for future re-commissioning of all systems. Conduct a meeting with Owner to perform an in-depth review of the Systems Manual when complete. The Systems Manual and other closeout documents developed by the Consultant shall be created in a format that can be attached or embedded in the facility management database, and as approved by the OAR.
10. Final Commissioning Report: At the time directed by the OAR, Consultant shall prepare final project commissioning reporting. The Final Commissioning Report shall contain an executive summary, a summary of the commissioning process, the final Commissioning Plan, OPR, BOD, Commissioning Specifications; completed Issues List; Commissioning Meeting Minutes and completed check forms. The Final Commissioning Report shall be completed and submitted to the Owner within 30 days of the time Consultant is directed by Owner to prepare final project reporting.
11. Staff Training in Operation and Maintenance: Monitor the contractor's start-up training program for building operations personnel. Advise the County on required manuals and other materials needed for smooth operating and maintenance. Monitor the instruction as appropriate and approved by Owner, on operation and controls of the building, including use of operating manuals. Other instructors may include Owner, Contractor, Architect Engineer and Commissioner.
12. Preventative Maintenance Programming: Develop preventive maintenance programs for the maintenance and operation of the new facility. Assist Owner in retaining appropriate cleaning, operating, security, and other non-County personnel.
13. Final Completion: Assist Owner in determining final completion. All work must be complete as defined by the contract documents. Consultant shall assist the Owner in ensuring all necessary documentation, including release of claims, has been received, all training has been completed, all warranty requirements are in place, and final billing has been received. Consultant shall assist the Owner in issuing a Certificate of Final Completion and shall provide to the County a written recommendation regarding payment to the Contractor, as provided for in the Contract Documents. Consultant shall monitor the transmittal of Record Documents to the Owner.
14. Close-Out Report: At the conclusion of the project, Consultant shall prepare final project accounting and closeout reports that meet the terms of the JCA and PDCA. Consultant shall provide report on the status of the following items being obtained, completed, and/or delivered to Owner prior to recommending final payment and release of retention to the Contactor. Report to include:
 - a. Certified Notice of Completion.
 - b. Any Remaining Punch List.
 - c. Start-Up/Commissioning.
 - d. Certificate of Occupancy.

- e. Final Approval (State and Regulatory Agencies, Special inspections, County's inspections).
 - f. Obtain and perform appropriate review of the:
 - (1) Project Record Documents, Drawings and Specifications "As-Built".
 - (2) Other Project Documents for Owner's retention.
 - (3) Guaranties and Warranties.
 - (4) Bonds and Waivers.
 - (5) Spare Parts.
 - (6) Operating and Maintenance Manuals.
 - (7) Keying Schedule/Keys/Security Cards.
15. Deliverables: At 100% completion of the Construction Document Phase, Consultant shall furnish the required deliverables produced by Consultant and others as applicable to Owner including, but not limited to, the following:
- a. Punch Lists.
 - b. Certificate of Substantial Completion.
 - c. Certificate of Completion.
 - d. Commissioning Issues Log and Recommended Solutions.
 - e. Final Commissioning Report with All Sections Complete.
 - f. Functional Testing Results.
 - g. Training Verification.
 - h. Systems Manual for all commissioned systems.
 - i. Operations and Maintenance Manuals.
 - j. Preventative Maintenance Program.
 - k. Close-Out Documents.
 - l. Spare Parts.
 - m. Close-Out Report.

I. Warranty Phase.

- 1. Meetings: Consultant shall attend the following meetings as part of Consultant's Basic Services:
 - a. End of Warranty review, 1 day.
- 2. Acceptance by the Owner of the Consultant-prepared Close-Out Report and inclusive documents constitutes completion of the Consultant's Basic Services for compensation purposes; however, Consultant is required to participate in an inspection of the Project one month prior to expiration of the Contractor's one-year Warranty/Guarantee period without additional compensation.
- 3. Trend Review: Verify system operation by reviewing a minimum of three (3) months of trend data for all commissioned systems during functional testing and prepare a report summarizing results and identifying any deficiencies.
- 4. Warranty Review: The Consultant shall coordinate with the Construction Manager and the O&M staff to review the facility and its performance within 10 months after substantial completion. Consultant shall document and obtain correction of unresolved construction commissioning issues as well as any deficiencies identified in the post occupancy review

to be documented and corrected as a claim under manufacturer or contractor warranties. In working with the building operations staff and occupants, Consultant shall identify any problems in operating the building's original functionality. Consultant shall perform site walk-through, review trend logs, and perform a review with Operations and Maintenance personnel and space occupants 10 to 12 months after final acceptance.

5. Consultant shall, when requested, render advice to assist Owner in obtaining necessary compliance by the Contractor with the terms of Contractor Warranty/Guarantees.
6. Other than the inspection of the Project one month prior to expiration of the Contractor's one-year Warranty/Guarantee period, should Owner request Warranty Phase Services after Consultant's completion of their Basic Services, and Services are required through no fault of Consultant, Consultant will be compensated pursuant to [Part 11.03, "Additional Services"](#).

PART 6 - CONSULTANT'S SCHEDULE

6.01 Project Schedule – PDCA Milestones.

- A. The Owner's Project Schedule is established in the SPWB Approved Project Establishment Package (Exhibit H) and may be modified only by written approval of the BSCC and CDCR. Where the PDCA uses the term "Preliminary Plans", Consultant shall equate that to the Schematic Design phase drawings and outline specifications as defined in this PSA. Where the PDCA uses the term "Working Drawings", Consultant shall equate that to the Construction Documents phase drawings and specifications defined in this PSA.
- B. Completion Milestones: Unless otherwise provided for in a Project Phase, Consultant shall complete the following Milestones by the corresponding dates shown below, assuming the PSA award date shown, and where "completion" is defined as having incorporated review comments of Owner and State agencies. Notwithstanding the Milestone dates shown, Consultant shall assume a 24-month construction duration for purposes of establishing Consultant's fee:

1. County Awards PSA	March 2015
2. Architectural Program	March, 2015
3. Schematic Design	April, 2015
4. Design Development	June, 2015
5. Enhanced Design Dev	October, 2015
6. Construction Docs	April, 2016
7. Advertise for Bids	August, 2016
8. Bid Opening	October, 2016
9. Notice to Proceed	January, 2017
10. Construction Complete	October, 2018
11. Occupancy	April, 2019

6.02 Coordination with Project Master Schedule and Owner Operations.

- A. Consultant shall complete or cause to be completed all services required under this Agreement in accordance with the Master Schedule and Milestone Schedule to be developed by Consultant, with input from Architect Engineer and Owner.
- B. For each phase of Service under this PSA, Consultant shall prepare and submit for Owner's acceptance a task list identifying the principal tasks (and subtasks) defining the scope of work of each phase. The main purpose of the task list shall be to promote coordination and scheduling of the Owner and third parties whose actions might impact Consultant's progress.
- C. The task list shall list all points of Owner and third party interface, for example Board docketing dates, approvals, reviews, Consultant coordination checks, design input and supplying information. The task list shall include a listing of Consultant's anticipated specific requirements for information, decisions or documents from Owner necessary for Consultant's performance of its services, and required third party approvals and preliminary meetings

required to obtain agreement in principle with agencies and third parties involved in the Project.

- D. For the Project, Consultant shall prepare, submit for Owner's acceptance, and maintain a design schedule detailing Consultant's scheduled performance of the Services. The schedule shall comply and coordinate with the Master Schedule and Milestone Schedule including all updates to the Master Schedule to be maintained by Consultant.
- E. Consultant shall submit a preliminary schedule of Consultant's services for work through the Construction Documents phase within twenty (20) days of commencement of the Programming Phase (covering in summary fashion all Services of each phase of the Project), except where earlier deliverables are required, such as the DMS recommendation.
- F. For each succeeding phase of Services, Consultant shall supplement this schedule with a detailed schedule covering by task (and subtask) Consultant's work during the succeeding phase of Services. (The required schedule supplement shall be submitted as part of Consultant's deliverables at the conclusion of each phase of Services.).
- G. Consultant's schedule shall be updated monthly, and shall meet the following requirements:
 - 1. State Requirements: Consultant's schedule shall outline dates and time periods for the delivery of Consultant's services, requirements for information from Owner for the performance of its services, and required third party approvals and preliminary meetings required to obtain agreement in principal with County's Sheriff's office and its subconsultants, the JCA and PDCA, State Fire Marshall, and any other agencies involved in the Project.
 - 2. The schedule shall include appropriate Owner, BSCC, CDCR and State Fire Marshal design review durations for each contract package, including those durations provided in the CDCR's "Capital Outlay and SPWB Guidelines" page 16 and 17. Accept as specified in the Project Phase, minimum durations provided for Owner review (including Owner's agents) shall be two (2) weeks for Schematic Phase, Design Development Phase, and 50% Construction Document phase, and three (3) weeks for 100% Construction Documents phase.
 - 3. CEQA Requirements: The schedule shall consider and incorporate CEQA mitigation measures identified in the EIR that impact the Project construction schedule, such as avoidance of grading work during certain times of year, and establishment of silt fences to limit wildlife from the work area.
 - 4. The schedule shall be in a computer software format compatible with Owner's existing computer software format, which is Microsoft Project.
- H. Consultant shall adjust and cause its Subconsultants to adjust activities, personnel levels, and the sequence, duration and relationship of services to be performed in a manner that will comply with the accepted schedules.
- I. For the Project, Consultant shall include in Consultant's monthly progress report written recommendations regarding ongoing construction work, including fulfillment of Owner's objective to secure a completed Project with the lowest reasonable construction costs, Project scheduling, and any and all design changes affecting size or cost of the Project.

6.02 Each Project Phase Shall Contain a Consultant's Schedule.

- A. Consultant will perform all Services and Deliverables within the time and project schedule stated in the Project Phase, including milestones and interim milestones, if any. Time is of the essence in this PSA.
- B. Consultant shall provide and maintain Project staffing levels as necessary to perform the Services within the time provided in the Master Project Schedule.

PART 7 - COST CONTROL

7.01 Owner Approved Construction Cost (OACC).

- A. The OACC is defined as the budgeted construction cost at the point of construction contract bid opening. Consultant shall treat the OACC so identified as the Owner's required construction cost for the Project. In performing its Services under this Agreement, Consultant shall include within the OACC design contingency amounts as follows: 15% during schematic design; 10% during design development; and 5% during construction documents.
- B. Each Project Phase will specify the OACC for the Project or Project part covered by that Project Phase. The OACC will include any bid alternates as defined by the OAR. The Owner Approved Construction Cost shall not be revised without Owner's prior written approval.
- C. The OACC shall not exceed construction costs defined in the JCA or PDCA, or their duly executed amendments.

