

# **County of Monterey**

Board of Supervisors Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901



## **Meeting Agenda - Final**

**Friday, November 1, 2024**

**12:00 PM**

**50+ page Advance Reports for the Board of Supervisors meeting on Tuesday,  
November 12, 2024.**

**Advance Reports Over 50 Pages**

**The following reports are scheduled for the Board of Supervisors meeting on Tuesday, November 12, 2024. The reports are being distributed 11 + days prior to the Board of Supervisors meeting due to the large volume of information. These reports are not numbered at this time.**

**Criminal Justice - Consent**

- a. Approve and authorize the Contracts Purchasing Officer or designee to execute Amendment No. 5 to Agreement A-13370 with Telmate, Inc. to provide for continued voice communication services to in-custody youth free of charge to the youth and their families, increasing the total Agreement amount by \$24,000 (\$4,000 per month) for a total not to exceed amount of \$96,000, retroactive to July 1, 2024, and continuing month to month.
- b. Authorize the Contracts/Purchasing Officer or their designee to sign future amendments to the Agreement where the amendments do not exceed 10% (\$7,200) of the original Agreement amount and do not significantly alter the scope of services, for a not to exceed maximum amount of \$103,200.

**Attachments:**     [Board Report](#)  
                          [Amendment No. 5 to A-13370](#)  
                          [Amendment No. 4 to A-13370](#)  
                          [Amendment No. 3 to A-13370](#)  
                          [Amendment No. 2 to A-13370](#)  
                          [Amendment No. 1 to A-13370](#)  
                          [Agreement #13370 with Telmate Inc.](#)

**Public Works and Facilities - Consent**

- a. Authorize the Public Works, Facilities and Parks (PWFP) Director to execute Amendment No. 4 to the Board of State and Community Corrections (BSCC) SB 81 Round 1 Local Youthful Offender Rehabilitative Facility Construction Agreement for Monterey County New Juvenile Hall (NJH Agreement) in a form substantially similar to the “Execution Copy” of said Amendment No. 4, which reflects the final project milestone schedule and budget;
- b. Authorize the PWFP Director to execute an Amendment No. 4 to the BSCC AB 900 II Construction Agreement for Monterey County Jail Housing Addition (JHA Agreement) upon receipt from BSCC, which reflects the final project milestone schedule and budget;
- c. Authorize the PWFP Director to execute future Amendments to the NJH Agreement and JHA Agreements as necessary to reflect any closeout changes to match the final project scope, schedule and budget subject to the approval of BSCC and the Office of the County Counsel.

- Attachments:**
- [Board Report](#)
  - [Attachment A - SB 81 Round 1 Amendment No. 4](#)
  - [Attachment B - SB 81 Round 1 Amendment No. 3](#)
  - [Attachment C - SB 81 Round 1 Amendment No. 2](#)
  - [Attachment D - SB 81 Round 1 Amendment No. 1](#)
  - [Attachment E - SB 81 Round 1 Construction Agreement](#)
  - [Attachment F - AB 900 Amendment No. 3](#)
  - [Attachment G - AB 900 Amendment No. 2](#)
  - [Attachment H - AB 900 Amendment No. 1](#)
  - [Attachment I - AB 900 Construction Agreement](#)



# County of Monterey

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 24-482

November 12, 2024

**Introduced:** 10/9/2024

**Current Status:** Criminal Justice - Consent

**Version:** 1

**Matter Type:** BoS Agreement

- a. Approve and authorize the Contracts Purchasing Officer or designee to execute Amendment No. 5 to Agreement A-13370 with Telmate, Inc. to provide for continued voice communication services to in-custody youth free of charge to the youth and their families, increasing the total Agreement amount by \$24,000 (\$4,000 per month) for a total not to exceed amount of \$96,000, retroactive to July 1, 2024, and continuing month to month.
- b. Authorize the Contracts/Purchasing Officer or their designee to sign future amendments to the Agreement where the amendments do not exceed 10% (\$7,200) of the original Agreement amount and do not significantly alter the scope of services, for a not to exceed maximum amount of \$103,200.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Contracts Purchasing Officer or designee to execute Amendment No. 5 to Agreement A-13370 with Telmate, Inc. to provide for continued voice communication services to in-custody youth free of charge to the youth and their families, increasing the total Agreement amount by \$24,000 (\$4,000 per month) for a total not to exceed amount of \$96,000, retroactive to July 1, 2024, and continuing month to month.
- b. Authorize the Contracts/Purchasing Officer or their designee to sign future amendments to the Agreement where the amendments do not exceed 10% (\$7,200) of the original Agreement amount and do not significantly alter the scope of services, for a not to exceed maximum amount of \$103,200.

### SUMMARY/DISCUSSION:

The original Agreement for a "no cost to the County", turnkey, leave-behind solution for Monterey County Probation and Monterey County Sheriff's Office was approved by the Board on December 6, 2016, for the term through December 13, 2019. This Agreement provides access for incarcerated inmates/juveniles within the Monterey County Jail/Monterey County Juvenile Hall and Youth Center, to telephones and tablets, for communication with family and friends.

The Agreement was amended under Amendment No. 1 on January 8, 2020 to extend the term an additional year through December 13, 2020, Amendment No. 2 on December 17, 2020 to extend the term through December 13, 2021, and Amendment No. 3 on March 9, 2022 to incorporate changes enacted by the California Public Utilities Commission (CPUC) and Federal Communications Commission (FCC) that reduced the cost that an inmate could be charged for a telephone call and associated fees and extend the term an additional two years to December 31, 2023. Amendment No. 4 was executed November 9, 2023, to add funding in the amount of \$72,000 for services provided as

of January 1, 2023, and as needed each month forward to juvenile institutions and revise the terms of the Agreement following the passage of California Senate Bill No. 1008 (SB1008), “Keep Families Connected Act” (Becker). Effective January 1, 2023, it requires counties to provide voice communication services to in-custody youth free of charge to the youth initiating the communication and to the person receiving the communication. It also provided that a county shall not receive any revenue from the provision of voice communication services or any other communication services to any in-custody youth confined in a county youth residential placement detention center.

The County engaged in the Request for Proposal (RFP) process for telephone and tablet services for the Monterey County Sheriff’s Office and the Probation Department, and under RFP#10881 awarded a new vendor, Smart Communications, Inc. in September 2023. The installation of the new phone system is in progress and estimated to be completed by the end of 2024. Additional funds are needed for continuity of current phone services under Telmate, Inc. until this is accomplished.

The Probation Department recommends approval of this action by the Board of Supervisors.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved Amendment No. 5 as to legal form and content. The Office of the Auditor Controller has reviewed and approved for fiscal provisions.

FINANCING:

The associated funding and appropriations for the increased amount of \$24,000 are included in the Probation Department’s Fiscal Year 2024-2025 Adopted Budget (001-2550-PRO001). There is no additional cost to the County General Fund with this recommendation.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

?Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

?Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Wendi Reed, Management Analyst III, ext. 3985

Approved by: Todd Keating, Chief Probation Officer, ext. 3913

Attachments:

Board Report

Amendment No. 5 to Agreement A-13370

Amendment No. 4 to Agreement A-13370

Amendment No. 3 to Agreement A-13370

Amendment No. 2 to Agreement A-13370

Amendment No. 1 to Agreement A-13370

Agreement No. A-13370 with Telmate, Inc.



# County of Monterey

Item No.

## Board Report

Board of Supervisors  
Chambers

168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 24-482

November 12, 2024

**Introduced:** 10/9/2024

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### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Contracts Purchasing Officer or designee to execute Amendment No. 5 to Agreement A-13370 with Telmate, Inc. to provide for continued voice communication services to in-custody youth free of charge to the youth and their families, increasing the total Agreement amount by \$24,000 (\$4,000 per month) for a total not to exceed amount of \$96,000, retroactive to July 1, 2024, and continuing month to month.
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The Agreement was amended under Amendment No. 1 on January 8, 2020 to extend the term an additional year through December 13, 2020, Amendment No. 2 on December 17, 2020 to extend the term through December 13, 2021, and Amendment No. 3 on March 9, 2022 to incorporate changes enacted by the California Public Utilities Commission (CPUC) and Federal Communications Commission (FCC) that reduced the cost that an inmate could be charged for a telephone call and associated fees and extend the term an additional two years to December 31, 2023. Amendment No. 4 was executed November 9, 2023, to add funding in the amount of \$72,000 for services provided as

of January 1, 2023, and as needed each month forward to juvenile institutions and revise the terms of the Agreement following the passage of California Senate Bill No. 1008 (SB1008), “Keep Families Connected Act” (Becker). Effective January 1, 2023, it requires counties to provide voice communication services to in-custody youth free of charge to the youth initiating the communication and to the person receiving the communication. It also provided that a county shall not receive any revenue from the provision of voice communication services or any other communication services to any in-custody youth confined in a county youth residential placement detention center.

The County engaged in the Request for Proposal (RFP) process for telephone and tablet services for the Monterey County Sheriff’s Office and the Probation Department, and under RFP#10881 awarded a new vendor, Smart Communications, Inc. in September 2023. The installation of the new phone system is in progress and estimated to be completed by the end of 2024. Additional funds are needed for continuity of current phone services under Telmate, Inc. until this is accomplished.

The Probation Department recommends approval of this action by the Board of Supervisors.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved Amendment No. 5 as to legal form and content. The Office of the Auditor Controller has reviewed and approved for fiscal provisions.

FINANCING:

The associated funding and appropriations for the increased amount of \$24,000 are included in the Probation Department’s Fiscal Year 2024-2025 Adopted Budget (001-2550-PRO001). There is no additional cost to the County General Fund with this recommendation.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

?Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

?Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Wendi Reed, Management Analyst III, ext. 3985



Approved by: Todd Keating, Chief Probation Officer, ext. 3913

Attachments:

Board Report

Amendment No. 5 to Agreement A-13370

Amendment No. 4 to Agreement A-13370

Amendment No. 3 to Agreement A-13370

Amendment No. 2 to Agreement A-13370

Amendment No. 1 to Agreement A-13370

Agreement No. A-13370 with Telmate, Inc.

## AMENDMENT #5 TO RFP-10537 AGREEMENT A-13370

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### AMENDMENT #5 TO RFP-10537, AGREEMENT A-13370 BY AND BETWEEN COUNTY OF MONTEREY & TELMATE, LLC

**THIS AMENDMENT NO. 5** is made to the Agreement for inmate/ward telephone services for the Monterey County Sheriff's Office and Monterey County Probation Department, by and between **TELMATE, LLC**, (hereinafter "CONTRACTOR"), and the County of Monterey, a political subdivision of the State of California, (hereinafter "County" (collectively, "the Parties")).