7.02 Formatting and Comparing Estimates

- A. All required Statements of Probable Construction Cost (SPCC) by Consultant shall be prepared per Owner's direction, in a format or formats approved by the OAR. The identical format(s) shall be used consistently throughout the Project in order to facilitate tracking the costs of various Project components. In addition, Consultant shall provide a cost estimate summary sheet in CSI format for all Construction Document Phase submissions of Statements of Probable Construction Cost.
- B. If the SPCCs estimated by Consultant and Architect Engineer differ by more than the contingency amounts shown in paragraph 7.01.A above, then the two estimators shall reconcile their material quantities and unit prices. If more than 50% of the discrepancy is due to differences in material quantities or anything other than unit prices, Consultant shall either resolve discrepancy to the satisfaction of both Consultant and Architect Engineer, or present to OAR information supporting Consultant's version of the estimate.
 - 1. If attendance at meetings with the independent estimator to reconcile Consultant's estimate is necessary, Consultant will be compensated according to their hourly rate schedule, unless the reason for a majority of the discrepancy is due to Consultant's error and/or omission in breach of applicable professional standards.
 - 2. In the event that the Architect Engineer's estimate and Consultant's estimate cannot be reconciled, Architect Engineer's estimate will prevail as the Estimated Project Construction Cost prior to the Construction Phase.
- C. Consultant shall include an estimate summary of all buildings when there is more than one building. The summary includes all building cost to five feet outside the building. Site work estimates shall be to within five feet outside the building and represented on a separate summary page. The summary shall list the building or site work, its size, cost per square foot and total cost.
- D. Owner acknowledges that Consultant cannot control changes or conditions in labor, materials, bidding, and negotiation markets and cannot warrant that actual bids or construction costs will not vary from Consultant's estimate(s).

7.03 Consultant's Responsibility Regarding the OACC

- A. Owner asserts that the total Construction Cost of the Project shall not exceed the Owner Approved Construction Cost set forth in the applicable Project Phase.
- B. NOT USED.
- C. Consultant shall reconcile each Statements of Probable Construction Cost to previous Statement of Probable Construction Cost. If any deviation occurs between estimates that affect the construction costs by more than 5% for any component (a component is defined as a building or the site development portion of the project budget), a reconciliation of where the difference occurred shall be submitted with the estimate. A written description of why the change took place is required.

- D. Evaluations of the Owner's Project Budget and Statements of Probable Construction Cost prepared by the Consultant represent the Consultant's best judgment as a design professional familiar with the construction industry.
- E. Consultant shall identify and recommend for reasonable additive and/or deductive Bid Items as mutually determined by OAR, Architect Engineer and Consultant to ensure reconciliation between Statements of Probable Construction Cost and the OACC.

7.04 Review of Project to Reduce Potential Cost

- A. If any estimate of the SPCC at any level, or at any phase of the project, exceeds the then-current OACC, Consultant shall immediately notify Owner in writing. Thereafter, Owner, Consultant and Architect Engineer will discuss the revisions or steps necessary for Architect Engineer to bring the current Statement of Probable Construction Cost to within the OACC.

7.05 Consultant's Obligation to Modify Bid Documents

- A. If, upon bidding the Project for construction, the lowest responsive Bid submitted by a responsible Bidder exceeds the OACC, Owner may elect to:
 - 1. Re-Bid the Project; or
 - 2. Increase the OACC; or
 - 3. Terminate the Project or a part thereof; or
 - 4. Revise the Project to reduce the construction cost.
- B. If the lowest responsive Bid submitted by a responsible Bidder exceeds the OACC by more than ten percent (10%) including all Bid Alternate items previously defined as part of the OACC, as provided in [Parts 7.01 and 7.03](#), the Owner's Architect Engineer will, upon Owner's request and without additional cost to Owner, modify the Bid Documents as necessary to reduce the probable Construction Cost to less than the OACC.

7.06 Addendum Estimates

- A. The Consultant shall prepare and submit Addendum Estimates, independent of Architect Engineer's, for all Addenda changes that may result in added construction costs in excess of \$5,000 after release of Bid Documents but prior to Bid opening.
- B. All estimates shall be submitted to the OAR for acceptance prior to Bid opening.

PART 8 - INDEMNIFICATION & INSURANCE

- A. Indemnification and Insurance requirements are set forth in [Exhibit F](#), "Indemnification & Insurance."
- B. Prior to execution of this PSA, Consultant shall furnish to Owner Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this PSA as set forth in [Exhibit F](#), which is attached and made a part of this PSA. Consultant shall maintain all required insurance throughout the term of this PSA and as otherwise provided in [Exhibit F](#). In the event Consultant fails to maintain any required insurance, and notwithstanding Part 11 below, Owner may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due Consultant under this PSA (or Consultant shall promptly reimburse Owner for such expense).

PART 9 - REPRESENTATION BY COUNSEL

- A. Both parties to this PSA were represented by counsel in the negotiation and execution of this agreement.
- B. The parties are aware of the provisions set forth in California [Civil Code §1717](#) and intend this paragraph of the PSA to meet said statutory requirements so that the reference to attorneys' fees in [Part 8, "Indemnification & Insurance"](#), applies only in the indemnification context in [Part 8, "Indemnification & Insurance"](#).

PART 10 - HAZARDOUS MATERIALS

10.01 Responsibility for Hazardous Materials

- A. Owner acknowledges that Consultant has no special knowledge or expertise regarding asbestos or other hazardous materials.
- B. Unless otherwise provided in this PSA, or unless Owner has provided documented information to Consultant regarding the presence or potential presence of such hazardous materials Consultant and its Subconsultants have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or any other toxic substance.

10.02 Hold Harmless Clause

- A. To the fullest extent permitted by law, Owner agrees to bring no claim against Consultant and its Subconsultants and to defend, indemnify, and hold harmless Consultant and its Subconsultants from third party claims relating to the investigation, detection, abatement, replacement, or removal of asbestos or other hazardous material, or relating to sudden or gradual escape or release of hazardous contaminants of any kind into or on the land, the atmosphere, or any water course or body of water, excepting only such claims which arise out of the sole negligence or willful misconduct of Consultant or its Subconsultants.

PART 11 - COMPENSATION & PAYMENT

11.01 Compensation

- A. Payments will be made as set forth herein and as authorized in each Project Phase.
 - 1. Maximum Compensation Limit:
 - a. Each Project Phase will specify a Maximum Compensation Limit (MCL) by Owner to Consultant for that Project Phase. The MCL includes all authorized Services and authorized Reimbursable expenses. Total payment by Owner pursuant to any Project Phase will not exceed the MCL specified in the Project Phase, and Consultant shall provide all Services and Deliverables set forth in each Project Phase, compensation for which will not exceed the specified MCL.
 - 2. Consultant's Hourly Rate Schedule:
 - a. Consultant's Hourly Rate Schedule is set forth in [Exhibit A](#), "Consultant's Hourly Rates."
 - b. Modifications to Consultant's Hourly Rate Schedule to include out-years beyond the rates identified in Exhibit A will be negotiated by the parties using as a benchmark the prevailing increase for similar Consulting Services in the Central Coast area and are subject to approval as an amendment to the PSA by the OAR.
 - c. Non-Fixed fee Services provided by Subconsultants are subject to approval by the OAR and documented in a Project Phase. Administrative mark-up by Consultant on Subconsultant invoices is not permitted.
 - d. Where the class of persons authorized to provide specific Services is not designated in a Project Phase, Services shall be provided by a qualified person who is in a class that has the lowest rate of payment among those classes that contain persons who are qualified to provide the Services.
 - 3. Consultant's Milestone Schedule: Each Project Phase shall contain a Consultant's Milestone Schedule prepared in accordance with [Part 6, "Consultant's Schedule"](#).
 - 4. Changes: If, during the term of a Project Phase, circumstances constituting a material change in scope as described in [Part 4.02, "Changes In Scope"](#), arise, Consultant will be entitled to compensation therefore, within the Total Payment Limit for that Project Phase. If such changes mean that the scope of the Project Phase cannot be completed as

originally envisioned, then Consultant shall immediately inform the OAR and assist OAR in allocating the remaining compensation among the unfinished Services in order to accomplish as much of the original intent as possible within the Total Compensation Limit of the Project Phase. If such changes mean the full services of the PSA cannot be completed within the Maximum Compensation Limit of the PSA, payment to Consultant for such changes cannot be made without a modification to the PSA. Such modification can be made only by the County Board of Supervisors.

5. Prevailing Wages: Consultant acknowledges that some of the work performed on site to support the Services under this PSA may be “public works” within the meaning of California Labor Code Section 1720 and that the requirements of Section 1771, et. seq. apply to such public works. To the extent applicable, Consultant has included (and will include) consideration for this obligation in calculating compensation and cost estimates under this PSA, and Consultant shall comply with any such applicable prevailing wage law requirements at it’s sole expense.

11.02 Reimbursable Expenses

- A. When travel is authorized as a reimbursable expense in a Project Phase, Consultant agrees it will be reimbursed at rates not exceeding the Federal rates for per diem and mileage, not exceeding airfare costs for coach class, and not exceeding car rental costs for medium size autos unless multiple passengers justifies a larger vehicle. Consultant shall provide receipts in a manner that conform to Federal requirements. All invoices must show travel expenses separately. The JCA considers travel costs ineligible for State reimbursement.
- B. When authorized in the Project Phase, Owner will reimburse Consultant, at cost, for reasonable expenses incurred in the performance of the Services. Only the following expenditures, made by Consultant with Owner's advance written approval, are payable as reimbursable expenses within the Total Compensation Limit of any Project Phase:
 1. Extra-ordinary “office” expenditures specifically related to executing the scope of work in Project Phases, including overnight mailing such as Federal Express, and additional copies of Deliverable Documents, requested by OAR over and above those required by the terms of the Project Phase; and mileage reimbursement to attend meetings beyond those specified in the scope of Project Phases. Any individual expense in excess of \$10.00 shall be supported by a copy of the receipt.
 2. Other reimbursable expenses specifically identified in a Project Phase.

11.03 Additional Services

- A. Performance: Services required to be performed by Consultant upon request by Owner, which are described hereinafter as Additional Services, must be authorized by Owner in writing prior to performance.
- B. Compensation for Additional Services: Consultant shall be compensated for Additional Services as set forth in Exhibit A unless the parties agree on lump sum compensation for particular work activities.
- C. Services: The following services shall be considered Additional Services:
 1. Making revisions in reports, drawings, or other documents, if:
 - a. Such revisions are not necessary because of a deficiency in Consultant’s work, and
 - b. Such revisions are inconsistent with written approvals or instructions previously given by Owner, or are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents, or are due to other causes not solely within the control of Consultant.
 2. Changes in scope, such as revisions of approved reports or design documents. Changes in schedule can be a change in scope only if Consultant has fully performed its

scheduling and coordination responsibilities herein required and the changes in schedule are in addition to these responsibilities.

3. Required out-of town travel beyond limits specified in Exhibit A.
 4. Assistance in connection with bid protests and rebidding when such assistance is required by matters unrelated to Consultant's deficient performance.
 5. Property surveys or field surveys for design purposes, engineering surveys, and staking, to the extent not required by other provisions of this PSA.
 6. Preparing to serve or serving on behalf of Owner as an expert witness (but not as a percipient witness) in connection with any arbitration, administrative or other proceeding or legal proceeding.
 7. Preparation of applications and supporting documents for governmental grants and permits. However, participating in consultations and evaluation of the effect of associated requirements on the design requirements of the Project is within Consultant's Basic Services scope.
 8. Services to verify the accuracy of geotechnical information.
 9. NOT USED.
 10. All work or services required as a result of any failure by Consultant to perform its obligations under this PSA shall be performed by Consultant at no additional cost as part of Basic Services and shall not be deemed Additional Services.
 11. Providing additional insurance coverage requested by Owner beyond that specified in the Agreement, except that no markup will be allowed. Consultant shall promptly comply with such request.
- D. Supplementary Services & Deliverables: Owner may establish a Supplemental Services Allowance (SSA) in a Project Phase for the performance of contingent services not specifically identified within the Project Phase's Scope of Services and Deliverables, but of services similar in scope specified in the Project Phase, and compensation for which is included in the MCL of the Project Phase. Consultant will only commence work pursuant to the SSA following prior, written authorization of Owner's Authorized Representative.

11.04 Payment

- A. Payment Requests: Owner will make all reasonable efforts to make payments within thirty (30) Days after the OAR's approval of the Consultant's correct Payment Request.
- B. Invoices: Consultant will submit Payment Requests on the forms shown in [Exhibit E](#), "Sample Invoice," not more than once each month.
- C. Progress Payments: Owner may, at its discretion, adjust any progress payment so that it corresponds with the percentage of completion as reasonably determined by Owner.
- D. Neither Consultant, nor authorized subconsultants, may provide services to the Construction Contractor or any Subcontractor pursuant to separate agreement for any part of the Project.

11.05 Release of All Claims

- A. Prior to final payment under any Project Phase, Consultant shall execute and deliver to Owner a release of all claims arising under the Project Phase, other than such claims, if any, as may be specifically excepted from the release for the reasons and in the amounts stated in the release.

11.06 Timely Billings

- A. Consultant agrees to bill Owner on a timely basis and not later than ninety (90) Days after:
 1. Services are performed.
 2. Reimbursable Expenses are incurred, or

- 3. Billings are otherwise due pursuant to the terms of the Project Phase.
- B. Owner has no liability for payment of, and has sole discretion to pay or decline payment of, any billings submitted after the expiration of this ninety (90) Day period.

11.07 Consultant's Accounting Records

- A. Accounting System & Records Retention: Consultant shall maintain an accounting system in accordance with generally accepted accounting practices and financial reporting, and in compliance with the requirements of the JCA and PDCA documents, for the purpose of supporting payments for Services authorized under this PSA. Consultant shall retain and make accounting records available in accordance with [Part 14-9 "Records, Audit and Review"](#).
- B. Applicability to Subcontracts: Consultant shall incorporate the above-stated accounting and audit requirements into all subcontracts exceeding Ten Thousand Dollars (\$10,000) in value pursuant to this PSA or any modification thereof.

11.08 Maximum Payment to Consultant

- A. Excluding Additional Services performed only by a modification to this PSA, the Maximum Payment to Consultant for all services under this PSA, and when combining all Project Phases, shall not exceed **\$2,396,006**. The Maximum Payment shall not exceed progress on the Project Services described in this PSA to be performed by Consultant and the percentage allowances under the following paragraph.

11.09 Maximum Payment to Consultant by Phase

- A. For each of the following phases, Consultant will be eligible for 80% of the pay percentages shown below upon first submittal of the full set of deliverables, and the balance upon incorporation of State agency comments where State agency requires resubmittal, or when State agency notifies OAR that it has no such comments.

B. <u>PHASE</u>	<u>NOT-TO-EXCEED PA AMOUNT</u>
1. Programming	\$17,166
2. Schematic Design	\$ 99,683
3. Design Development	\$ 180,615
4. Enhanced Design Development	\$ 148,260
5. Construction Documents	\$ 148,254
6. Bidding	\$ 94,424
7. Construction	\$ 1,658,838
8. Operation/Project Close-Out	\$ 45,777
9. Warranty	\$ 2,989

TOTAL BASIC SERVICES MAXIMUM COMPENSATION LIMIT: [\\$2,396,006](#)

PART 12 - TERM & TERMINATION

12.1 Owner's Rights

- A. Termination for Convenience
 - 1. Owner's Authorized Representative may, by written notice to Consultant, terminate all or part of this PSA or any Project Phase at any time for Owner's convenience. Upon receipt of such notice, Consultant shall immediately cease all work as specified in the notice.
 - 2. If this PSA or any Project Phase is so terminated, Consultant will be compensated as set forth below.
- B. Termination for Breach:

1. If Consultant violates any of the material covenants or agreements of this PSA or a Project Phase, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this PSA or any Project Phase, and does not cure such failure or violation within thirty (30) days, or undertake and diligently continue efforts to cure if a complete cure is not feasible within 30 days, or such shorter period than 30 days as the Owner may determine is necessary and appropriate, after receipt of written notice from Owner's Authorized Representative specifying such failure or violation, Owner may terminate this PSA and any or all uncompleted Project Phases.
 2. Owner will provide Consultant with written notice as to the effective date of termination, and Consultant is not entitled to compensation for Services or expenses beyond the specified termination date.
 3. If, after notice of termination for breach of this PSA or any Project Phase, it is determined that Consultant did not breach this PSA or the Project Phase, the termination will be deemed to have been made for Owner's convenience, and Consultant will receive payment, which is allowed by this PSA for a termination for convenience.
- C. The rights and remedies provided herein to Owner are in addition to any other rights and remedies provided by law, or this PSA.

12.2 Consultant's Compensation Upon Termination

- A. In the event of Owner's termination of this PSA or any Project Phase, Consultant will receive compensation as follows:
1. For fully performed and accepted items of Service, and authorized Reimbursable Expenses pursuant to any Project Phase, compensation will be in the amount specified in the Project Phase for that item of Service or expense.
 2. For items of Service on which Owner has issued an Authorization to Proceed but which have not been fully completed and accepted, Consultant will be compensated for its Services accepted by Owner in an amount which bears the same ratio to the total fee otherwise payable for the performance of that Service as the Services performed bear to the total Services necessary for the full performance of that Service.
- B. In no event will the total compensation paid for any item of Service exceed the value specified in the applicable Project Phase for that item of Service.

12.3 Delivery of Documents

Upon any termination of this PSA or any Project Phase, Consultant shall furnish Owner all documents and Instruments of Service prepared pursuant to this PSA or such Project Phase(s), whether complete or incomplete, and shall not be liable for any further use of any documents or Instruments of Services that are not completed and sealed by the Consultant when delivered to the Owner. Consultant may retain a copy for its records.

12.4 Suspension of Services

- A. Owner may, without cause, order Consultant to suspend, delay or interrupt Services pursuant to this PSA, in whole or in part, for such periods of time as Owner may determine in its sole discretion. Owner shall deliver to Consultant written notice of the extent of the suspension at least seven (7) calendar days before the commencement thereof. Suspension shall be treated as an Excusable Delay and Consultant shall be compensated for such delay to the extent provided under this Agreement.
- B. Notwithstanding anything to the contrary contained in this Paragraph, no compensation shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by a cause for which Consultant is responsible.

PART 13 - DISPUTE RESOLUTION

13.1 Consultant's Questions & Concerns

- A. Questions regarding the terms, conditions and Services of this PSA or any Project Phase will be decided by the Owner who will furnish the decisions to Consultant in writing within thirty (30) Days after receiving a written request from Consultant.
- B. Disputes between Consultant and Owner will be resolved by arbitration after the project. Consultant shall perform disputed services according to Owner's direction so as not to delay the project schedule.

13.2 Dispute Resolution

- A. Alternate Dispute Resolution (ADR): Owner intends to use ADR techniques including Partnering and Mediation during Construction at a time that will not impact the project schedule.
- B. Consultant and its subconsultants shall participate in all ADR efforts as directed by owner.
- C. The cost of Partnering training facilities and facilitator will be borne by Owner.

13.3 Negotiations Before and During Dispute Resolution

- A. Negotiations to resolve disputes before and during ADR are initiated for settlement purposes only and are not binding unless otherwise agreed by Owner and Consultant.

13.4 NOT USED

PART 14 - MISCELLANEOUS PROVISIONS

14.1 Capitalization and Formatting.

- A. Terms capitalized in this PSA and subsequent Project Phase include those that are Specifically defined, or
 1. Titles of Parts or paragraphs, or
 2. Titles of reports or Deliverables, or
 3. Titles of other documents.
- B. Unless otherwise indicated, **highlighted**, **emboldened**, *italicized*, or underlined text is not indented to imply special significance but serves merely as an aid to the reader to distinguish or quickly reference selected text.
- C. The captions of the Parts and paragraphs are for convenience only and will not be deemed relevant in resolving any question of interpretation or construction of any such Part or paragraph.

14.2 Force Majeure

- A. Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees, agents, or representatives.

14.3 Waiver

- A. In the event any provision of this PSA is held to be invalid and unenforceable, the remaining provisions will be valid and binding on the parties.
- B. One or more waivers by either party of any provision, term, condition or covenant will not be construed by the other party as a waiver of a subsequent breach.

14.4 Exclusion of Contractor's Means & Methods

- A. Consultant has not been retained or compensated to provide design and construction review services relating to the Contractor's safety precautions or to means, methods, techniques, sequences, or procedure required for the Contractor to perform its Work except as required by Labor Code §6705. Omitted services include but are not limited to:
 1. Shoring.
 2. Scaffolding.

3. Underpinning.
 4. Temporary erection methods and temporary bracing.
- B. Pursuant to Labor Code §6705, no contract for public works involving an estimated expenditure in excess of twenty-five thousand dollars (\$25,000), for the excavation of any trench or trenches five feet or more in depth, shall be awarded unless it contains a clause requiring submission by the contractor and acceptance by the awarding body or by a registered civil or structural engineer, employed by the awarding body, to whom authority to accept has been delegated, in advance of excavation, of a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. Without in anyway lessening or assuming the Contractor's responsibility for the adequacy of such submission's, Consultant is responsible for reviewing submissions provided by the Contractor pursuant to Labor Code Labor Code §6705.

14.5 Timely Approvals

- A. Whenever the approval of Owner or Consultant is required pursuant to this PSA or any Project Phase, such approval shall not be unreasonably withheld or delayed. Time is of the essence in the performance of each term of this PSA.

14.6 Ownership & Use of Instruments of Service

- A. All Instruments of Service and other materials prepared by Consultant, in whatever media, are the property of Owner. Consultant shall provide Owner with such Instruments of Service and materials at appropriate times during this PSA, and on termination or suspension of this PSA or any Project Phase. Consultant may retain a copy for its records. Consultant does not convey, assign or transfer the intellectual property rights it has so as to limit its ability or right to develop, design or work on other projects of or for its other clients.
- B. In the event Owner desires to re-use the Instruments of Service, in total or in part, on this Project site or any other site, or to complete any incomplete portion of construction documentation, Owner will defend, indemnify, and hold Consultant harmless from any and all claims, loss, damage, defense costs, expense, and other costs resulting from such use of Consultant prepared documents, unless Owner enters into an agreement with Consultant for Services in connection therewith.
- C. Consultant is not entitled to any fees for Owner's use of Instruments of Service unless Owner enters into an agreement with Consultant for Services in connection therewith.
- D. Copies of data exchanged by, through, and between Owner and Consultant that may be relied upon are limited to the printed copies. Computer-generated files, disks, or tapes of text, data or graphics that are furnished, are only for the mutual convenience of the parties. Any risk of translation or reliance on information obtained or derived from the computer-generated material will be at the user's sole risk, and no representations are made, either expressed or implied, as to the long-term performance of data thus transferred.