**WHEREAS**, the County and CONTRACTOR originally entered into this Agreement on December 14, 2016, with a term date ending December 13, 2019; and

**WHEREAS**, Agreement was amended by the Parties on January 8, 2020, (hereinafter "Amendment No. 1") to extend the term for one (1) additional year through December 13, 2020; and

**WHEREAS**, Agreement was amended by the Parties on December 17, 2020, (hereinafter "Amendment No. 2") to extend the term for one (1) additional year through December 13, 2021; and

**WHEREAS**, Agreement was amended by the Parties on March 9, 2022, (hereinafter "Amendment No. 3") per CPUC Decision Rulemaking 20-10-002 issued August 23, 2021, the FCC Third Report and Order on Reconsideration and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 12-375 on May 24, 2021 and 40682 Federal Register/Vol. 86, No. 142/Wednesday, July 28, 2021/Rules and Regulations, and to extend the term for an additional two (2) years through December 13, 2023; and

**WHEREAS**, California Senate Bill No. 1008 ("Senate Bill 1008") was approved by the Governor and filed with the Secretary of State on September 29, 2022. Senate Bill 1008 requires, among other things, effective January 1, 2023, a county or city youth residential placement or detention center shall provide voice communication services to incarcerated persons free of charge to the person initiating and the person receiving the communication. Senate Bill 1008 provides that a county or city agency shall not receive revenue from the provision of voice communication services or any other communication services to any person confined in a county or city youth residential placement detention center; and

**WHEREAS**, Agreement was amended by the Parties on November 9, 2023, (hereinafter "Amendment No. 4") to address payment to CONTRACTOR for juvenile ward telephone services to the Monterey County Probation Department for the juvenile institutions, for a total not to exceed amount of \$72,000, and to extend the term on a month-to-month basis, with County reserving the right to cancel with 30 days written notice or immediately for cause; and

**WHEREAS**, there is a continued need for services following the completion of a Request for Proposal (RFP) process, award of contract, and pending installation of new vendor equipment and services; and

## AMENDMENT #5 TO RFP-10537 AGREEMENT A-13370

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**WHEREAS**, the Parties wish to further amend the Agreement to add \$24,000 to the total amount payable for a total amount not to exceed \$96,000;

**NOW THEREFORE**, the County and CONTRACTOR hereby agree to amend the Agreement in the following manner:

- 1) **Attachment A-1 – RATES, FEES AND PAYMENTS TO COUNTY FOR INMATE TELEPHONE SERVICE, VIDEO VISITATION SERVICE AND TABLETS, second sentence of added Paragraph referencing “Juveniles”**, is amended to read as follows:

**Juveniles**

In consideration of Senate Bill 1008 and as it pertains to juvenile calls from the Monterey Juvenile Hall and Monterey County Youth Center, effective January 1, 2023, the County shall pay CONTRACTOR a monthly service fee in the amount of four thousand dollars (\$4,000.00).

Beginning July 1, 2024 through December 31, 2024, the County shall pay CONTRACTOR a monthly service fee in the amount of three thousand seven hundred dollars (\$3,700.00) plus applicable taxes, fees and other governmental charges for a total monthly amount not to exceed four thousand dollars (\$4,000.00).

For the period of January 1, 2023 through December 31, 2024, total amount paid to CONTRACTOR may not exceed \$96,000.

- 2) Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 5 and shall continue in full force and effect as set forth in the Agreement.
- 3) A copy of AMENDMENT NO. 5 shall be attached to the original Agreement executed by the County on December 14, 2016.

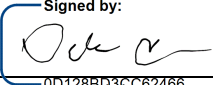
# AMENDMENT #5 TO RFP-10537 AGREEMENT A-13370

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

## MONTEREY COUNTY

## Telmate, LLC

\_\_\_\_\_  
Contracts/Purchasing Officer

By:  Signed by:  
\_\_\_\_\_  
Signature of Chair, President, or Vice-President

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

Deb Alderson CEO ViaPath

\_\_\_\_\_  
*Approved as to Fiscal Provisions:*

\_\_\_\_\_  
Printed Name and Title

DocuSigned by:  
  
\_\_\_\_\_  
Deputy Auditor/Controller


\_\_\_\_\_  
Dated: 10/11/2024 | 8:23 AM PDT

\_\_\_\_\_  
Dated: 10/16/2024 | 7:20 AM PDT

By:  Signed by:  
\_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

John Pitsenberger CFO

\_\_\_\_\_  
*Approved as to Liability Provisions:*

DocuSigned by:  
  
\_\_\_\_\_  
Risk Management

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Dated: 10/16/2024 | 8:24 AM PDT

\_\_\_\_\_  
Dated: 10/11/2024 | 8:25 AM PDT

\_\_\_\_\_  
*Approved as to Form:*

Signed by:  
  
\_\_\_\_\_  
Anne K. Brereton

Deputy County Counsel

\_\_\_\_\_  
Dated: 10/15/2024 | 12:58 PM PDT

County Board of Supervisors' Agreement Number: A-13370.

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.



## Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
[www.co.monterey.ca.us](http://www.co.monterey.ca.us)

### Board Order

A motion was made by Supervisor Mary L. Adams, seconded by Supervisor Chris Lopez to:

**Agreement No.: A-13370 ; Amendment No. 4**

Approve and authorize the Contracts Purchasing Officer or designee to execute retroactive Amendment No. 4 to Agreement A-13370 with Telmate, Inc. to incorporate legislative changes under Senate Bill 1008 (SB1008) "Keep Families Connected Act" (Becker), requiring counties to provide voice communication services to in-custody youth free of charge, resulting in a cost to the Probation Department of \$4,000/per month for these services, for a total not to exceed amount of \$72,000, effective retroactive to January 1, 2023 and continuing month the month, with a 30 day notice of termination, or immediately for cause.

PASSED AND ADOPTED on this 24<sup>th</sup> day of October 2023, by roll call vote:

AYES: Supervisors Alejo, Church, Lopez, Askew, and Adams

NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting October 24, 2023.

Dated: November 1, 2023

File ID: A 23-481

Agenda Item No.: 57

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

Vicente Ramirez, Deputy



## AMENDMENT #4 TO RFP-10537 AGREEMENT A-13370

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### AMENDMENT #4 TO RFP-10537 AGREEMENT A-13370 BY AND BETWEEN COUNTY OF MONTEREY & TELMATE, LLC

**THIS AMENDMENT NO. 4** is made to the Agreement for inmate/ward telephone services for the Monterey County Sheriff's Office and Monterey County Probation Department, by and between **TELMATE, LLC**, (hereinafter "CONTRACTOR"), and the County of Monterey, a political subdivision of the State of California, (hereinafter "County" (collectively, "the Parties")).

**WHEREAS**, the County and CONTRACTOR originally entered into this Agreement on December 14, 2016, with a term date ending December 13, 2019; and

**WHEREAS**, Agreement was amended by the Parties on January 8, 2020, (hereinafter "Amendment No. 1") to extend the term for one (1) additional year through December 13, 2020; and

**WHEREAS**, Agreement was amended by the Parties on December 17, 2020, (hereinafter "Amendment No. 2") to extend the term for one (1) additional year through December 13, 2021; and

**WHEREAS**, Agreement was amended by the Parties on March 9, 2022, (hereinafter "Amendment No. 3") per CPUC Decision Rulemaking 20-10-002 issued August 23, 2021, the FCC Third Report and Order on Reconsideration and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 12-375 on May 24, 2021 and 40682 Federal Register/Vol. 86, No. 142/Wednesday, July 28, 2021/Rules and Regulations, and to extend the term for an additional two (2) years through December 13, 2023; and

**WHEREAS**, California Senate Bill No. 1008 ("Senate Bill 1008") was approved by the Governor and filed with the Secretary of State on September 29, 2022. Senate Bill 1008 requires, among other things, effective January 1, 2023, a county or city youth residential placement or detention center shall provide voice communication services to incarcerated persons free of charge to the person initiating and the person receiving the communication. Senate Bill 1008 provides that a county or city agency shall not receive revenue from the provision of voice communication services or any other communication services to any person confined in a county or city youth residential placement detention center; and

**WHEREAS**, there is a continued need for services following the completion of a Request for Proposal (RFP) process, and pending award of a contract for those services; and

**WHEREAS**, the Parties wish to further amend the Agreement to address payment to CONTRACTOR for juvenile ward telephone services to the Monterey County Probation Department for the juvenile institutions and to extend the term on a month-to-month basis, but the County reserves the right to cancel with 30 days written notice or immediately for cause;

**NOW THEREFORE**, the County and CONTRACTOR hereby agree to amend the Agreement in the following manner:

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## AMENDMENT #4 TO RFP-10537 AGREEMENT A-13370

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- 1) **Attachment A-1 – RATES, FEES AND PAYMENTS TO COUNTY FOR INMATE TELEPHONE SERVICE, VIDEO VISITATION SERVICE AND TABLETS** is amended with the addition of the following language effective retroactive to January 1, 2023:

**Juveniles**

In consideration of Senate Bill 1008 and as it pertains to juvenile calls from the Monterey Juvenile Hall and Monterey County Youth Center, the County shall pay CONTRACTOR a monthly service fee in the amount of four thousand dollars (\$4,000.00). Total amount paid may not exceed \$72,000.

The County shall mail payments to Contractor's Accounts Receivable Address:

Global Tel\*Link Corporation d/b/a ViaPath Technologies  
Attn: Accounts Receivable  
900 Western America Circle, Suite 300  
Mobile, AL 36602

All Exhibits remain unchanged and are not attached.

- 2) Amend Section 3.0, **TERM OF AGREEMENT**, Paragraph 3.1 to read:  
“The initial term shall commence with the signing of this AGREEMENT through and including three (3) years, with the option to extend the AGREEMENT for two (2) additional one (1) year periods, and continuing month-to month as needed.
- 3) Amend Section 5.0, **INVOICES AND PURCHASE ORDERS** with the addition of the following language, effective January 1, 2023:

**5.5 CONTRACTORS BILLING PROCEDURES FOR MONTEREY COUNTY PROBATION**

CONTRACTOR shall submit claim for payment to Probation's Finance Division with back-up documentation, including monthly call report, no later than the 20th day following the month of service. Failure to submit reports will be deemed non-compliance with the terms and conditions and may cause payment to be delayed or denied.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Section 5.0, **INVOICES AND PURCHASE ORDERS**”, of the Agreement. All invoices shall be sent to the following address or via email to:

[255-probationfinanceap@co.monterey.ca.us](mailto:255-probationfinanceap@co.monterey.ca.us)

Monterey County Probation Department  
Attention: Finance Division  
20 E. Alisal Street, 2nd Floor  
Salinas, CA 93901



## AMENDMENT #4 TO RFP-10537 AGREEMENT A-13370

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County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

- 4) Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 4 and shall continue in full force and effect as set forth in the Agreement.
- 5) A copy of AMENDMENT NO. 4 shall be attached to the original Agreement executed by the County on December 14, 2016.

# AMENDMENT #4 TO RFP-10537 AGREEMENT A-13370

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

## MONTEREY COUNTY

DocuSigned by:  
*Debra Wilson*  
7B741937AA0D41B...

Contracts/Purchasing Officer

Dated: 11/9/2023 | 1:20 PM PST

*Approved as to Fiscal Provisions:*

DocuSigned by:  
*Jennifer Forsyth*  
4E7E96787E454AE...

Deputy Auditor/Controller

Dated: 10/10/2023 | 8:17 AM PDT

*Approved as to Liability Provisions:*

Risk Management

Dated:

*Approved as to Form:*

DocuSigned by:  
*AK*  
44E993B3FB8A412...

Anne K. Brereton  
Deputy County Counsel

Dated: 10/9/2023 | 9:56 AM PDT

## Telmate, LLC

By:

Signature of Chair, President, or Vice-President

Deb Alderson, President & CEO

Printed Name and Title

Dated: 10/06/2023

By:

(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

John Pitsenberger, EVP and CFO

Printed Name and Title

Dated: 10/06/2023

County Board of Supervisors' Agreement Number: A-13370.