14.7 Reliance

- A. Unless otherwise indicated, Consultant may rely on the accuracy and technical quality of documents provided by Owner or the Owner's consultants.
- B. Consultant and Owner acknowledge that remodeling or rehabilitation work may require visual inspection to verify adequacy of "as-built" conditions and that Consultant cannot be responsible for those conditions not visible without exposing concealed conditions or destructive investigation. If OAR authorizes opening concealed conditions or destructive testing, Consultant will be responsible for accurately documenting the condition of those areas inspected.
- C. Consultant's review of Contractor's Submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or

systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents.

- D. When the Contract Documents require Contractor to provide professional certification of performance characteristics of materials, systems or equipment, Consultant will be entitled to rely on such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

14.8 Proprietary or Confidential Information of Owner; Publicity

- A. Consultant acknowledges and agrees that, in the performance of the Services under this PSA or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by Owner and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to Owner. Consultant agrees that all private, confidential, or proprietary information disclosed by Owner to or discovered by Consultant in the performance of its Services shall be held in strict confidence and used only in performance of the PSA. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data, and shall not accept employment adverse to the Owner's interests where such confidential information could be used adversely to the Owner's interests. Consultant shall notify the Owner immediately in writing if it is requested to disclose any information made known to or discovered by Consultant during the performance of or in connection with the Services pursuant to this PSA.
- B. Any publicity or press releases with respect to the Services shall be under the Owner's sole discretion and control. Consultant shall not discuss the Services, the Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without Owner's prior written consent. Consultant shall have the right, however, without Owner's further consent, to include representations of Services among Consultant's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this PSA. Consultant acknowledges that Project is the construction of a secure jail facility, and that plans of the facility are confidential. Consultant shall not release copies of plans or other documents related to project without express written consent of Owner.
- C. The provisions of this Section 14-08 shall remain fully effective indefinitely after termination of Services to the Owner hereunder.

14.9 Records, Audit and Review.

- A. Consultant shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Consultant's profession and shall maintain such records for the Record Maintenance Period specified in [Part 5.01.B.2](#). As an alternative to retaining such records, Consultant may deliver all such records to OAR within a reasonable time after termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during Consultant's regular business hours or upon reasonable notice.
 - 1. Records Required. The records required to be maintained by Consultant shall include, but not be limited to: all drawings, specifications, calculations, cost estimates, quantity takeoffs, statements of construction costs and completion dates, schedules and all correspondence, internal memoranda, papers, writings, electronic media and documents of any sort prepared by or furnished to Consultant during the course of performing the Services and providing services with respect to Project.
 - 2. Business Records. Business Records are generally defined to include full and adequate records in accordance with Owner requirements showing actual costs incurred by Consultant in its performance of this PSA. Contractor shall make available to Owner during business hours, business records including accurate ledgers, books of accounts, invoices, vouchers, cancelled checks, time cards and accounting and other books,

records and documents evidencing or relating to all expenditures and disbursements charged to Owner or relative to Consultant's activities under this PSA

B. Retention of Records.

1. Consultant shall maintain all items described in this Section in an accessible location and condition for the period stated above.
2. Consultant shall not destroy any Project records until after advising Owner and allowing Owner a reasonable opportunity to accept and store the records.

C. Production and Audit of records.

1. Consultant shall, within forty-eight (48) hours written notice, permit authorized State agencies with jurisdiction, Owner, and Owner's authorized agents, officers, and employees, to audit, examine and make copies, excerpts and transcripts from such items, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this PSA, whether funded in whole or in part under this PSA.
2. If such items are not kept and maintained by Consultant within a radius of fifty (50) miles from Owner's offices at Santa Barbara, California, Consultant shall, upon Owner's request and at Consultant's sole cost and expense, make such items available to Owner, and Owner's authorized agents, officers, and employees, for inspection at a location within said fifty (50) mile radius, or Consultant shall pay Owner its reasonable and necessary costs incurred in inspecting Consultant's books and records including, but not limited to, travel, lodging and subsistence costs.
3. The State of California and any other governmental agency having an interest in the subject of this PSA shall have the same rights conferred upon Owner by this Section.

D. The rights and obligations established pursuant to this Section shall be specifically enforceable and survive termination of this PSA.

14.10 Discrimination, Equal Employment Opportunity and Business Practices.

- A. Consultant shall not discriminate against any employee or applicant for employment, nor against any Subconsultant or applicant for a subcontract, because of race, color, religious creed, age, sex, actual or perceived sexual orientation, national origin, disability as defined by the ADA (as defined below) or veteran's status. To the extent applicable, Consultant shall comply with all federal, state and local laws (including, without limitation, Owner ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time.

B. County Ordinance on Unlawful Discrimination

1. The County of Santa Barbara reserves the right to terminate forthwith each and every written contract and agreement (except purchase orders) respecting real property, goods and/or services entered into by the County of Santa Barbara including but not limited to concessions, franchises, construction agreements, leases, whether now in effect or hereinafter made if the county finds that the consultant is discriminating or has discriminated against any person in violation of any applicable state or federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex, color, national origin, physical or mental disability, Vietnam era veteran/disabled, age, medical condition, marital status, ancestry, sexual orientation, or other legally protected status. This right of termination extends to contracts entered into by the County of Santa Barbara or by its joint powers, agencies or agents so long as the county obtains the consent of those parties.
2. Such finding may only be made after consultant has had a full and fair hearing on notice of thirty days before an impartial hearing officer at which hearing consultant may

introduce evidence, produce witnesses and have the opportunity to cross-examine witnesses produced by the county. Further, any finding of discrimination must be fully supported by the facts developed at such hearing and set forth in a written opinion; and in addition, consultant may move in the appropriate court of law for damages and/or to compel specific performance of a consultant or agreement if any of the above procedures are not afforded to the consultant. If consultant is not found to have engaged in unlawful discriminatory practices, county shall pay all costs and expenses of such hearing, including reasonable attorneys' fees, to consultant in accordance with current Santa Barbara County Superior Court schedule of attorneys' fees for civil trials. If consultant is found to have engaged in such unlawful discriminatory employment practices, consultant shall pay all such costs, expenses and attorneys' fees.

3. Whether or not a contract or agreement is still in existence at the time of final determination of such unlawful discrimination, the consultant shall forthwith reimburse the county for all damages directly stemming from such discrimination; however, those damages shall not exceed and are not reimbursable in an amount which exceeds amounts paid to consultant under the terms of the contract or agreement.
4. Nothing in this Section shall directly or by interpretation give a private cause of action to any third party (not a signatory to the contract or agreement) including employees past or present, or applicants for employment to consultant, it being the sole purpose of this clause to administratively assure compliance with the nondiscrimination clauses contained herein.
5. With respect to employment discrimination, employment practices shall include, but are not limited to, employment, promotion, demotion, transfer, recruitment and advertising for recruitment, layoff or other termination, rate of pay, employee benefits and all other forms of compensation or selection for training and apprenticeship and probationary periods.
6. Consultant shall permit access at all reasonable times and places to all of its records of employment, advertising, application forms, tests and all other pertinent employment data and records, to the County of Santa Barbara, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced, provided that such records are relevant to a complaint of an unlawful discriminatory practice which has been forwarded to consultant reasonably prior to the time consultant is asked to make such records available. In addition, all such records shall be deemed "Confidential" by the officers, employees and agents of the county. No records or copies of such records may be removed from the premises of consultant, and no disclosure, oral or written, of such record may be made to third parties except as provided within the agreement. Provided, however, that in the event of a hearing to determine whether or not consultant is engaging in unlawful discrimination in employment practices as defined herein, the board of supervisors of Santa Barbara County may issue subpoenas to require that certified copies of such records be made available to the hearing.
7. Failure to fully comply with any of these provisions shall be deemed to be a material breach of any contract or agreement with the County of Santa Barbara. All persons contracting with or who have contracts for goods or services with the county shall be notified that this Section applies to their contract or agreement with the County of Santa Barbara.

14.11 Drug-Free Workplace Policy.

- A. Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on Owner premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns shall be deemed a material breach of this PSA.

14.12 Compliance with Americans with Disabilities and Rehabilitation Act.

- A. Consultant acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether

directly or through a contractor, must be accessible to the disabled public. Consultant shall provide the Services specified in this PSA in a manner that complies with the standard of care established under this PSA regarding the ADA and any and all other applicable federal, state and local disability rights legislation. Consultant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this PSA and further agrees that any violation of this prohibition on the part of Consultant, its employees, agents or assigns shall constitute a material breach of this PSA. Consultant shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this PSA.

14.13 NOT USED.

14.14 Agreement Made in California; Venue

- A. This PSA shall be deemed to have been executed in the City of Santa Barbara, County of Santa Barbara. The formation, interpretation and performance of this PSA shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all disputes or litigation arising out of this PSA shall be in the Superior Court of the County of Santa Barbara unless the parties agree otherwise in a written amendment to this PSA.
- B. The parties shall execute **two** originals of this PSA, both of which shall be deemed originals.

PART 15 - NOTICES

- 15.01** All notices will be deemed to have been given when made in writing and delivered or mailed to the representatives of Owner and Consultant at their respective addresses as shown in [Exhibit G, "Notices"](#).

PART 16 - LIMITS and MODIFICATIONS OF AGREEMENT

- 16.01** This PSA between the parties hereto regarding the subject matter of this PSA shall constitute the exclusive statement of the terms of the parties' agreement. The PSA, and any written modification to the PSA, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this PSA or written modification, and the parties represent and agree that they are entering into this PSA and any subsequent written modification in sole reliance upon the information set forth in the PSA or written modification and the parties are not and will not rely on any other information. All prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement, shall not be admissible or referred to hereafter in the interpretation or enforcement of this PSA.
- 16.02** To the extent this PSA conflicts with the terms of any proposal, invoice, or other document submitted to or by either party, the terms of this PSA shall control.
- 16.03** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of both Owner and Consultant expressing such an intention in the case of a modification or by the party waiving in the case of a waiver.
- 16.04** Consultant, in any price proposals for changes in the scope of services that increase the PSA amount, or for any additional services, shall break out and list its costs and use percentage markups. Consultant shall require its Subconsultants (if any) to do the same, and the Subconsultants' price proposals shall accompany Consultant's price proposals.
- 16.05** Consultant and its Subconsultants shall, upon request by Owner, permit inspection of all original unaltered PSA bid estimates, subcontract agreements, purchase orders relating to any change, and documents substantiating all costs associated with all cost proposals.
- 16.06** Changes in the scope of services made pursuant to this Paragraph and extensions of the Term of the PSA necessary by reason thereof shall not in any way release Consultant's representations and agreements pursuant to this PSA.

16.07 Whenever the words “as directed”, “as required”, “as permitted”, or words of like effect are used, it shall be understood as the direction, requirement, or permission of Owner. The words “approval”, “acceptable”, “satisfactory”, or words of like import, shall mean approved by, or acceptable to, or satisfactory to Owner, unless otherwise indicated by the context.

PART 17 - EXHIBITS

17.01 The following listed Exhibits referred to herein are incorporated in this PSA as though set forth in full:

- A. [Exhibit A, “Payments to Consultants”](#)
- B. [Exhibit B, “Consultant's Staff & Subconsultants”](#)
- C. [Exhibit C, “Compensation”](#)
- D. [Exhibit D, “General Design Checklist”](#)
- E. [Exhibit E, “Sample Invoice Format”](#)
- F. [Exhibit F, “Indemnification And Insurance Requirements”](#)
- G. [Exhibit G, “Notices”](#)
- H. [Exhibit H, “County of Santa Barbara STAR Project Establishment Package”](#)
- I. [Exhibit H, “California Department of Corrections and Rehabilitation Sample Project Construction and Delivery Agreement”](#)
- J. [Exhibit J, “California Department of Corrections and Rehabilitation Sample Project Construction and Delivery Agreement”](#)

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PART 18 - SIGNATURES

Agreement for CONSTRUCTION MANAGEMENT AND RELATED PROFESSIONAL SERVICES

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

By: _____
Janet Wolf
Chair, Board of Supervisors

Date: _____

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

CONSULTANT: Kitchell/CEM, Inc.

By: _____
David Gianelli, Vice President

By: _____
Deputy

By: _____
Michael Bruggeman
Assistant Secretary

APPROVED AS TO FORM:
MICHAEL GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK MANAGER

APPROVED
MATTHEW P. PONTES
DIRECTOR GENERAL SERVICES

By: _____
Risk Manager

By: _____
Department Head

**END OF PART 18
END OF AGREEMENT**

EXHIBIT A

PAYMENTS TO CONSULTANT

The following rates, which include all overhead, administrative costs, and profit, will be used in arriving at fees for hourly-rate Services. Any rate increases approved by the OAR shall take effect on the yearly anniversary of the Board of Supervisors' approval of the PSA. Modifications to Consultant's Hourly Rate Schedule to include out-years beyond the rates identified in Exhibit A, and the addition of personnel not identified in Exhibit A, will be negotiated by the parties using as a benchmark the prevailing rates/increase for similar Consulting Services in the Consultant's principal office location, and are subject to approval as an administrative modification to the PSA by the OAR.

CONSULTANT FIRM NAME: **Kitchell/CEM, Inc.**

Billable Hourly Rate (\$)

Consultant/Job Title*	Year 1	Year 2	Year 3	Year 4	Year 5
Principle-in-Charge	No charge	No charge	No charge	No charge	No charge
Project Executive	185	191	197	203	209
Project Manager	160	165	170	175	180
Preconstruction Manager / Senior Construction Manager	180	185	191	197	203
Correctional Facility Specialist	195	201	207	213	219

* The Services of the Principal-in-charge and Project Executive are considered part of Consultant's overhead cost. The rate indicated will only be used when there is a specific written request from Owner for the Services of the Principal-in-charge for a specifically defined task.

END EXHIBIT A

EXHIBIT B

CONSULTANT'S STAFF & SUBCONSULTANTS

- A. Consultant declares that the Project Executive shall be **Mr. Randy Rominger**, the Consultant's Project Manager shall be **Mr. Mitch Tornell**, the Project Construction Phase Manager shall be **Luz Gonzales**, and the Correctional Facility Specialist shall be **Mr. Dave Kirn**.
- B. Consultant will employ Subconsultants it deems appropriate to the complexity and nature of the required Services and said Subconsultants shall, if their specialty is licensable, be licensed by the State of California to perform their specific Services. Consultant shall obtain Owner's approval of all Subconsultants. Upon Owner's request Consultant shall provide copies of all Subconsultant contract agreements to Owner.
- C. None of the above named Staff or Subconsultants shall be replaced without OAR's approval pursuant to an amendment to this PSA. If Consultant's Project Manager or any other designated key staff person or Subconsultant fails to perform to the satisfaction of Owner, on written notice from Owner's Project Manager, Consultant will have fifteen (15) calendar Days to remove that person from the Project and provide a replacement acceptable to OAR. In that event Consultant shall submit the name of a qualified replacement for OAR's approval.

END EXHIBIT B



County of Santa Barbara
General Services
Capital Projects Division

EXHIBIT C

COMPENSATION OF PROJECT PHASES

PSA BETWEEN THE COUNTY OF SANTA BARBARA AND Kitchell/CEM, Inc. FOR Construction Management, Commissioning and Related Professional Services
PROJECT TITLE: Northern Branch Jail STAR Project

This Table For Owner's Use Only

<i>Item</i>	<i>Fund</i>	<i>Dept No</i>	<i>Acct #</i>	<i>Program</i>	<i>OrgUnit</i>	<i>Activity</i>	<i>Amount</i>
Construction Management	0033	980	7460	4000	0001	3400	\$2,314,900
Construction Management Travel	0033	980	7460	4000	0005	3401	\$16,871
Commissioning	0033	980	7460	2000	0001	3206	\$48,235
Commissioning Travel	0033	980	7460	2000	0005	3207	\$16,000

COMPENSATION

Project Phase	CM Services	CX Services	Other Cost Item	Supplementary Services	Travel and Expenses CM	Travel and Expenses CX	Maximum Compensation Limit for Project Phase
Programming	\$17,166	0			0	0	\$17,166
Schematic Design	\$91,958	\$1,192			\$6,533	0	\$99,683
Design Development	\$166,491	\$5,551			\$8,573	0	\$180,615
Enhanced Design Development	\$146,495	\$1,765			0	0	\$148,260
Construction Documents	\$146,494	\$1,760			0	0	\$148,254
Bidding	\$94,424	0			0	0	\$94,424
Construction	\$1,604,895	\$37,943			0	\$16,000	\$1,658,838
Operations/ Close-Out	\$44,277	\$1,500			0	0	\$45,777



County of Santa Barbara
General Services
Capital Projects Division

Warranty	\$2,700	\$289					\$2,989
			Maximum Compensation Limit on PSA:				\$2,396,006

Consultant shall submit appropriate documentation and information to support each invoice, including a narrative description of services performed during the period; completed milestones and deliverables. Consultant shall break-out cost items by line items identified in the Compensation Summary table, and label each category the same title. See Exhibit E for example.

END EXHIBIT C



County of Santa Barbara
General Services
Capital Projects Division

EXHIBIT D

GENERAL DESIGN CHECKLIST

Note to Consultant: This Checklist is a requirement for Architect Engineer's 100% CD submittal, and is provided in PSA for Consultant's reference in review of Architect Engineer's work in accordance with the requirement of this PSA.

Incorporated in the design	Not Applicable	Item
General Information		
		There are no references to the terms "beneficial occupancy," or "substantial completion." The correct term is "Milestone Completion. The County Board of Supervisors Acceptance of the Work of the Project establishes the warranty period for the project and triggers the release of Retention.
		CEQA Mitigation Measures are identified
		Document Coordination Check certification is provided
		List of Confined Spaces is provided
		Drawing "border" standards are provided in the Project Manual (note, these are CAD files)
		Project Manual Cover page is as provided in the Project Manual
		Sustainable design features have been incorporated, to the greatest degree possible
		Consultant has reviewed CD's for use of exculpatory language
		Site condition information is properly described to the Contractor
Organization of Specifications		
		"Submittals" paragraph in each technical Section identifies any special Contractor qualifications that need to be verified through a submittal.
		The County does not "approve" submittals; it only "accepts" them.
		"Execution" section identifies all Quality Control testing and inspection that must be performed
Contractor Requirements Under State Agreements		
		Specifications require contractor to comply with the applicable terms

Incorporated in the design	Not Applicable	Item
		<p>and conditions of the BSCC JCA and the CDCR PDCA, including all Attachments and Exhibits to those agreements. Such terms and conditions include, without limitations:</p> <ul style="list-style-type: none"> • Contractor advisement of State Financing • Bonding • State agency access to construction site • Insurance and Indemnity • Record retention • Valley Fever notification
Contractor Quality Control		
		<p>Unless this is an OSHPD project ** (including health centers) the technical specifications shall not reference the Consultant or Owner performing "inspections." All inspections are performed by either the CQC Manager, CQC Special inspectors, or Contractor's test lab.</p>
		<p>For those specification Sections that require CBC Chapter 17 inspections (concrete and steel, mostly), the Consultant shall insert the specific wording defined in the Project Manual into the Quality Control paragraph in the applicable Section.</p>
		<p>Specifications and Plans reflect that the Testing lab is hired by the Contractor, not the Owner.</p>
		<p>Consultant has identified in the contract documents all specific tests to be performed by the Contractor;</p>
		<p>Specifications reference that only the Contractor performs Quality Control. ** (see above for exception)</p>
		<p>Consultant has assisted the OAR in developing a list of Special Inspectors for the Special Inspector table in Section 01450.</p>
		<p>The specifications and plans indicate that the Contractor's CQC organization performs all CBC Chapter 17 Special Inspection.** (see above for exception)</p>
Submittal Review Time		
		<p>In the technical Sections Consultant identifies all submittals that may require longer than a 21-day review time. This information is also communicated to the OAR.</p>
Warranties and Guaranties		
		<p>The Consultant has reviewed all technical sections to ensure any statement about warranty start date is consistent with Owner's Division 0 requirements.</p>
Operation and Maintenance Manuals		
		<p>The Consultant has provided assistance in identifying systems and system components that require O&M manuals, and this information is included in Section 01782.</p>
		<p>No additional/separate O&M requirements need be identified in the contract documents, beyond what is in Section 01782.</p>
Training		
		<p>The Consultant has provided assistance in editing the list of training</p>

Incorporated in the design	Not Applicable	Item
		requirements that go in to Section 01820 .
		No additional/separate training requirements need be identified in the contract documents.
Commissioning		
		The Consultant has provided assistance in identifying systems and system components that require commissioning.
		The Consultant may identify in the contract documents specific equipment tests that must be performed; however, the Consultant must include the wording (in the appropriate specification paragraph) that the Contractor shall commission equipment pursuant to Section 01810.
References to A-E role during Construction Administration		
		The Consultant must review the Contract documents and ensure these type references have been changed to Owner actions.
Single-Sourcing of Products		
		The Consultant has discussed the inclusion of single-source/sole-source products with the OAR before including in the contract documents.
		All sole source products must be identified in the Notice to Bidders. The Consultant is responsible for identifying these to the OAR.
		Unless the Consultant provides justification that meets the criteria established in PCC 3400, if specifying a product by brand name, at least two brand names must be identified. If preparing a performance specification, then the Consultant certifies that at least two products meet the specification requirements.
		In the case of finishes like carpet or wall paper or flooring, Owner will settle for “similar” patterns, not exact. In other words, if the client has selected a specific pattern or color during the design process (which may not even be available by the time the projects goes in to construction) the Consultant should identify at least two vendors that make similar patterns.
		The phrase “or equal” may only be used under the following circumstances: <ol style="list-style-type: none"> 1. At least two other acceptable products have already been specified by brand name, and we want to consider other potential products; or 2. The County is not deliberately attempting to limit the number of acceptable products that may be used. See the checklists in the various Sections of this Guide, such as HVAC.
		The Consultant shall not use the term “basis of design” in the Contract documents for any other purpose other than that described below in Mechanical and Electrical Systems—Sole Source Issues .