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.



# Monterey County Board of Supervisors

168 West Alisal Street,  
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831.755.5066  
www.co.monterey.ca.us

## Board Order

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

**Agreement No.: A-15710; Amendment No.: 3**

- a. Approve and Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to sign a renewal and Amendment #3 with Telmate Inc., to incorporate California Public Utilities Commission (CPUC) and Federal Communications Commission (FCC) changes and extend the agreement by two (2) years retroactive to January 1, 2022, with a new term end date of December 31, 2023, which will allow time to go out to RFP; and
- b. Approve and Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to sign Amendments as necessary based on CPUC and/or FCC changes.

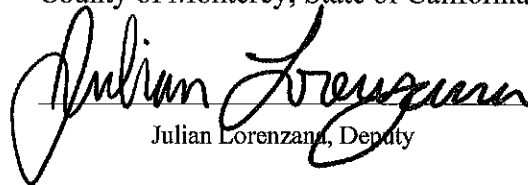
PASSED AND ADOPTED on this 1<sup>st</sup> day of March 2022, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams  
NOES: None  
ABSENT: None  
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting March 1, 2022.

Dated: March 8, 2022  
File ID: 22-179  
Agenda Item No.: 56

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
Julian Lorenzana, Deputy



## AMENDMENT #3 TO RFP-10537 AGREEMENT A-13370

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### AMENDMENT #3 TO RFP-10537 AGREEMENT A-13370 BY AND BETWEEN COUNTY OF MONTEREY & TELMATE, LLC

**THIS AMENDMENT** is made to the AGREEMENT for inmate/ward telephone services for the Monterey County Sheriff's Office and Monterey County Probation Department, by and between **TELMATE, LLC**, hereinafter "CONTRACTOR", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County".

**WHEREAS**, the County and CONTRACTOR originally entered into this Agreement on December 14, 2016 and a term date ending December 13, 2019; and

**WHEREAS**, the County and CONTRACTOR amended the AGREEMENT by extending the term of AGREEMENT by one (1) year with a new end date of December 13, 2020; and

**WHEREAS**, the County and CONTRACTOR amended the AGREEMENT by extending the term of the AGREEMENT by one (1) year with a new end date of December 13, 2021.

**WHEREAS**, the County and CONTRACTOR wish to amend the AGREEMENT per CPUC Decision Rulemaking 20-10-002 issued August 23, 2021, the FCC Third Report and Order on Reconsideration and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 12-375 on May 24, 2021 and 40682 Federal Register/Vol. 86, No. 142/Wednesday, July 28, 2021/Rules and Regulations, and by extending the term of the AGREEMENT by two (2) years with a new end date of December 13, 2023.

**NOW THEREFORE**, the County and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Section 3., "TERM OF AGREEMENT" shall be, "*The term of this Agreement is from 12/14/2016 to 12/13/2023.*"
2. Attachment A-1 is hereby modified, per CPUC Decision Rulemaking 20-10-002 issued August 23, 2021, as follows (effective October 7, 2021):
  - 1) Number 1.a, 1.b, & 1.c – rate is hereby changed to seven (\$0.07) cents per minute
  - 2) Number 2.a, 2.b & 2.c – no fee is permitted
  - 3) Number 2.d – shall have a cap of \$6.95 per transaction
  - 4) Number 5.a – rate is changed to one (\$0.01) cent per minute of each completed billable inmate telephone service phone call
3. Attachment A-1 is also hereby modified, per the FCC Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking in WC Docket

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Telmate, LLC  
Revenue Generating  
Term: 12/14/2016 to 12/13/2022

## **AMENDMENT #3 TO RFP-10537 AGREEMENT A-13370**

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No. 12-375 on May 24, 2021, and 40682 Federal Register/Vol. 86, No. 142 (effective October 26, 2021) as follows:

- 1) Number 1.d – rate is hereby changed to twenty-one cents (\$0.21) per minute plus the applicable call termination rate for the destination country as published on the Company’s website, which may be updated every 3 months in accordance with the FCC Order.
4. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT and shall continue in full force and effect as set forth in the AGREEMENT.
5. A copy of the AMENDMENT shall be attached to the original AGREEMENT executed by the County on December 14, 2016.

## AMENDMENT #3 TO RFP-10537 AGREEMENT A-13370

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

**MONTEREY COUNTY**

DocuSigned by:  
Debra R. Wilson  
73741937A00D41B  
Contracts/Purchasing Officer

Dated: 3/9/2022 | 12:50 PM PST

*Approved as to Fiscal Provisions:*

DocuSigned by:  
Joy Molasco  
E60C442ED05B437  
Deputy Auditor/Controller

Dated: 2/15/2022 | 2:23 PM PST

*Approved as to Liability Provisions:*

Risk Management

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

*Approved as to Form:*

DocuSigned by:  
Im Grant  
454AG3456FD4400...  
Deputy County Counsel

Dated: 2/14/2022 | 9:46 AM PST

County Board of Supervisors' Agreement Number:     A-13370    .

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

**Telmate, LLC**

By: Deb Alderson  
Signature of Chair, President, or Vice-President

Deb Alderson, President and CEO  
Printed Name and Title

Dated: 01/25/2022

By: John C. Pitsenberger  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

John C. Pitsenberger, EVP and CFO  
Printed Name and Title

Dated: 01/25/2022

Telmate, LLC  
Revenue Generating  
Term: 12/14/2016 to 12/13/2022





## AMENDMENT #2 TO RFP-10537 AGREEMENT A-13370

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### AMENDMENT #2 TO RFP-10537 AGREEMENT A-13370 BY AND BETWEEN COUNTY OF MONTEREY & TELMATE, LLC

**THIS AMENDMENT** is made to the AGREEMENT for inmate/ward telephone services for the Monterey County Sheriff's Office and Monterey County Probation Department, by and between **TELMATE, LLC**, hereinafter "CONTRACTOR", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County".

**WHEREAS**, the County and CONTRACTOR originally entered into this Agreement on December 14, 2016 and a term date ending December 13, 2019; and

**WHEREAS**, the County and CONTRACTOR amended the AGREEMENT by extending the term of AGREEMENT by one (1) year with a new end date of December 13, 2020; and

**WHEREAS**, the County and CONTRACTOR wish to amend the AGREEMENT by extending the term of the AGREEMENT by one (1) year with a new end date of December 13, 2021.

**NOW THEREFORE**, the County and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Section 3., "TERM OF AGREEMENT" shall be, "***The term of this Agreement is from 12/14/2016 to 12/13/2021.***"
2. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT and shall continue in full force and effect as set forth in the AGREEMENT.
3. A copy of the AMENDMENT shall be attached to the original AGREEMENT executed by the County on December 14, 2016.

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Telmate, LLC  
Revenue Generating  
Term: 12/14/2016 to 12/13/2021

Page 1

## AMENDMENT #2 TO RFP-10537 AGREEMENT A-13370

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

### MONTEREY COUNTY

DocuSigned by:  
Debra Wilson, Contracts/Purchasing Supervisor  
7B741937AA0041B...  
Contracts/Purchasing Officer

Dated: 12/17/2020 | 1:00 PM PST

*Approved as to Fiscal Provisions:*

DocuSigned by:  
Gary Giboney  
D3834BFEC1D8449...  
Deputy Auditor/Controller

Dated: 12/10/2020 | 12:28 PM PST

*Approved as to Liability Provisions:*

Risk Management

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

*Approved as to Form:*


DocuSigned by:  
Im Grant  
454AC3465FD4490...  
Deputy County Counsel

Dated: 12/10/2020 | 12:23 PM PST

County Board of Supervisors' Agreement Number: A-13370.


\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

### Telmate, LLC

By:   
Signature of Chair, President, or Vice-President

Deb Alderson, President and CEO  
Printed Name and Title

Dated: 12/9/2020

By:   
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

John C. Pitsenberger, EVP and CFO  
Printed Name and Title

Dated: 12/9/2020

Telmate, LLC  
Revenue Generating  
Term: 12/14/2016 to 12/13/2021

## AMENDMENT #1 TO RFP-10537 AGREEMENT A-13370

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### AMENDMENT #1 TO RFP-10537 AGREEMENT A-13370 BY AND BETWEEN COUNTY OF MONTEREY & TELMATE, LLC

**THIS AMENDMENT** is made to the AGREEMENT for inmate/ward telephone services for the Monterey County Sheriff's Office and Monterey County Probation Department, by and between **Telmate, LLC**, hereinafter "CONTRACTOR", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County".

**WHEREAS**, the County and CONTRACTOR originally entered into this Agreement on December 14, 2016 and a term date ending December 13, 2019; and

**WHEREAS**, the County and CONTRACTOR wish to amend the AGREEMENT by extending the term of AGREEMENT by one (1) year with a new end date of December 13, 2020.

**NOW THEREFORE**, the County and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Section 3., "TERM OF AGREEMENT" shall be, "*The term of this Agreement is from 12/14/2016 to 12/13/2020 with the option to extend this Agreement for one (1) additional one (1) year.*"
2. ATTACHMENT A – Rates, Fees, and Payments shall be amended by removing Attachment A and replacing it with Attachment A-1 per Amendment #1 attached hereto. Attachment B shall be added per Amendment #1 attached hereto. All Exhibits remain unchanged and are not attached.
3. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT and shall continue in full force and effect as set forth in the AGREEMENT.
4. A copy of the AMENDMENT shall be attached to the original AGREEMENT executed by the County on December 14, 2016.


## AMENDMENT #1 TO RFP-10537 AGREEMENT A-13370

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

MONTEREY COUNTY

Telmate, LLC

  
\_\_\_\_\_  
Contracts/Purchasing Officer

By:   
\_\_\_\_\_  
Signature of Chair, President, or Vice-President

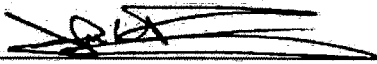
Dated: 1/8/2020

Deb Alderson, President and CEO  
Printed Name and Title

Approved as to Fiscal Provisions:  
  
\_\_\_\_\_  
Deputy Auditor/Controller

Dated: December 20, 2019

Dated: 1/3/2020

By:   
\_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*


Approved as to Liability Provisions:

John Pitsenberger, CFO  
Printed Name and Title

Risk Management

Dated: December 20, 2019

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

Approved as to Form:  
  
\_\_\_\_\_  
Deputy County Counsel

Dated: 01/03/2020

County Board of Supervisors' Agreement Number: \_\_\_\_\_.

**\*INSTRUCTIONS:** If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Telmate, LLC  
Revenue Generating  
Term: 12/14/2016 to 12/13/2020

## ATTACHMENT A-1

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### ATTACHMENT A-1

#### **RATES, FEES, and PAYMENTS TO COUNTY FOR INMATE TELEPHONE SERVICE, VIDEO VISITATION SERVICE, and TABLETS**

The County shall bear no responsibility for any costs related to the ITS, VVS, or Tablet services.

1. The initial VoIP calling rates shall be as follows:

- a. The call rate for Intrastate Prepaid and Collect Calls will be \$0.21 per minute.
- b. The call rate for Interstate Prepaid Calls will be \$0.21 per minute.
- c. The call rate for Interstate Collect Calls will be \$0.25 per minute.
- d. The call rate for International Calls will be \$0.50 per minute.