Incorporated in the design	Not Applicable	Item
Mechanical and Electrical Systems—Sole Source Issues		
		<p>In the event a product/equipment must “interact” with structural systems then the Structural Engineer has designed for the largest “practical, potential” weight of the product/equipment.</p> <p>If the structural “upgrade” costs to accommodate potential equipment are not “nominal,” then the Engineer must bring this information to the attention of the OAR. A solution will be provided by the OAR.</p>
		<p>For <i>power-draw and connecting piping issues</i>, A-E should place the following note on the equipment schedule drawing(s):</p> <p>“Manufacturers make and model numbers shown on these drawings are the “basis of design” for this project. Contractor shall refer to specification sections for other manufacturers of acceptable alternate products. If a product that differs from the “basis of design” is proposed, Contractor is responsible for providing proper infrastructure, including electrical feeds and plumbing connections, etc., at no additional cost to the Owner. This information must also be provided to the Owner in the form of shop drawings and other appropriate submittals.”</p>
		<p>The Consultant shall not use the term “basis of design” in the Contract documents for any other purpose other than that described above.</p>
Permits from Regulatory Agencies		
		<p>The Consultant has provided to the OAR a list of permits associated with the construction Work required by Regulatory Agencies.</p>
Deferred Submittals and Permits from the Project Inspector of Record		
		<p>Contractor Design-build systems (structural) such as curtain walls, steel frames, etc. contain this statement in the Submittals paragraph:</p> <p>“The Contractor-supplied design submittals of this Section require a sign-off pursuant to Section 01830 Inspection by the Inspector of Record. The Contractor shall make submittals pursuant to paragraph 1.04 .C of Section 01830.”</p>
Outside References		
		<p>Consultant has provided a binder with outside references.</p>
Extended Warranties		
		<p>The Consultant shall provide, as part of the 100% CD submittal, a list of all products, identified by technical Section and paragraph, requiring an extended warranty.</p>

Print name of Consultant Project Manager

Signature of Consultant Project Manager

Date Signed

END EXHIBIT D

EXHIBIT E

SAMPLE INVOICE FORMAT

A specific invoicing template will be provided to Consultant after award of this PSA, and shall be used for all invoicing on this PSA. The invoice will meet requirements of the JCA, and contain the following elements:

- Item description
- Item fee
- % Work Complete for the period
- Amount invoiced for the period
- Amount previously invoiced
- Amount invoiced to date
- % Work Complete on project

END EXHIBIT E

EXHIBIT F

INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. Indemnification

CONSULTANT agrees to indemnify, defend and hold harmless OWNER and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising from all acts, errors or omissions to act of Consultant or its officers, agents, or employees and for any costs or expenses (including but not limited to attorneys' fees) incurred by OWNER on account of any such claim except where such indemnification is prohibited by law. CONSULTANT's indemnification does not apply to OWNER's sole negligence or willful misconduct. CONSULTANT shall notify OWNER immediately in the event of any accident or injury arising out of or in connection with this Agreement. This Indemnification provision shall survive any expiration or termination of this Agreement.

2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability and Automobile Liability policies, shall contain endorsements naming OWNER and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for OWNER to vicarious liability but shall allow coverage for OWNER to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

3. Waiver of Subrogation Rights – CONSULTANT hereby grants to OWNER a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the OWNER by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the OWNER has received a waiver of subrogation endorsement from the insurer.

4. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by OWNER.

5. Severability of Interests – CONSULTANT agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between CONSULTANT and OWNER or between OWNER and any other insured or additional insured under the policy.

6. Proof of Coverage – CONSULTANT shall furnish Certificates of Insurance to the OWNER Department administering the Agreement evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and CONSULTANT shall maintain such insurance from the time CONSULTANT commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, CONSULTANT shall furnish a copy of the Declaration page for all applicable policies.

7. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A VII”.

8. Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

9. Failure to Procure Coverage – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, OWNER has the right but not the obligation or duty to cancel the Agreement or obtain insurance if it deems necessary and any premiums paid by OWNER will be promptly reimbursed by CONSULTANT or OWNER payments to CONSULTANT will be reduced to pay for OWNER purchased insurance.

10. Insurance Review – Insurance requirements are subject to periodic review by OWNER. The Program Risk Administrator or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of OWNER. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Program Risk Administrator or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against OWNER, inflation, or any other item reasonably related to OWNER’s risk.

Any change requiring additional types of insurance coverage or higher coverage limits shall be made by amendment to this Agreement. CONSULTANT agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of OWNER to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of OWNER.

11. Insurance Specifications – CONSULTANT agrees to provide insurance set forth in accordance with the requirements herein. If CONSULTANT uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, CONSULTANT agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in any way affecting the indemnity herein provided and in addition thereto, CONSULTANT shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

A. Workers’ Compensation/Employers Liability – A program of Workers’ Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer’s Liability with one million dollar (\$1,000,000) limits covering all persons including volunteers providing services on behalf of CONSULTANT and all risks to such persons under this Agreement.

If CONSULTANT has no employees, it may certify or warrant to OWNER that it does not currently have any employees or individuals who are defined as “employees”

under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the Owner's Program Risk Administrator.

With respect to CONSULTANTS that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

B. Commercial/General Liability Insurance – CONSULTANT shall carry General Liability Insurance covering all operations performed by or on behalf of CONSULTANT providing coverage for bodily injury and property damage with a combined single limit of not less than five million dollars (\$5,000,000) per occurrence and a five million dollar (\$5,000,000) general aggregate limit.

C. Professional Liability Insurance – CONSULTANT shall carry Professional Liability Insurance of not less than five million dollars (\$5,000,000) per claim and a five million dollars (\$5,000,000) general aggregate limit. If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and shall be before the date of the start of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

D. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If CONSULTANT owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

E. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

12. Special Provisions

The following provisions shall apply to this Agreement:

A. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the CONSULTANT and any approval of said insurance by the OWNER or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the CONSULTANT pursuant to this Agreement, including but not limited to the provisions concerning indemnification.

B. The OWNER acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the CONSULTANT. However, this shall not in any way limit liabilities assumed by the CONSULTANT under this Agreement. Any self-insurance shall be approved in writing by the Owner upon satisfactory evidence of financial capacity. CONSULTANT's obligation

hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

C. Should any of the work under this Agreement be sublet, the CONSULTANT shall require each of its Subconsultants of any tier to carry the aforementioned coverages, or Consultant may insure Subconsultants under its own policies.

D. The OWNER reserves the right to withhold payments to the Consultant in the event of material noncompliance with the insurance requirements outlined above.

E. Owner hereby notifies CONSULTANT that OWNER's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONSULTANT agrees to comply with said ordinance.

END EXHIBIT F

EXHIBIT G

NOTICES

1. All notices are deemed to have been given when made in writing and delivered or mailed to the representatives of Owner and Consultant at their respective addresses as follows:

a. Owner:

County of Santa Barbara
Capital Projects Division
1105 Santa Barbara St. (Historic Courthouse, 2nd Floor)
Santa Barbara, CA 93101

Attention: John Green

b. Consultant:

Kitchell/CEM, Inc.
1540 March St, Ste 150
San Luis Obispo, CA 93401

Attention: Randy Rominger

END EXHIBIT G

EXHIBIT H

COUNTY OF SANTA BARBARA STAR PROJECT ESTABLISHMENT PACKAGE

CONSENT ITEMS

CONSENT ITEM—11

DEPARTMENT OF CORRECTIONS AND REHABILITATION (5225)
ADULT LOCAL CRIMINAL JUSTICE PROJECT
SANTA BARBARA COUNTY

Authority: Sections 15820.92 – 15820.926 of the Government Code

Consider establishing scope, cost, and schedule

CONSENT ITEMS

STAFF ANALYSIS ITEM—11

Department of Corrections and Rehabilitation
Adult Local Criminal Justice Project
Santa Barbara County

Action Requested

If approved, the requested action would establish the project scope, cost, and schedule.

Scope Description

This project will design and construct an expansion of the existing AB 900 county jail on county-owned land. The expansion will include housing, treatment, and program space and provide approximately 228 beds. The project will be dependent on the adjacent AB 900 Phase II jail facility for several core operational components including food services, laundry, administration, and maintenance.

The housing areas will include double-occupancy and multi-occupancy cells, day rooms, exam rooms, a classroom, and program and visitation space. The project will also include outdoor recreation space, centralized program space, a conference room, and staff support and storage space.

This project will also include, but is not limited to, electrical; plumbing; mechanical; heating, ventilation, and air conditioning; security; fire protection systems; and parking for staff and visitors. In addition, a portion of the facility will be separated by a fence to provide grounds security.

Funding and Project Cost Verification

Section 15820.922 of the Government Code (SB 1022) appropriates \$500,000,000 lease revenue bond financing authority to partially finance the design and construction of adult local criminal justice facilities. Award of this funding to individual counties is administered by the Board of State and Community Corrections (BSCC). The BSCC has conditionally awarded \$38,976,000 from this appropriation to Santa Barbara County for this project. All acquisition/study and any design and construction costs in addition to this amount will be paid by the county. This action would allocate \$38,976,000 from this appropriation to complete design and construction of this project.

\$43,435,000	total estimated project cost
\$38,976,000	state costs to be allocated: \$1,487,000 preliminary plans, \$1,287,000 working drawings, \$36,202,000 construction (\$30,394,000 contract, \$2,306,000 contingency, \$577,000 A&E, and \$2,925,000 other project costs)
\$ 4,459,000	local costs to be allocated: \$871,000 acquisition, \$148,000 preliminary plans, \$289,000 working drawings, and \$3,151,000 construction (\$350,000 contract and \$2,801,000 other project costs)

CEQA

A Notice of Determination was filed with the Santa Barbara County Clerk on October 3, 2014, and the 30-day statutes of limitation expired on November 2, 2014, without challenge.

Real Estate Due Diligence

Real estate due diligence for this project is currently under review and will be completed prior to seeking approval of preliminary plans.

Project Schedule

Approve preliminary plans	October 2015
Complete working drawings	August 2016
Start construction	December 2016
Complete construction	October 2018

Staff Recommendation: Establish scope, cost, and schedule.

COUNTY OF SANTA BARBARA
SB1022 JAIL PROJECT
PROJECT COST SUMMARY

PROJECT:	Sheriff's Transition and Re-entry	EST/CURRENT CCCI: 5959/5959
LOCATION:	Santa Maria, CA	DATE ESTIMATED: 8/8/2014
CLIENT:	County Sheriff	ESTIMATED BY: Kitchell CEM
ARCHITECT:	TBD	START OF CONSTRUCTION: 12/29/2016
PROJECT MANAGER:	John Green	CONSTRUCTION COMPLETE: 10/15/2018
DELIVERY:	Design/Bid/Build	DOF PROJ. ID NUMBER: 61.01.841

DESCRIPTION

This project will design and construct approximately 52,000 square feet of housing, treatment, programming and reentry space on approximately 6± acres of the greater 50± acres of county owned land. The project will include one new building constructed primarily of steel and concrete for long-term durability. The building will provide housing for transitional, step-down and reentry, and will have co-located resources from the adjacent jail facility. The housing space will include approximately 228 beds designated for treatment, programming and transitional housing and will contain day rooms, classroom, vocational training space and visitation space.