2. The initial fees payable by end user OR depositor for ITS services shall be as follows:

- a. Automated payment fees such as deposits using credit card or debit card made via telephone: \$3.00 per transaction, paid by depositor.
- b. Live agent fee (Quick Connect): \$5.95 per transaction, paid by depositor.
- c. Paper bill fee: \$2.00 per transaction.
- d. All third-party transaction fees such as MoneyGram, Western Union, and credit card processing fees shall be passed through to the depositor or end user without markup.
- e. All taxes and regulatory fees shall be passed through to the depositor or end user without mark up.
- f. The fee for a voice mail shall be \$1.50 per call.
- g. The fee for messages sent by a friend or family to a detainee shall be \$0.25 per message.

3. The Initial fees for Commissary/Booking Load services shall be as follows:

- a. The fee for Operator-Accepted deposits using credit card or debit card made by telephone: \$2.99 per transaction plus 6% of the transaction amount. This fee is paid by the depositor.

## ATTACHMENT A-1

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- b. Cash deposited into the lobby/visitation area Kiosk: \$1.99 per transaction plus 4% of the transaction amount. This fee is paid by the depositor.
- c. Credit card and debit card deposits using web-based depositing options: \$2.99 per transaction plus 6% of the transaction amount. This fee is paid by the depositor.
- d. Cash deposited into the Booking area kiosk: no fees shall be assessed to any party.
- e. Credit card and debit card deposits into the booking area kiosk at time of booking: \$2.99 per transaction plus 6% of the transaction amount. This fee shall be paid by the depositor.

Where Customer/County elects to have TELMATE assist with the operation of commissary accounts, TELMATE will act as Customer/County's agent for the purpose of accepting on behalf of the Customer/County, deposits into an inmate/s trust/commissary account. At Customer/County. Any and all deposits made to an inmate's commissary account at Customer/County's facilities through TELMATE's system shall be deemed received by the Customer/County as if made directly to Customer/County and shall be credited to the respective inmate's commissary account upon receipt by TELMATE. Customer/County shall have sole control and managerial power over any and all funds deposited into an inmate's commissary account.

#### 4. Tablet and Video Visitation Rates:

- a. The rate for access to premium tablet services such as messaging, music, and games, will be \$0.05 per minute. There shall be no cost to inmate for commissary ordering, grievance filings, medical/sick call requests, programs service requests, law library requests, other forms, educational content, and PREA/criminal reports.
- b. The rate for remote VVS will be \$0.25 per minute on Tablets.

#### 5. Facility Support Payments to County:

- a. TELMATE will implement a system to collect a facility support fee of five cents (\$0.05) per minute on specific telephony calls serviced by TELMATE. The facility support fee will be added on a per minute basis for Local, IntraLATA, InterLATA, and other applicable call types designated by TELMATE. Such facility support payments will be collected by TELMATE and remitted to County without deductions.
- b. TELMATE shall provide County with 10% of the gross revenue derived from item 2.f above – voicemails left for inmates.
- c. TELMATE shall provide County with 50% of the gross revenue received from the per minute rate charged to detainees for access to TELMATE's tablet equipment, excluding video and phone calls.

## ATTACHMENT A-1

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- d. TELMATE shall provide County with 25% of the gross revenue resulting from remote VVS usage.
- e. Commissions paid on Tablets shall be clearly delineated as to minutes of commission:
  - i. Minutes/Commission for Premium Tablet Service
  - ii. Minutes/Commission on Non-Chargeable time
  - iii. Minutes/Commission on Tablet for Remote VVS
  - iv. Minutes/Commission spent on Tablet for Promotional items

It is inferred that Prepaid Purchase Invoices have both the Tablet and Telephone Commissions deducted from them and be presented as one (1) net invoice, requiring the County to write one (1) check and have full accountability for all commissions.

- f. Payments for commissions and facility support shall be made in two (2) separate checks within 30 days following each month. One check shall be made payable to the Monterey County Probation and sent to the address listed in Section 5.1.3 of this agreement. The second check shall be made payable to the Monterey County Sheriff's Office and sent to the address listed in Section 5.1.1 of this agreement.

**THIS SPACE INTENTIONALLY LEFT BLANK**

## ATTACHMENT B

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### ATTACHMENT B

#### ADDITIONAL EQUIPMENT AND SERVICE

TELMATE will provide the following equipment and service for the Monterey County Sheriff's Office and Monterey County Probation.

Handheld Inmate/Ward Communication Devices:

- a. 240 Inspire 3 Tablets
  - o 100 Tablets for replacement of Vantron Tablets in the Current Jail
  - o 120 Tablets in Jail Addition (new Jail)
  - o 20 Tables for Monterey County Probation
- b. 108 Docking Stations
  - o 50 Replacement in Current Jail
  - o 48 Docking Stations in Jail Addition (new Jail)
  - o 10 Docking Stations for Monterey County Probation
- c. 46 Near Field Communication Stations for Jail Addition to accommodate Video Visitation
- d. 10 Bookshelf Charging Stations
  - o 8 in Jail Addition (new Jail)
  - o 2 for Monterey County Probation
- e. 21 Wireless Access Points
  - o 16 in Jail addition (new Jail)
  - o 5 for Monterey County Probation
- f. 32 New inmate phones in Jail Addition (new Jail)

Service to be provided for Monterey County Sheriff's Office:

Data IQ – Data IQ is a powerful analytical package allowing investigations to visually analyze immense amounts of data to create actionable intelligence. Data IQ can ingest any data source and present the information in a table or link diagram with customizable views for investigators. This powerful data mining tool will be included at no cost for all TELMATE data.





# Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

## Board Order

**Agreement No.: A-13370**

Upon motion of Supervisor Potter, seconded by Supervisor Armenta and carried by those members present, the Board of Supervisors hereby:

- a. Approved and authorized the Contracts/Purchasing Officer or the Contracts/Purchasing Supervisor to sign a three year Professional Services Agreement with TelMate, Inc., based on County's Request for Proposals (RFP) No. 10537-Providing Inmate/Ward Telephone Services for the Monterey County Sheriff's Office and Probation Department; and
- b. Authorized the Contracts/Purchasing Officer or the Contracts/Purchasing Supervisor to execute up to two (2) additional one-year extensions where the extensions do not significantly change the scope of services.

PASSED AND ADOPTED on this 6th day of December 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on December 6, 2016.

Dated: December 8, 2016  
File ID: 16-1327

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By   
Deputy

RFP #10537 Inmate Telephone System for County of Monterey

**AGREEMENT BETWEEN COUNTY OF MONTEREY AND CONTRACTOR TELMATE, LLC. FOR PROVISION OF INMATE/WARD PHONE SERVICES FOR MONTEREY COUNTY SHERIFF'S OFFICE AND PROBATION DEPARTMENT, REQUEST FOR PROPOSALS #10537**

This AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County", and TELMATE, LLC, hereinafter referred to as "CONTRACTOR."

**RECITALS**

WHEREAS, County has invited proposals through the Request for Proposals (RFP #10537) for Inmate/Ward Telephone services for the Monterey County Sheriff Office and the Monterey County Probation Department in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible proposal to perform such services; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, County and CONTRACTOR, for the consideration hereinafter named, agree as follows:

**1.0 PERFORMANCE OF THE AGREEMENT**

1.1 After consideration and evaluation of the CONTRACTOR'S proposal, the County hereby engages CONTRACTOR to provide the services set forth in RFP #10537 and in this AGREEMENT on the terms and conditions contained herein and in RFP #10537. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

AGREEMENT

RFP #10537, dated October 29<sup>th</sup>, 2015, including all attachments and exhibits

CONTRACTOR'S Proposal dated December 22, 2015

Section 1: Requirements

Section 2: Proposed Scope of Work or Qualifications

Telmate, LLC RFP #10537

Term: five (5) years from date of signing

1

RFP #10537 Inmate Telephone System for County of Monterey

- Section 3: Project Experience/References
- Section 4: Statement of Service to County
- Section 5: Environmentally friendly practices
- Section 6: Attachment A: Rates and Commissions Schedule
- Section 7: Service Level Agreements Exhibits I, II, III

CONTRACTOR's February 22, 2016 Best and Final Offer ("BAFO")

Certificates of Insurance  
Additional Insured Endorsements

- 1.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: AGREEMENT including all Attachments, Exhibits and Appendixes, RFP #10537 including all attachments, addendum and Exhibits, Certificates of Insurance and Additional Insured endorsements,
- 1.3 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this AGREEMENT are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this AGREEMENT and are not employees of the County, or immediate family of an employee of the County.
- 1.4 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this AGREEMENT that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
  - 1.4.1 CONTRACTOR must maintain all licenses throughout the term of the AGREEMENT.
- 1.5 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this AGREEMENT, except as otherwise specified in this AGREEMENT. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.

RFP #10537 Inmate Telephone System for County of Monterey

<b>2.0 SCOPE OF SERVICE</b>
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**2.1 Contractor Minimum Work Performance Percentage**

Contractor shall perform with his own organization contract work amounting to not less than 50 percent of the original total contract price, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total Agreement price before computing the amount of work required to be performed by Contractor with its organization.

**2.2 This is a turn-key project.**

No partial proposals or selective offerings shall be accepted. The services shall be for an Inmate/Ward/resident calling solution to include installation, equipment and maintenance, provision of local, long distance, international calling, free calling, collect, pre-paid, and debit telephone services and recording of visitation sessions at the facilities.

**2.3 Inmate/Ward Telephone Services**

2.3.1 Inmate/Ward detainees are generally allowed to make phone calls without restriction. These phone calls are Collect, Prepaid, or Debit calls. Inmate/Ward Telephone Services and all Inmate/Ward telephones are currently provided by an outside vendor. Contractor shall be required to provide the same amount of, or more telephones that meet the description provided in this Statement of Work. Contractor shall be required to plan, finance, and implement the integration and testing of all required equipment and software relative to the new Inmate/Ward Telephone System and related services without impacting the normal daily operation of the existing Inmate/Ward Telephone System.

2.3.2 Contractor shall be responsible for any changeover costs associated with the new installation or conversion of telephone instruments, associated equipment and/or software, and telephone enclosures. The type of telephone instrument and enclosures shall be subject to approval by the County's Project Manager or Designee.

2.3.3 The current vendor will continue to operate and maintain their current telephone system and equipment under the terms and conditions of the existing contract, pending the transition and acceptance of the new Inmate/Ward Telephone System at each detention facility.

Telmate, LLC RFP #10537  
Term: five (5) years from date of signing

RFP #10537 Inmate Telephone System for County of Monterey

2.3.4 The Inmate/Ward Telephone System is contained within a custodial environment; therefore, certain security requirements are enforced. Minimally, Contractor's staff and subcontractors will be required to submit to a background review for clearance, will be required to be escorted into certain areas of the facilities, and shall be required to submit lists of equipment and tools to be brought into the facilities. Contractor shall comply with all Federal and State statutes and regulations as well as local ordinances currently in effect or hereafter adopted.

**2.4 General Requirements**

- 2.4.1 Contractor shall be responsible for the billing and collection of all completed Inmate/Ward Collect, Prepaid, and Debit calls in accordance with FCC and CPUC recorded and approved tariff rates.
- 2.4.2 Contractor shall provide capability for Collect, Prepaid, and Debit calls.
- 2.4.3 Contractor shall provide the County the ability to establish maximum Collect call charge limits to a telephone number, and the flexibility to change the Collect call thresholds. The initial Collect call thresholds will be set at Seventy-Five Dollars (\$75.00) per telephone number per month, unless mutually agreed upon by the parties. Once the threshold is reached, only prepaid or debit calls will be authorized. Collect call thresholds cannot be changed by Contractor, without approval of the County. The County shall have the option of changing the Collect call threshold as it deems fit, with a month's notice to Contractor.
- 2.4.4 Contractor shall have the capability to provide Personal Identification Numbers or Personal Authorization Numbers (PINS).
- 2.4.5 Contractor shall have the capability to allow an Authorized Call list or Personal Allowed Number (PAN) list. The Inmate/Ward will have a maximum of 20 pre-approved telephone numbers.
- 2.4.6 The County will not be responsible for any uncollectible charges, including but not limited to incomplete calls and bad debt on Collect calls. Contractor shall not bill users for incomplete calls (e.g., network intercept recordings, busy signals, no-answers, etc.).
- 2.4.7 Contractor shall provide one (1) System Administrative Console or Workstations for the County Sheriff's Office and two (2) System Administrative Consoles or Workstations for the Probation Department at no charge.

Telmate, LLC RFP #10537

Term: five (5) years from date of signing

RFP #10537 Inmate Telephone System for County of Monterey

- 2.4.7.1 Each Workstation shall include a computer, monitor, printer, and all necessary software to review and monitor phone calls. The computer, printer, monitor, and any other related hardware associated with the consoles shall be new, HP brand contemporary models with sufficient processing speed, storage capacity, and other feature functionality to ensure rapid and efficient retrieval data throughout the term of the Agreement.
- 2.4.7.2 The Workstations shall include but not be limited to computer hardware and software, computer memory, disk storage capacity, computer displays, and printers. Contractor shall also provide any ancillary equipment deemed necessary for the monitoring, recording, archiving, or retrieval of Inmate/Ward calls. Contractor shall also provide the telecommunications network designed to provide (on-site and/or remote) administration of the ITS. The Workstations constitute a component of the ITS.
- 2.4.7.3 At the request of the County, Contractor shall replace any or all Workstation-related components at the end of the third year of the Agreement or thereafter, should equipment be determined as outdated and/or inefficient.
- 2.4.8 Contractor shall be responsible for paying for and installing any additional physical plant requirements for the ITS (power, security, data, cabling, physical space, HVAC, etc). Any cabling, wiring, or conduit installed becomes the property of the County.
- 2.4.9 Contractor shall be responsible for obtaining, developing, and implementing the interface requirements (i.e., with Jail Management System, Commissary) required to implement the Inmate/Ward Telephone System and associated services (i.e. PINs, Debit, Interactive Voice Response, etc.). Contractor shall bear all costs of required interface(s).
- 2.4.10 Contractor shall be responsible for any and all costs incurred in conjunction with the implementation of the Inmate/Ward Telephone System, Services, and Features.
- 2.4.11 Contractor shall detail its Back-Up or Redundancy Plan, as well as its Disaster Recovery Plan and provide its processes, policies, and procedures relating to the preparation of recovery or continuation of the requirements in the RFP preceding and/or following a natural or human-induced disaster.

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- 2.4.12 At no cost to County, Contractor shall install additional telephones (inmate/resident and visitation) and monitoring and recording equipment as needed, within thirty (30) days of request. This includes newly constructed or expanded facilities.
- 2.4.13 At no cost to County, Contractor shall move or remove inmate/resident telephones designated by the facilities.

**2.5 System Requirements**

- 2.5.1 Contractor's system must be of an open architecture to allow ease of integration with existing or future systems that operate on either PC-based networks, mainframes, or other platforms, providing secure anytime, anywhere access. Contractor shall be responsible for any interface costs with Commissary or Jail Management Systems, and any other costs incurred in conjunction with implementing the system and its features.
- 2.5.2 Contractor's system shall permit one-way outgoing calls billed to the called party or charged to a prepaid or debit system set up for Inmate/Ward use for the purpose of placing phone calls through this system. The Inmate/Ward Telephone System shall provide for an automated operator telephone system and shall be capable of providing services by Bill Type (Collect, Prepaid, and Debit) and Call Type (local, intra-LATA, inter-LATA, Interstate, International). Contractor's automated operator Inmate/Ward Telephone System shall also provide prepaid international call services throughout Canada, Mexico, South America, and to overseas destinations.
- 2.5.3 Contractor's system shall have Direct Bill capability.
- 2.5.4 The system shall have the ability to provide, print, download and e-mail reports on a daily, weekly, monthly, or real time basis. All reports should be selected by any combination of location, PIN, phone, number dialed, time/date, duration, call type, call status, etc., by County staff.
- 2.5.5 The system should have the capability of reverse lookup of phone numbers called to provide call detail.
- 2.5.6 The system shall be fully supported by remote maintenance including remote polling capabilities and system self-diagnostic to create "trouble tickets" when a

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system problem is discovered.

- 2.5.7 The system shall be capable of automatically transcribing flagged calls using “key word search.”
- 2.5.8 The system shall have the capability to provide interactive voice response.
- 2.5.9 The system shall be a true web-based system. The system shall support and interface with web services, integrating Web-based applications using open standards.
- 2.5.10 The system’s Graphic User Interface (GUI) shall be in web format, compatible with Microsoft Internet Explorer 6.0 or higher for end users. The GUI must be true-web based with nothing being installed on the local computer. Contractor shall be willing and able to make system changes (including GUI) to better support the needs of the County. The proposed system shall operate independently from the County (WAN) and/or Local Area Network (LAN).
- 2.5.11 The desired Inmate/Ward Telephone System phone calls must be capable of being monitored, recorded, and archived, with the exception of calls made to criminal defense attorneys, including the Monterey County Public Defender, California Bar list and Alternate Public Defender. Calls made to criminal defense attorneys are identified by numbers that have been predetermined and downloaded by the Contractor into the Inmate/Ward Telephone System.
- 2.5.12 Conversely, calls shall be blocked to certain numbers on a system-wide basis and to others on a case-by-case basis. System-wide blocked calls include those to prosecuting attorneys and government officials. These numbers will be predetermined and downloaded by Contractor into the Inmate/Ward Telephone System. Calls to victims and/or witnesses can be blocked on a case-by-case basis by adding specific numbers into the Inmate/Ward Telephone System.
- 2.5.13 The Inmate/Ward Telephone System shall provide sufficient security safeguards to preclude fraudulent use of the system. Such safeguards shall include measures to prevent incoming calls, as well as the detection and rejection of outgoing calls to unauthorized numbers, attempts to initiate 3-way calls, call forwarding, and/or calls to non-billable numbers.
- 2.5.14 The system shall be capable of blocking three-way calling, conference calling, and call forwarding. The system shall have the capability of permitting the called party to block all future calls from the County. Calls cannot be blocked due to a lack of LEC or CLEC billing agreements with Contractor. Calls may be blocked

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to telephone numbers that have unbillable call blocks, or when the customer refuses to pay for approved calls to that number.

- 2.5.15 Unauthorized call attempts shall be flagged, archived, and alert reports shall be generated. The system shall provide the ability to selectively monitor call activity in real time, and initiate appropriate action as necessary. The system shall be capable of retrieving and generating Inmate/Ward unauthorized call activity logs for specified periods.
- 2.5.16 The system must have the capability to record the content of all telephone connections. Recordings must be selectable by telephone instrument, group of telephone instruments, facility, or called number. Once recorded, the content of the call must be stored for retrieval for a period of five (5) years or for the life of the contract, and the system must have the capability to transfer the recorded calls to removable media for archiving, or review.
- 2.5.17 The system shall be capable of generating a variety of management reports and call detail reports. The system shall be able to identify calls by time, location, specific telephone instrument, Inmate/Ward PIN, or number called. The system shall also be able to identify call trends, such as a reduction in call volume, which may be an indication of a possible maintenance problem.
- 2.5.18 Contractor shall be responsible for system maintenance records which identify problems that have been encountered, and the reporting of the corrective action taken to the County. Any routine or scheduled maintenance that could affect access to phones, revenue, and/or billing generation shall be conducted during the off peak hours of 10:00 pm to 06:00 am.
- 2.5.19 The Inmate/Ward Telephone System shall be able to determine if mutual agreements exist that will allow for the collection of Collect call charges, or that the call recipient's accounts are current and in good standing. If the call is determined to be non-billable, the call recipient or Inmate/Ward shall be afforded the opportunity to complete the call utilizing prepaid services. If both parties decline, the call will not be authorized to go through.
- 2.5.20 The system shall not allow chain dialing and secondary tones, "hook switch dialing," and other fraudulent activities. Inmate/Wards shall be required to hang up before dialing a new number.

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- 2.5.21 Automated call instruction/announcements shall be in English and Spanish, and announcement will indicate that the call may be recorded or monitored with active consent from both parties.
- 2.5.22 System will have voice instructions for recipient to accept, reject, or block calls by pressing a keypad number. Recorded greeting to the called party that indicates the call is a Collect call from the County facility and is subject to recording and/or monitoring, provide the called party with the identity of the calling party and provide the called party with the opportunity to accept or reject the call. The conversation shall be blocked until the called party accepts the call.
- 2.5.23 The system shall utilize positive call acceptance and active consent for all touch tone calls, and shall allow passive acceptance for rotary dial calls.
- 2.5.24 The called party shall be informed of the cost of the call prior to accepting the call, on all types of Collect calls.
- 2.5.25 Contractor shall provide system capabilities for protection from power surges and equipment capabilities for protection from power outages.
- 2.5.26 Pursuant to California Penal Code 851.5, Inmates are entitled to three free local telephone calls at the time of booking. Telephones located in the intake area will be configured to allow Inmates to make local calls to landline and cell phones at no cost. Contractor shall provide these calls at no cost to the Monterey County Sheriff's Department and will tell the County what constitutes a local call. The system must allow free calls to the California Relay Service (CRS) to assist hearing-impaired Inmates, and must also allow the County to specify speed dial.
- 2.5.27 Pursuant to California Welfare and Institutions Code Section 627(b), Wards are entitled to at least two (2) free local telephone calls at the time of booking. Telephones located in the intake area will be configured to allow Wards to make local calls to landline and cell phones at no cost. The Contractor will be required to provide these calls at no cost to the Monterey County Probation Department and will tell the County what constitutes a local call. The system must allow free calls to the California Relay Service (CRS) to assist hearing-impaired Wards, and must also allow the County to specify speed dials.
- 2.5.28 Call set-up and acceptance process must be completed within 30 seconds or less (from off-hook to call connection/rejection). The call length timer starts when positive acceptance of the call is made.

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- 2.5.29 The system shall provide for automated turn on and shut off at designated times and system shut off capabilities from designated areas.
- 2.5.30 The system shall allow multiple authorized operators simultaneous access while maintaining high level security to prevent unauthorized use and access to the Inmate/Ward Telephone System.
- 2.5.30.1 Contractor shall provide the maximum number of simultaneous authorized operator access to the system.