ESTIMATE SUMMARY

Offsite Utilities	\$281,278
Foundations	\$988,784
Verticle Structure	\$2,364,628
Floor/Roof Structions	\$1,391,559
Exterior Cladding	\$717,177
Roofing & Waterproofing	\$939,027
Interior Partitions, Doors & Glazing	\$4,374,532
Floor, Wall & Ceiling Finishes	\$1,588,467
Function Equipment & Specialities	\$1,582,571
Stairs & Vertical Transportation	\$192,352
Plumbing Systems	\$2,087,384
Heating Ventilation & Air Conditioning	\$2,466,873
Lighting Power & Communications	\$4,173,590
Fire Protections Systems	\$391,076
Site Paving, Structures & Landscaping	\$411,250
General Site work & Utilities	\$2,500,000
Data/Communications	\$110,304

ESTIMATED TOTAL CURRENT COSTS:	\$26,560,852
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Adjust CCCI from	5959	to	5959	\$0
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ESTIMATED TOTAL CURRENT COSTS ON SEPTEMBER 2014:	\$26,560,852
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Escalation to Start of Construction -	27 months @ .42%/Month:	\$ 3,012,001
Escalation to Mid Point of Construction -	10.5 months @ .42%/Month:	\$ 1,171,334

ESTIMATED TOTAL CONTRACT:	\$30,744,186
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Contingency At:	7.5%	\$2,305,814
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ESTIMATED TOTAL CONSTRUCTION COST:	\$33,050,000
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SUMMARY OF COSTS BY PHASE

PROJECT: Sheriff's Transition and Re-entry (STAR)
 LOCATION: Santa Maria, CA

PRELIMINARY EST: \$43,435,000
 DATE ESTIMATED: 8/8/2014

BS/FP

CONSTRUCTION DURATION: 21 Months
 ESTIMATED CONTRACT: \$30,744,186 \$30,744,186
 CONSTRUCTION CONTINGENCY: \$2,305,814 \$2,305,814
 TOTAL: \$33,050,000 \$33,050,000 1/1

CATEGORY	ACQUISITION STUDY 00	PRELIMINARY PLANS 01	WORKING DRAWINGS 02	CONSTRUCTION 03	TOTAL
ARCHITECTURAL & ENGINEERING SERVICES					
A&E Design	\$16,000	\$1,041,000	\$838,000	\$577,000	\$2,472,000
Advertising, Printing & Mailing	\$0	\$0	\$0	\$0	\$0
Construction Guarantee Inspection	\$0	\$0	\$0	\$0	\$0
SUBTOTAL A&E SERVICES	\$16,000	\$1,041,000	\$838,000	\$577,000	\$2,472,000

3/2

OTHER PROJECT COSTS					
Fixed Furnishings and Equipment	\$0	\$0	\$0	\$1,281,000	\$1,281,000
Needs assessment	\$8,000	\$0	\$0	\$0	\$8,000
County Administration	\$57,000	\$138,000	\$274,000	\$845,000	\$1,314,000
Contract Construction Management	\$0	\$446,000	\$214,000	\$1,972,000	\$2,632,000
Special Testing and Inspection	\$0	\$0	\$0	\$253,000	\$253,000
Site Acquisition Cost and Fees	\$785,000	\$0	\$0	\$0	\$785,000
Audit	\$0	\$0	\$0	\$20,000	\$20,000
Transition Planning	\$0	\$0	\$0	\$240,000	\$240,000
Utility Connection Fees	\$0	\$0	\$235,000	\$400,000	\$635,000
Environmental CEQA	\$5,000	\$0	\$15,000	\$70,000	\$90,000
State Agency Fee-SFM	\$0	\$5,000	\$0	\$30,000	\$35,000
State Agency Fee-DGS	\$0	\$5,000	\$0	\$11,000	\$16,000
Data/Telephone	\$0	\$0	\$0	\$300,000	\$300,000
Arts Fee	\$0	\$0	\$0	\$304,000	\$304,000
SUBTOTAL OTHER PROJ COSTS	\$855,000	\$594,000	\$738,000	\$5,726,000	\$7,913,000

2/4

8/10

10/13

4/3

2/5

11/12

7/9

9/11

2/5

5/6

6/5

6/8

2/5

2/5

TOTAL ESTIMATED PROJECT COST	\$871,000	\$1,635,000	\$1,576,000	\$39,353,000	\$43,435,000
LESS FUNDS AUTHORIZED	\$871,000	\$0	\$0	\$0	\$871,000
LESS FUNDS ALLOCATED NOT AUTHORIZED	\$0	\$1,635,000	\$1,576,000	\$39,353,000	\$42,564,000
CARRY OVER	\$0	\$0	\$0	\$0	\$0
BALANCE OF FUNDS REQUIRED	\$0	\$0	\$0	\$0	\$0

FUNDING DATA & ESTIMATE NOTES

PROJECT: Sheriff's Transition and Re-entry (STAR)
LOCATION: Santa Maria, CA

PRELIMINARY EST: \$ 43,435,000
DATE ESTIMATED: 8/8/2014

FUNDING DATA

<u>Chapter / Item</u>	<u>Phase</u>	<u>Amount</u>	<u>Totals</u>
Funds Authorized			
Local Funds	A	\$871,000	
Total Funds Authorized			<hr/> \$871,000
Funds Allocated Not Authorized			
Local Funds	P	\$148,000	
Local Funds	W	\$289,000	
Local Funds	C	\$3,151,000	
Ch. 42/2012	P	\$1,487,000	
Ch. 42/2012	W	\$1,287,000	
Ch. 42/2012	C	\$36,202,000	
Total Funds Allocated Not Authorized			<hr/> \$42,564,000
Total Funds Authorized and Allocated			<hr/> <hr/> \$43,435,000

ESTIMATE NOTES

1. The construction costs in this estimate are indexed from the CCCI index that is current as of September 2014 to the start of construction. The project estimate is then escalated to the assumed construction midpoint.
2. Advertising, Printing and Mailing Costs are included in the A&E Design costs.

**Santa Barbara County STAR Facility
SB 1022
Schedule Milestones**



Milestone	Current Project Schedule
Project Establishment at PWB	Nov 2014
Schematic Design Submittal	1/23/2015
Design Development Submittal	6/1/2015
Approval of Preliminary Plans	10/17/2015
Submit Documents to BSCC SFM CDCR	4/26/2016
DOF Approval / Proceed to Bid	8/29/2016
Advertise for Bids	8/30/2016
Bids Due	10/13/2016
Contract Award by County	11/24/2016
Contract Award Approval - DOF	12/29/2016
Notice to Proceed / Mobilization	1/14/2017
Substantial Completion	10/15/2018
Occupancy	4/12/2019

**Adult Local Criminal Justice Facility Construction Financing Program
Santa Barbara County**

Line Item	State Reimbursed	County Costs				Total Eligible Project Costs	Total Project Costs
		Cash Match	In-Kind Match	Ineligible Project Costs	Total County Costs		
1. Construction Contract (without Contingency)	\$30,394,186	\$350,000		\$0	\$350,000	\$30,744,186	\$30,744,186
2. Architectural	\$2,456,000	\$16,000		\$0	\$16,000	\$2,472,000	\$2,472,000
2a. Acquisition/Study	78,000	16,000		0	16,000	94,000	94,000
2b. Preliminary Plans	963,000	0		0	0	963,000	963,000
2c. Working Drawings	838,000	0		0	0	838,000	838,000
2d. Construction	577,000	0		0	0	577,000	577,000
3. Project / Construction Management	\$2,632,000	\$0		\$0	\$0	\$2,632,000	\$2,632,000
4. Agency Retained	\$0	\$1,281,000		\$0	\$1,281,000	\$1,281,000	\$1,281,000
5. Other Project Costs	\$1,188,000	\$339,000		\$0	\$339,000	\$1,527,000	\$1,527,000
6. CEQA		\$90,000		\$0	\$90,000	\$90,000	\$90,000
7. Special Consultants		\$0		\$0	\$0	\$0	\$0
8. Real Estate Due Diligence		\$16,000		\$0	\$16,000	\$16,000	\$16,000
9. Audit		\$20,000	\$0	\$0	\$20,000	\$20,000	\$20,000
10. Needs Assessment		\$8,000	\$0	\$0	\$8,000	\$8,000	\$8,000
11. Transition Planning		\$90,000	\$150,000	\$0	\$240,000	\$240,000	\$240,000
12. Site Acquisition (Fair Market Value)			\$785,000		\$785,000	\$785,000	\$785,000
13. County Administration			\$1,314,000	\$0	\$1,314,000	\$1,314,000	\$1,314,000
Subtotals	\$36,670,186	\$2,210,000	\$2,249,000	\$0	\$4,459,000	\$41,129,186	\$41,129,186
Percent of "Total Eligible Project Costs" Subtotal	89.16%	5.37%	5.47%		10.84%	100.00%	
Percent of "Total Project Costs" Subtotal	89.16%	5.37%	5.47%	0.00%	10.84%	100.00%	100.00%
14. Construction Contract Contingency	\$2,305,814	\$0		\$0	\$0	\$2,305,814	\$2,305,814
Totals	\$38,976,000	\$2,210,000	\$2,249,000	\$0	\$4,459,000	\$43,435,000	\$43,435,000
Percent of "Total Eligible Project Costs" Total	89.73%	5.09%	5.18%		10.27%	100.00%	
Percent of "Total Project Costs" Total	89.73%	5.09%	5.18%	0.00%	10.27%	100.00%	100.00%

Key to County Match Requirements

• Total County Contribution ≥ 10% of "Total Project Costs" (unless a lower amount has been approved for a small county by the BSCC Board)

• Defined Terms

"Total Project Costs": State reimbursed costs + total county costs (note: includes cash match, in-kind match, and ineligible project costs).

"Total Eligible Project Costs": State reimbursed costs + county cash match + county in-kind match (note: excludes ineligible project costs).

"Small County": Counties with a general population of 200,000 or fewer.

PROJECT SCOPE SUMMARY
SB 1022 ADULT LOCAL CRIMINAL JUSTICE FACILITY PROJECT
SANTA BARBARA COUNTY
2301 BLACK ROAD, SANTA MARIA, CA 93455

This project will design and construct an expansion of the existing AB 900 county jail on county-owned land. The expansion will include housing, treatment, and program space and provide approximately 228 beds. The project will be dependent on the adjacent AB900 Phase II jail facility for several core operational components including food services, laundry, administration, and maintenance.

The housing areas will include double occupancy and multi-occupancy cells, day rooms, exam rooms, a classroom, and program and visitation space. The project will also include outdoor recreation space, centralized program space, a conference room, and staff support and storage space.

This project will also include, but is not limited to, electrical; plumbing; mechanical; heating, ventilation, and air conditioning; security; fire protection systems; and parking for staff and visitors. In addition, a portion of the facility will be separated by a fence to provide grounds security.