**2.6 Inmate/Ward Telephones**

- 2.6.1 All Inmate/Ward telephone instruments shall be of rugged construction, stainless steel, or in combination with a corrosion resistant finish, and suitable for use in high use and high abuse corrections environments. The phone shall be capable of mounting to cement wall, block wall, stainless steel shrouded columns, or protected external enclosures. The instruments shall be suitable for indoor and outdoor installations, and have a heavy chrome metal twelve-button keypad, a handset with an armored cord and cradle. The instruments shall be utilized for outgoing calls only and shall not be capable of accepting coins or credit cards as payment.
- 2.6.2 Telephone instruments shall have touch-tone keypads.
- 2.6.3 Inmate/Ward telephone instruments shall be durable, tamper-proof, and consist of rugged steel encased housings and shockproof keypads suitable for jail environments that minimize vandalism and destruction of property. All handsets, ear and mouthpieces, shall be of heavy-duty construction with no removable parts, and must be installed in such a manner that no safety hazard is present to the user.
- 2.6.4 Telephone devices will be configured with a braided steel receiver cord twelve (12) inches in length to reduce the risk of suicide by hanging. Any new, or replacement telephone instruments must be configured with the telephone handset cord exiting the instrument from the top, in a central position. Any existing handset cords longer than 12 inches must be replaced within 30 days of contract award. Cordless phones shall have an on/off hook switch.
- 2.6.5 All telephone instruments must be water resistant and fireproof, and have key-locked mountings to the wall. All other equipment including outdoor installations must meet Department safety and security standards.

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- 2.6.6 Contractor's automated operator Inmate/Ward Telephone System shall be designed for use by the hearing impaired. Provisions for the deaf must comply with Americans with Disabilities Act (ADA), and Telephone Devices for the Deaf (TDD) regulations and standards. Fixed or mobile TDD instruments shall be provided based on the needs of each facility, as determined by the County. Required locations of the TDD instruments will be provided by the County to the Contractor.
- 2.6.7 Amplified handsets shall be required in all areas. Those telephones shall be fitted with a volume control device, which allows the Inmate/Ward to increase or decrease the volume of the headset earpiece.
- 2.6.8 The system shall have the capability to turn telephones on or off remotely throughout the system and have a manual or automated on/off switch in selected locations within each facility. Instruments shall provide the capability to mute the Inmate/Ward's ability to speak to the call recipient until the call is accepted, and to disable the telephone keypad during a call. The telephone instruments shall not have any coin return slots.
- 2.6.9 Contractor shall provide all telephones, hardware, software, wiring, cabling, conduit, jacks, plates, and related hardware at no cost to the County. Contractor shall complete all wiring and fastening of the telephones, including cabling, wiring, conduit, cross-connect jacks, plates, and related hardware, if needed. All electrical equipment must be installed in compliance with National Code requirements. All telephones must be securely fastened to the wall with security hardware approved by the County. The County reserves the right to pre-approve mounting and installation.
- 2.6.10 Telephone instruments must be line powered such that, the phone does not require separate electrical power at the device. Telephone instruments shall be specifically designed for use in a correctional environment and must be approved by County before installation. Converted coin phones will not be accepted.

**2.7 Call Monitoring/Recording System**

- 2.7.1 The system shall have a call monitoring and recording system that records every call made by the system and stores recorded calls for a minimum of five (5) years or as required by current Monterey County statutes, or State and Federal regulations.
- 2.7.2 The system shall have the capability to disconnect a call that is being monitored,

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and a secure monitoring platform for remote call monitoring.

- 2.7.3 Calls to certain predetermined telephone numbers shall not be recorded. The system must be able to exempt specific telephone numbers from monitoring or recording. The system must be capable of identifying specified telephone numbers as “do not record”.
- 2.7.4 The recording system shall incorporate proven technology to scan recordings, search recordings, highlight recordings with notes, and transfer recordings for use by the staff in their routine investigations.
- 2.7.5 The system shall have the capability, on demand, to store recordings on the hard drive(s) and the recording must be accessible instantly.
- 2.7.6 The system should include an alert system that will detect and notify calls made to restricted numbers, calls made by restricted individuals, or calls made from restricted phones.
- 2.7.7 The system must provide for the monitoring of live Inmate/Ward calls without any detectable deterioration of call quality or call interruptions.
- 2.7.8 The system must have the ability to “fade out” a portion of the monitored conversation to distinguish between the speaking parties.
- 2.7.9 The system must be configured/networked such that all recorded calls may be accessed from any workstation. The system must be configured for both public and private secured networks.

**2.8 Maintenance and Repairs**

- 2.8.1 The equipment installed at the County shall remain the sole and exclusive property of the Contractor. County will not be responsible for any damage to equipment.
- 2.8.2 The Contractor shall provide all necessary labor, parts, materials and transportation to maintain all Inmate/Ward telephones and related service equipment in good working order, and in compliance with the equipment manufacturer’s specifications throughout the term of the contract.

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- 2.8.3 The Contractor is responsible for all maintenance and repairs to Inmate/Ward telephones and the Inmate/Ward Telephone System. A single point of contact with the Contractor, via a toll-free telephone number and an e-mail address, must be established by the Contractor for reporting all Inmate/Ward telephone problems. This toll-free maintenance/repair telephone number, answered by a live operator, shall be available for reporting Inmate/Ward telephone problems twenty-four (24) hours per day, every day of the year.
- 2.8.4 Contractor shall provide one (1) dedicated, full-time Site Administrator (SA). Contractor will have the option of: directly hiring the SA as a full-time employee of Contractor; or subcontracting with an approved, California-based 3rd party support services staffing company.
- 2.8.5 Contractor will provide and maintain a sufficient inventory of spare parts and spare parts kits at specified County facilities, readily available for repairs and maintenance of the system. Contractor shall provide a statement of spare part availability and delivery durations when such parts are not on hand at the site.
- 2.8.6 Contractor shall develop procedures and schedules to conduct monthly Preventive Maintenance on ITS and all equipment, and instruments included therein, and preparation of Monthly Maintenance Reports indicating the nature and scope of the Preventative Maintenance performed. Contractor shall provide all necessary labor, parts, materials, technical personnel, and transportation necessary to maintain the ITS and all of its components in good working order, including the performance of Preventive Maintenance.
- 2.8.7 Contractor shall be responsible for determining whether line access failure is the fault of the local exchange carrier (LEC), the inter-exchange carrier (IEC), or Contractor's equipment. When Contractor determines the agency responsible for failure, then the Contractor shall contact the agency responsible for failure and jointly resolve the failure at no cost to the County. If the failure is determined to be the fault of Contractor's equipment, hardware, software or wiring, Contractor shall correct the problem at no cost to the County.
- 2.8.8 Contractor shall notify the County at least twenty four (24) hours prior to any planned occurrence that may result in a service interruption to any Inmate/Ward phone or service that lasts in excess of fifteen (15) minutes.

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- 2.8.9 Contractor shall adhere to and comply with the Inmate/Ward Telephone Services - Service Level Agreement in Exhibit I.

**2.9 Other Service Offerings**

- 2.9.1 Contractor shall offer Investigative Tools. Contractor shall provide description of Analytical Tools that provide linkages, relationships, associations, and mapping of data points; data mining, data analytics, data visualization; and predictive modeling. Contractor shall indicate if these tools are part of standard service offering, or if “Optional,” shall indicate cost or financial impact to commissions, if any.
- 2.9.2 Contractor shall describe system’s capabilities in detail for other investigative tools available for call trace, call history detail, call monitoring without Inmate/Ward or other party detection and recording and other call detail capabilities that can be used to aid investigations related to the detention facilities. Contractor shall indicate if other tools are part of standard service offering, or if “Optional,” shall indicate cost or financial impact to commissions, if any.
- 2.9.3 Contractor shall provide brief description of other service offerings (i.e., Voice Biometrics, Email, etc.), and indicate if service is “Optional”. Indicate cost or financial impact to commissions, if any.

**2.10 Training/Ongoing Operations**

- 2.10.1 Contractor shall provide training on the Inmate/Ward telephone workstation features and usage for all workstations at the County facilities. Contractor shall provide a detailed scope of training, including training schedule, length of training, various times training can be provided and number of personnel that can attend a training session. Training should occur no later than 14 days from the “go-live” date, at no cost to the County.
- 2.10.2 Contractor shall offer annual training on Inmate/Ward Telephone Services and any associated service offering.
- 2.10.3 Contractor shall provide training on Inmate/Ward Telephone Service upgrades or any component thereof.
- 2.10.4 Contractor will actively engage and participate in regular Bi-Annual Operations Review Meetings.
- 2.10.5 Contractor will actively engage in and participate in an annual review of the

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Contract.

**2.11 Management Reporting**

2.11.1 Project Status Reports: Contractor shall prepare and submit Project Status Reports during the System Integration Period to the County. Contractor shall submit such reports to the County weekly. Such reports shall, at a minimum, state:

2.11.1.1 Period covered by the report;

2.11.1.2 Project Control Document which includes but not limited to:

2.11.1.2.1 Project Implementation Checklist;

2.11.1.2.2 Project progress and plans;

2.11.1.1.3 Issues tracking, including deficiencies;

2.11.2.2.4 Project schedule including work scheduled for completion which was completed and work scheduled for completion which was not completed;

2.11.1.3 Updates to the Project Control Document;

2.11.1.4 Project risks identified through the quality assurance process; and

2.11.1.5 Any other information that the County may reasonably require.

2.11.2 Automated Monthly Management Reports: A124 Contractor shall be required to submit automated Monthly Management Reports for the County, pertaining to the operation and maintenance of the ITS. Access to portals or to the system housing these reports is not in lieu of actual receipt of the reports. The automated monthly reports shall be for the period including the first day of the month through the last day of the month. Such reports shall include, but not be limited to, the following:

2.11.2.1 Complete Call Detail Reports

2.11.2.2 List of Telephones: This report shall include, but shall not be limited to information on facility name, address, telephone number, location of phone, installation date, date removed, date reinstalled. Report shall be updated monthly. Total down time for each phone shall also be included. These reports shall be available to all Workstations.

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- 2.11.2.3 Total Calls Completed and Billed Report: Report shall be in summary format by facility and telephone number. Reports shall include the total number of calls, total minutes, amount billed, and shall be broken down by Bill Type: Collect, Prepaid, Debit, and by Call Type: Local, Intralata, Interlata, Interstate, and International calls.
- 2.11.2.4 Total Calls Not Completed Report: Report shall be in summary format, and shall include the total number of calls, broken down by Bill Type (Collect, Prepaid, Debit) and by Call Type (Local, Intralata, Interlata, Interstate, and International calls), as well as indicating the cause associated with the incompleteness of the calls and an aggregate total of each value.
- 2.11.2.5 Commissions Report: This report shall contain the annual or monthly historical contemporary MAG payment and Commissions information.
- 2.11.2.6 Summary of Any Unauthorized Inmate/Ward Call Activity Detected Report: Report shall be in summary format by facility, and shall contain any information available to support the subsequent investigation of such activities.
- 2.11.2.7 Summary of System Outages and/or Maintenance Performed Report: Report shall be in summary format by facility, and shall contain a brief problem description and corrective action taken to resolve the problem. The report shall also include the date and time and who notified the County.
- 2.11.2.8 Telephone Inspection and Maintenance Log: This report shall be submitted to the County on a quarterly basis or as required by the County.
- 2.11.2.9 Contractor's reporting system must have Ad Hoc Query and report capability and may require format modification to enhance readability at the request of the County.
- 2.11.3 Year-End Summary Management Reports: Contractor shall submit Year-End Summary Management Reports to the County, pertaining to the operation of the Contractor's ITS. Access to portals or to the system housing these reports is not in lieu of actual receipt of the reports.
  - 2.11.3.1 Annual Operations Report shall minimally provide total call volume, total minutes, and total revenue for each Bill Type (Collect, Prepaid, Debit) and by Call Type (Local, Intralata, Interlata, Interstate, and International calls), and shall also include an aggregate total of each of these values. The reports shall also indicate the Commissions, uncollectibles, and recovered uncollectibles, including any accounts receivables sold during the year.

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- 2.11.3.2 Annual Contract Review Report generated for the annual contract review meeting. (See Section 1.2.12 – Annual Contract Review)
- 2.11.4 Contractor shall submit one (1) soft copy of each of the automated Monthly Management Reports and Year-End Summary Reports on CD-Rs to the County Project Manager.
- 2.11.5 Contractor's written reports shall utilize Microsoft Word for the narrative portions, and Microsoft Excel for the Inmate/Ward billing and commissions earned reports.
- 2.11.6 Contractor's written reports are due no later than 5:00 p.m. (PST) on the 5th business day of the month reporting on ITS for the prior month.
- 2.11.7 Contractor's Year-End Summary Reports are due on the day of, or no later than 5:00 pm the next business day following the Contract Annual Review meeting and presentation.

**2.12 Audit**

The County's duly authorized representatives shall have access, at reasonable times, to all reports, Contract records, documents, files and personnel necessary to audit and verify Contractor's charges to County hereunder. Contractor agrees to retain reports, records, documents, and files related to charges hereunder for a period of five (5) years following the date of final payment for Contractor's services hereunder County reserves the right to audit and verify Contractor's records before final payment is made. The County's representatives shall have the right to reproduce any of the aforesaid documents. Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to County's Project Manager.

**2.13 Annual Contract Review**

Within thirty (30) calendar days following the end of each Agreement year, Contractor's Project Manager shall meet with the County (if applicable), and present the following:

- 2.13.1 Inmate/Ward call activity for the Agreement year
- 2.13.2 Compliance with the terms and conditions of the contract
- 2.13.3 Recap of any key areas of successes and/or concerns

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2.13.4 Intended strategies for the upcoming contract year

**2.14 Leave-Behind Solution**

Contractor shall provide a leave-behind solution at the end of the contract term. All CDRs, call and visitation recordings, documentation, reports, data, etc. are the property of the County and shall be provided to the County by Contractor on a secure storage medium and in a usable, user-friendly, searchable electronic format at no cost to the County within fifteen (15) days following the expiration and/or cancellation of the AGREEMENT. Contractor shall accept County Office's reasonable decision whether the solution provided is acceptable. The leave-behind solution shall be easily accessible for seven (7) years after contract end date, and at County's option, leave behind solution must be located in a County-designated location(s).

**2.15 Telephone Rates, Fees, and Payments to County**

2.15.1 All rates and fees shall be fair and reasonable, and consistent with applicable laws. Separate warrants shall be issued monthly to the Sheriff's office and the Probation Department as detailed in Attachment A of this Contract.

2.15.2 Fees and Surcharges: Contractor shall disclose all fees and surcharges that are charged to prepaid Inmate/Ward accounts, debit, and Collect call acceptors.

2.15.3 County prefers that Contractor utilize a simple or single fee structure, minimizing fees and surcharges other than mandatory Federal and State fees or pass-through fees (i.e. credit card charges billed by credit card companies or Local Exchange Carrier-imposed fees)..

2.15.4 Taxes State applicable Federal, State, and Local taxes (not commissionable)

2.15.5 Contractor Payments Due to County

2.15.5.1 Contractor shall pay the County Sheriff's Office and Probation Department consistent with Attachment A of this Contract.

2.15.5.2 Payments made in accordance with Attachment A shall be due and payable within thirty days following the end of each month upon which the payment is calculated.

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**2.15.6 Deleted and replaced with Fee Schedule on Attachment A**

2.15.7 Project Implementation

2.15.7.1 Project Control Document (PCD)

Upon effective date of Agreement, Contractor shall create and deliver to the County, Project Control Documents (PCDs), consistent with the Scope of Work. The contents of each PCD shall include the relevant elements of the following:

- 2.15.7.1.1 Introduction
- 2.15.7.1.2 Executive Summary
- 2.15.7.1.3 Project Mission & Objectives
- 2.15.7.1.4 Project Scope
- 2.15.7.1.5 Work Breakdown Structure
- 2.15.7.1.6 Master Project Schedule
- 2.15.7.1.7 Change Control Plan
- 2.15.7.1.8 Project Team
- 2.15.7.1.9 Risk Assessment & Management

2.15.7.2 Integration of New Inmate/Ward Telephone System

Contractor shall submit detailed plans for the provision of necessary telephone equipment and the integration of the new ITS, while minimizing the impacts to current Inmate/Ward telephone system operations. Should Contractor elect to utilize existing Telephone Instruments, Contractor shall at its own risk, cost, and expense enter into an agreement with the current vendor to assume ownership of the current phones, while also ensuring a seamless transition that does not affect the day-to-day operations under the current Inmate/Ward Telephone System and services Agreement.

2.15.7.3 The new automated operator ITS and Telephone Platform shall become fully operational upon the successful completion of all system integration testing and acceptance by the County. System integration and acceptance test criteria is as follows: all Inmate/Ward telephones tested and verified as fully operational, without Deficiencies, and written acceptance by the concerned County Project Manager. All telephone installation plans and schedules will be reviewed and

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approved by the County Project Manager, in order to minimize impacts to normal operations.

2.15.7.4 Project Approach

Contractor shall present an overview, which shall be a narrative description, of the Contractor's proposed plan for providing Inmate/Ward Telephone Services to the County. The Contractor will provide in full detail, its understanding and response to the Scope of Work.

2.15.7.5 Implementation Plan and Schedule

Contractor shall provide a detailed Implementation Plan and Schedule. The installation will include a user testing and acceptance provision for the County Sheriff's Office and Probation Department. Time is of the essence in providing a fully functional Inmate/Ward phone system, and Contractor is required to provide a fully functional system tested and accepted by the County. At the County Sheriff's Office and Probation Department's discretion, any failure or deficiency within the Contractor's control to provide this service within the agreed-upon implementation schedule provided by the Contractor may incur a penalty until fully functional. Implementation Plan and Schedule will include the following.

2.15.7.5.1 Summary of management/work plan for this Project

2.15.7.5.2 Project Schedule with Project Milestone Dates

2.15.7.6 Project Implementation Team

2.15.7.6.1 Contractor shall provide the name, years of service, qualifications, address and telephone number(s) for the Contractor's Project Implementation Manager, which will be the County's main point of contact during the ITS installation; and Contractor's Account Manager, which will be the County's main point of contact during the subsequent Contract(s).

2.15.7.6.2 Contractor shall provide its Project Team Organization Chart, clearly showing the organization of the team and the hierarchy of the members. It must include:

2.15.7.6.2.1.1 Organizational framework for the proposed Project Team

2.15.7.6.2.1.2 Company name and key staff name for each role identified in the chart.

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**2.16 Tablet Program**

The County Sheriff's office desires a Tablet Program to support officer's administrative efforts, Inmate programs, other applications, and Inmate communications services.

- 2.16.1 Contractor shall provide a Tablet program that includes tablets and charging stations, and a Wi-Fi system.
- 2.16.2 Contractor shall describe the revenue share with the County Sheriff's Office.
- 2.16.3 Contractor shall state any impact to commissions, or all non-recurring and recurring costs associated with the Tablet program, associated equipment and/or software, and maintenance. Contractor shall include all cost components in Attachment B (Tablet Program, Commissions, and Payment Schedule) and shall include purchase or lease options.
- 2.16.4 Contractor shall provide a detailed description of the tablet device, the functions, and the security features.
- 2.16.5 Contractor shall provide standard, basic content offer, and describe what is included.
- 2.16.6 Tablet shall have the capability to render County Sheriff's Office-generated web content including but not limited to websites and streaming media.
- 2.16.7 Tablet shall be capable of rendering content on closed networks or secure zones, completely isolated from the internet.
- 2.16.8 The Tablet shall have, at a minimum, the following security features:
  - 2.16.8.1 The device may store limited data across user sessions.
  - 2.16.8.2 The device shall be configured for unique user login for certain users
  - 2.16.8.3 The device shall return to a secure baseline configuration upon logout, restart, or reboot.
  - 2.16.8.4 The device shall be capable of displaying the most common file formats for documents, audio, and video implement the IVVS, including any integration and/or interfaces, and testing of all required equipment and software relative to the new IVVS, without impacting the normal daily operation of other County system.

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- 2.16.8.5 The device is capable of tiered-role privileges that distinguish between users and administrators and their authorized functions.
- 2.16.8.6 Access to boot partitions and the root file system are prohibited.
- 2.16.8.7 The device provides no access to macros, scripting or application programming interfaces.
- 2.16.8.8 [Reserved]

**2.17 Inmate/Ward Video Visitation System**

- 2.17.1 The County seeks a turnkey hardware and software solution to support a hosted, IP-based Inmate/Ward Video Visitation System for the Sheriff's Office and Probation Department. Inmate/Ward Video Visitation shall be used for both attorney confidential and public visits from on-site and off-site locations for the County Sheriff's Office, and from off-site locations for Probation. The County currently averages over 2,000 face-to-face family visits a month, which does not include District Attorney/Attorney, Bail, and Clergy visits.
- 2.17.2 The County has a targeted ratio of one (1) IVVS unit for every 20 Inmate/Ward bed-space capacity, allowing for differences based on facility layout and configuration. The County seeks supported recommendations from Contractor. Contractor shall provide recommendations on the most effective and efficient IVVS unit to Inmate/Wards ratio, the rationale for their recommendations, the subsequent benefits and limitations, and the supporting statistics and documentation. Contractor shall determine their recommended number of IVVS units to be installed from the mandatory site visits. Probation will require a minimum of two (2) Ward IVVS terminals for remote video visitation visits.
- 2.17.3 The system shall allow the public to visit Inmate/Wards from their home, as well as from pre-determined visitation centers in designated County facilities, while being monitored and recorded by County staff. Attorneys and other approved individuals who require private access to Inmate/Wards will be able to do so through Remote Inmate/Ward Video Visitation without being monitored or recorded. There will be onsite Inmate/Ward Video Visitation terminals as well, for private video sessions with attorneys and other approved individuals. All recordings shall remain the property of the County. All facets of this project will be mutually agreed upon by Contractor and the County.