Approve / Disapprove / Approve with changes



Santa Barbara County Authorized Representative

10-21-2014

Date

LINE ITEM	STATE FUNDS	CASH MATCH	IN-KIND MATCH	TOTAL
1. Construction	\$ 33,000,000	\$ 350,000		\$ 33,350,000
2. Additional Eligible Costs	\$ 888,000	\$ 1,585,000		\$ 2,473,000
3. Architectural	\$ 2,456,000	\$ 16,000		\$ 2,472,000
4. Project/Construction Management	\$ 2,632,000	\$ -		\$ 2,632,000
5. CEQA		\$ 90,000		\$ 90,000
6. State Agency Fees		\$ 51,000		\$ 51,000
7. Audit		\$ 20,000	\$ -	\$ 20,000
8. Needs Assessment		\$ 8,000	\$ -	\$ 8,000
9. Transition Planning		\$ 90,000	\$ 150,000	\$ 240,000
10. County Administration			\$ 1,314,000	\$ 1,314,000
11. Land Value			\$ 785,000	\$ 785,000
TOTAL ELIGIBLE PROJECT COST	\$ 38,976,000	\$ 2,210,000	\$ 2,249,000	\$ 43,435,000
PERCENT OF TOTAL	89.7%	5.1%	5.2%	

SANTA BARBARA COUNTY SB1022
ACQUISITION STUDY PHASE

ESTABLISHMENT 11/14/14

ARCHITECTURAL AND ENGINEERING SERVICES

	STATE	LOCAL	TOTAL
A&E Design	\$ -	\$ 16,000	\$ 16,000
Advertising, Printing & Mailing	\$ -	\$ -	\$ -
Construction Guarantee Inspection	\$ -	\$ -	\$ -
SUBTOTAL A&E SERVICES	\$ -	\$ 16,000	\$ 16,000

OTHER PROJECT COSTS

	STATE	LOCAL	TOTAL
Fixed Furnishings and Equipment	\$ -	\$ -	\$ -
Needs Assessment	\$ -	\$ 8,000	\$ 8,000
County Administration	\$ -	\$ 57,000	\$ 57,000
Contract Construction Management	\$ -	\$ -	\$ -
Special Testing and Inspection	\$ -	\$ -	\$ -
Site Acquisition Costs and Fees	\$ -	\$ 785,000	\$ 785,000
Audit	\$ -	\$ -	\$ -
Transition Planning	\$ -	\$ -	\$ -
Utility Connection Fees	\$ -	\$ -	\$ -
Environmental CEQA	\$ -	\$ 5,000	\$ 5,000
State Agency Fees-SFM	\$ -	\$ -	\$ -
State Agency Fees-DGS	\$ -	\$ -	\$ -
Data/Telephone	\$ -	\$ -	\$ -
Arts Fee	\$ -	\$ -	\$ -
SUBTOTAL OTHER PROJECT COSTS	\$ -	\$ 855,000	\$ 855,000

	STATE	LOCAL	TOTAL
TOTAL ESTIMATED ACQUISITION PROJECT COST	\$ -	\$ 871,000	\$ 871,000

SANTA BARBARA COUNTY SB1022
PRELIMINARY PLANS PHASE

ESTABLISHMENT 11/14/14

ARCHITECTURAL AND ENGINEERING SERVICES

	STATE	LOCAL	TOTAL
A&E Design	\$ 1,041,000	\$ -	\$ 1,041,000
Advertising, Printing & Mailing	\$ -	\$ -	\$ -
Construction Guarantee Inspection	\$ -	\$ -	\$ -
SUBTOTAL A&E SERVICES	\$ 1,041,000	\$ -	\$ 1,041,000

OTHER PROJECT COSTS

	STATE	LOCAL	TOTAL
Fixed Furnishings and Equipment	\$ -	\$ -	\$ -
Needs Assessment	\$ -	\$ -	\$ -
County Administration	\$ -	\$ 138,000	\$ 138,000
Contract Construction Management	\$ 446,000	\$ -	\$ 446,000
Special Testing and Inspection	\$ -	\$ -	\$ -
Site Acquisition Costs and Fees	\$ -	\$ -	\$ -
Audit	\$ -	\$ -	\$ -
Transition Planning	\$ -	\$ -	\$ -
Utility Connection Fees	\$ -	\$ -	\$ -
Environmental CEQA	\$ -	\$ -	\$ -
State Agency Fees-SFM	\$ -	\$ 5,000	\$ 5,000
State Agency Fees-DGS	\$ -	\$ 5,000	\$ 5,000
Data/Telephone	\$ -	\$ -	\$ -
Arts Fee	\$ -	\$ -	\$ -
SUBTOTAL OTHER PROJECT COSTS	\$ 446,000	\$ 148,000	\$ 594,000

	STATE	LOCAL	TOTAL
TOTAL ESTIMATED PRELIMINARY PLANS PROJECT COST	\$ 1,487,000	\$ 148,000	\$ 1,635,000

SANTA BARBARA COUNTY SB1022
WORKING DRAWINGS PHASE

ESTABLISHMENT 11/14/14

ARCHITECTURAL AND ENGINEERING SERVICES

	STATE	LOCAL	TOTAL
A&E Design	\$ 838,000	\$ -	\$ 838,000
Advertising, Printing & Mailing	\$ -	\$ -	\$ -
Construction Guarantee Inspection	\$ -	\$ -	\$ -
SUBTOTAL A&E SERVICES	\$ 838,000	\$ -	\$ 838,000

OTHER PROJECT COSTS

	STATE	LOCAL	TOTAL
Fixed Furnishings and Equipment	\$ -	\$ -	\$ -
Needs Assessment	\$ -	\$ -	\$ -
County Administration	\$ -	\$ 274,000	\$ 274,000
Contract Construction Management	\$ 214,000	\$ -	\$ 214,000
Special Testing and Inspection	\$ -	\$ -	\$ -
Site Acquisition Costs and Fees	\$ -	\$ -	\$ -
Audit	\$ -	\$ -	\$ -
Transition Planning	\$ -	\$ -	\$ -
Utility Connection Fees	\$ 235,000	\$ -	\$ 235,000
Environmental CEQA	\$ -	\$ 15,000	\$ 15,000
State Agency Fees-SFM	\$ -	\$ -	\$ -
State Agency Fees-DGS	\$ -	\$ -	\$ -
Data/Telephone	\$ -	\$ -	\$ -
Arts Fee	\$ -	\$ -	\$ -
SUBTOTAL OTHER PROJECT COSTS	\$ 449,000	\$ 289,000	\$ 738,000

	STATE	LOCAL	TOTAL
TOTAL ESTIMATED WORKING DRAWINGS COST	\$ 1,287,000	\$ 289,000	\$ 1,576,000

SANTA BARBARA COUNTY SB1022
CONSTRUCTION PHASE

ESTABLISHMENT 11/14/14

	STATE	LOCAL	TOTAL
ESTIMATED CONTRACT COST	\$ 30,394,186	\$ 350,000	\$ 30,744,186
CONSTRUCTION CONTINGENCY	\$ 2,305,814	\$ -	\$ 2,305,814
SUBTOTAL CONSTRUCTION	<u>\$ 32,700,000</u>	<u>\$ 350,000</u>	<u>\$ 33,050,000</u>

ARCHITECTURAL AND ENGINEERING SERVICES

	STATE	LOCAL	TOTAL
A&E Design	\$ 577,000	\$ -	\$ 577,000
Advertising, Printing & Mailing	\$ -	\$ -	\$ -
Construction Guarantee Inspection	\$ -	\$ -	\$ -
SUBTOTAL A&E SERVICES	<u>\$ 577,000</u>	<u>\$ -</u>	<u>\$ 577,000</u>

OTHER PROJECT COSTS

	STATE	LOCAL	TOTAL
Fixed Furnishings and Equipment	\$ -	\$ 1,281,000	\$ 1,281,000
Needs Assessment	\$ -	\$ -	\$ -
County Administration	\$ -	\$ 845,000	\$ 845,000
Contract Construction Management	\$ 1,972,000	\$ -	\$ 1,972,000
Special Testing and Inspection	\$ 253,000	\$ -	\$ 253,000
Site Acquisition Costs and Fees	\$ -	\$ -	\$ -
Audit	\$ -	\$ 20,000	\$ 20,000
Transition Planning	\$ -	\$ 240,000	\$ 240,000
Utility Connection Fees	\$ 400,000	\$ -	\$ 400,000
Environmental CEQA	\$ -	\$ 70,000	\$ 70,000
State Agency Fees-SFM	\$ -	\$ 30,000	\$ 30,000
State Agency Fees-DGS	\$ -	\$ 11,000	\$ 11,000
Data/Telephone	\$ 300,000	\$ -	\$ 300,000
Arts Fee	\$ -	\$ 304,000	\$ 304,000
SUBTOTAL OTHER PROJECT COSTS	<u>\$ 2,925,000</u>	<u>\$ 2,801,000</u>	<u>\$ 5,726,000</u>

	STATE	LOCAL	TOTAL
TOTAL ESTIMATED CONSTRUCTION COST	<u>\$ 36,202,000</u>	<u>\$ 3,151,000</u>	<u>\$ 39,353,000</u>

	STATE	LOCAL	TOTAL
TOTAL ESTIMATED PROJECT COST	<u>\$ 38,976,000</u>	<u>\$ 4,459,000</u>	<u>\$ 43,435,000</u>

END EXHIBIT H

EXHIBIT I

BOARD OF STATE AND COMMUNITY CORRECTIONS SAMPLE JAIL CONSTRUCTION AGREEMENT

STATE OF CALIFORNIA

**BOARD OF STATE AND COMMUNITY CORRECTIONS
JAIL CONSTRUCTION AGREEMENT**

FOR _____

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 _____ (“**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 _____ (“**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 _____ dollars (\$ _____)) (“**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: _____
Title: _____
Address: _____
City, State, Zip: _____
Telephone: _____
Facsimile: _____
Email: _____

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: _____
Title: _____
Address: _____
City, State, Zip: _____
Telephone: _____
Facsimile: _____
Email: _____

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: _____
Title: _____
Address: _____
City, State, Zip: _____
Telephone: _____
Facsimile: _____
Email: _____

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 _____ 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.

END EXHIBIT I

EXHIBIT J

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION SAMPLE PROJECT
CONSTRUCTION AND DELIVERY AGREEMENT

**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 OPEN 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 gross 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 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 construction 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 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 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 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]

FORM OF DOCUMENT

EXHIBIT A

PROJECT SCOPE, COST AND SCHEDULE DESCRIPTION

[Include narrative description of Project per Section 4.1]

FORM OF DOCUMENT

EXHIBIT B

FORM OF GROUND LEASE

FORM OF DOCUMENT

EXHIBIT C

FORM OF RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION

FORM OF DOCUMENT

EXHIBIT D

FORM OF FACILITY SUBLEASE

FORM OF DOCUMENT

EXHIBIT E-1

DESCRIPTION OF PARTICIPATING COUNTY FUNDING

Cash (hard) Match

FORM OF DOCUMENT

EXHIBIT E-2

DESCRIPTION OF PARTICIPATING COUNTY FUNDING

In-kind (soft) Match

FORM OF DOCUMENT

END EXHIBIT J