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- 2.17.4 The County Sheriff's Office has TracNet for their Jail Management System and Aramark for their Commissary. The Contractor will be responsible for any interface development and associated costs with 3rd party vendors (Jail Management System or Commissary vendors) and/or County systems. The Contractor will be required to plan and implement the IVVS, including any integration and/or interfaces, and testing of all required equipment and software relative to the new IVVS, without impacting the normal daily operation of other County systems.
- 2.17.5 Contractor shall state all costs, if any, associated with the new installation, associated equipment and/or software, furniture, and enclosures, and will include all cost components in Attachment C – Inmate/Ward Video Visitation System Cost Schedule and Commissions. The IVVS instruments, software, hardware, and enclosures shall be subject to approval by the County. The Contractor shall be responsible for any costs for cabling and wiring, network access, project implementation, interface development and installation, and for any other cost incurred in conjunction with implementation of the system and its associated services and features.
- 2.17.6 Contractor shall comply with all Federal and State statutes and regulations as well as local ordinances currently in effect or hereafter adopted.
- 2.17.7 General Inmate/Ward Video Visitation System Requirements
- 2.17.7.1 Contractor shall provide a fully functioning, comprehensive and operational hosted, IP-based IVVS using state-of-the-art video compression technology designed specifically for jails, prisons or other incarceration facilities.
- 2.17.7.2 The IVVS shall be capable of processing on-site and remote visits at all facilities, allowing visitors to video conference with Inmate/Wards/prisoners whether visitor is located at a designated Facility property and/or at a remote location.
- 2.17.7.3 The IVVS shall be a complete solution for the County incorporating all major aspects of visitation (e.g. reporting, recording, scheduling, software and hardware, network access, cabling/wiring, system interfaces, etc.) for on-site and remote visitors. All available modules shall be included and itemized in the pricing provided.
- 2.17.7.4 The IVVS shall allow for visitation recording.

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- 2.17.7.4.1 The IVVS shall be able to charge the visitor for remote and inter-facility video visits and provide a revenue share with the County.
- 2.17.7.4.2 The IVVS shall be a complete TCP/IP-based system. All video and audio streams between the terminals, visitors, and management equipment (servers) shall be transmitted over TCP/IP/Ethernet. Systems that utilize analog audio/video matrix switching devices are not acceptable.
- 2.17.7.4.3 At no expense to the County, staff shall be trained by Contractor in the use of the System to facilitate all on site and remote browser-based visitations and to administer the System.
- 2.17.7.5 Cabling and wiring, network access, interface, installation, and implementation of the IVVS system and associated services and features will be the responsibility and cost of the Contractor. Contractor shall be responsible for providing and implementing a separate network connection (T1.5, T45, etc. access) to operate the IVVS. Contractor will be responsible for any additional network switches, CAT5 or CAT6 wiring, and any and all bandwidth required for video visitations.
- 2.17.7.6 Cabling, wiring, and other infrastructure will become the property of the County at the end of the contract term.
- 2.17.7.7 The IVVS will consist of Inmate/Ward terminals connected over a 100 Mbps dedicated Ethernet network so that any terminal can be connected to any other terminal.
- 2.17.7.8 Remote visitors will be able to conduct remote visits without having to install or download any software.
- 2.17.7.9 Provide technical support in both English and Spanish during visitation hours for facility and visitors at no cost to facility.
- 2.17.7.10 Software upgrades and system improvements will be provided and implemented at no additional cost to the County.
- 2.17.7.11 The IVVS shall be able to support several web-based applications including, but not limited to, video visitation, Inmate/Ward information, sick request, emergency visit, commissary ordering and Inmate/Ward electronic email.

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2.17.7.12 The IVVS shall utilize: high quality video, H.264 video standard, 64 Kbps – 2 Mbps video transmission speeds, and a wide range of video resolutions and bit rates: CIF (352 x 288 pixels), SIF (352 x 240 pixels), QCIF (176 x 144 pixels).

2.17.7.13 The IVVS shall be designed for: up to 30 frames per second of high quality video at 384+ Kbps, up to 15 frames per second of high quality video at 64 – 320 Kbps, and constant or variable bit rate and frame rate.

2.17.7.14 The IVVS shall provide encryption for all visits.

2.17.7.15 In-Process Visits shall have a visible countdown timer.

2.17.7.16 In-Process Visits shall have a recording notification legibly posted in both English and Spanish.

**2.18 Inmate/Ward Video Visitation Stations, Network, Hardware and Servers**

2.18.1 All video visitation station components shall be field-replaceable by facility staff or by the IVVS contractor. All video visitation station components shall be non-proprietary and, at minimum, meet the following requirements:

2.18.1.1 Correction or detention-grade wall mountable, hardened steel enclosures

2.18.1.2 Shatter-proof, LCD touch screen display color monitor (minimum 15 inches)

2.18.1.3 Built-in USB webcam or camera

2.18.2 Terminal will have the option for one or two detention-grade audio handsets per terminal.

2.18.3 The IVVS will be available with sloped or rounded tops and corners.

2.18.4 The terminal will prevent spills from entering the enclosure.

2.18.5 The terminal will be able to access the web-based application and be enabled for touch screen inputs.

2.18.6 The enclosure shall not have any openings exposed to Inmate/Ward or visitor, including wiring and ventilation holes.

2.18.7 The terminal must have heat syncs and heat vents located in the back of the terminal to allow for proper cooling.

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- 2.18.8 The terminal shall not have any external hinges.
- 2.18.9 The terminal must be secured to the wall using a mounting bracket with a minimum of four (4) screws/bolts. The terminal must then secure to the mounting bracket using appropriate number of security bolts.
- 2.18.10 The IVVS shall have the option for one or two handsets, or hands-free devices.
- 2.18.11 The IVVS shall have the option for handset volume control.
- 2.18.12 The terminal shall be powered by 110VAC.
- 2.18.13 All visitation recordings shall be processed and stored at the County's option and direction: at a remote data center, or stored locally within the facility on a separate server environment (will NOT use County's internal server environment).
- 2.18.14 The IVVS shall provide an adequate number of Gigabit or 10/100Base-T managed multicast switches and ports to accommodate the total number of visitation stations, servers and administration stations.
- 2.18.15 The IVVS shall utilize standards-based videoconferencing CODEC (Encoder/Decoder) based on the H.264 video conferencing compressions.
- 2.18.17 The terminal shall be assembled from non-proprietary, off-the-shelf computer components.
- 2.18.18 The terminal shall have a minimum of two (2) internal magnetic levitation ventilation fans and internal tachometer output to monitor operation.
- 2.18.19 The terminal shall have an on/off switch.

**2.19 Inmate/Ward Video Visitation Software**

- 2.19.1 The IVVS shall provide software updates free of charge to the County.
- 2.19.2 The IVVS shall be a user-friendly, highly graphical, keyboard and mouse-driven application or better.
- 2.19.3 The IVVS shall be accessible via standard browser to facility users with network access and application privileges.
- 2.19.4 The IVVS shall be a privilege-based system allowing the assignment of privileges to customizable users groups and user assignment to specific user groups.

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- 2.19.5 The IVVS shall have integration with active directory.
- 2.19.6 The IVVS shall allow the facility to automatically notify a user(s) and/or user group(s) via email when a visitation station is added, modified and/or taken offline.
- 2.19.7 The IVVS will interface with the facility's jail management system (JMS/OMS/IMS) and provide specific information for tracking Inmate/Ward and visitor activities and patterns by, at minimum, the following:
  - 2.19.7.1 Inmate/Ward ID
  - 2.19.7.2 Inmate/Ward last name
  - 2.19.7.3 Inmate/Ward middle name
  - 2.19.7.4 Inmate/Ward first name
  - 2.19.7.5 Gender designator
  - 2.19.7.6 Date of birth
  - 2.19.7.7 Housing assignment designator
  - 2.19.7.8 Date and time of visit
  - 2.19.7.9 Inmate/Ward video visitation station
  - 2.19.7.10 Daily, weekly, and monthly visit statistics
  - 2.19.7.11 Race designator (optional)
  - 2.19.7.12 Inmate/Ward booking number (optional)
- 2.19.8 The IVVS shall track all Inmate/Ward housing unit assignments, movements and Inmate/Ward releases to validate scheduled visitation integrity.
  - 2.19.8.1 IVVS shall automatically attempt to reschedule all visits associated with the Inmate/Ward if the Inmate/Ward has changed housing locations.
  - 2.19.8.2 IVVS shall automatically cancel all visits associated with an Inmate/Ward if the Inmate/Ward has been released.
  - 2.19.8.3 IVVS shall notify visitor(s) via email and automated phone message if a visitation has been cancelled.

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- 2.19.9 The IVVS shall provide for Inmate/Ward visitation requests, allowing an Inmate/Ward to request a visit by filling out a form on the visitation terminal and choosing whether to deliver the pre-populated messages via text/voicemail/email.
- 2.19.10 The IVVS shall allow the facility to manage and schedule internet video visitation, on-premises and off-premises video visitation and non-video visitations with shared or separate quotas, stations, visitation center hours, time slots, and scheduling policies.
- 2.19.11 The IVVS shall allow the facility to manage personal and professional visitations with shared or separate quotas, stations, visitation center hours, time slots, recording and monitoring rules and scheduling and policies.
- 2.19.12 The IVVS shall allow the facility to create specific personal and professional visitation time slots for internet video visits, on-premises and face-to-face visits.
- 2.19.13 The IVVS shall allow the facility to determine what types of visits (Internet, on-premises or both) are allowed for each housing unit.
- 2.19.14 The IVVS shall be able to manage multiple visitation centers with unique hours of operation, visitation types, policies and quotas.
- 2.19.15 The IVVS shall allow the facility to establish and manage approved visitor lists for the entire facility, only selected housing units or only selected Inmate/Wards.
- 2.19.16 The IVVS shall provide for an Exclusion List and allow the facility to schedule a “no visitations” event with customizable duration for an Inmate/Ward, station, station group, housing unit and/or visitation center.
  - 2.19.16.1 Restrict a visitor from visiting a certain Inmate/Ward(s)
  - 2.19.16.2 Restrict an Inmate/Ward from visiting a minor
  - 2.19.16.3 Restrict an Inmate/Ward from visiting ALL visitors
  - 2.19.16.4 Restrict a visitor from visiting ALL Inmate/Wards
  - 2.19.16.5 Restrict an Inmate/Ward from having internet video visits
  - 2.19.16.6 Restrict an Inmate/Ward from visiting at the same time as another Inmate/Ward
  - 2.19.16.7 Restrict a visitor from visiting at the same time as another visitor

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- 2.19.17 The IVVS shall provide authorized County users the ability to do searches and create reports.
- 2.19.18 The IVVS shall allow the facility to establish and automatically enforce different Inmate/Ward and visitor quotas for internet video visits, on-premises video visits and face-to-face visits.
- 2.19.19 The IVVS shall allow the facility to denote a visitor as being a professional visitor.
- 2.19.20 The IVVS shall provide a means of creating an unscheduled visit (Ad hoc Visit) where the Inmate/Ward's and visitor's information is required and tracked.
- 2.19.21 The IVVS shall automatically start each visit at the designated start time.
- 2.19.22 The IVVS shall allow for real-time visitation monitoring of all live personal visits.
- 2.19.23 [Reserved].
- 2.19.24 The IVVS shall provide synchronized digital video and audio recording for all visitation sessions.
- 2.19.25 The IVVS shall provide the option to display an onscreen countdown clock timer on the Inmate/Ward and visitor stations.
- 2.19.26 The IVVS shall automatically attempt to reconnect stations if connectivity is lost.
- 2.19.27 The IVVS will provide for a Visitation Rules system that allows for configurable rules to be established in order to encourage usage and minimize the number of people in the lobby.
- 2.19.28 The IVVS shall allow for three (3) configurable settings for screen resolution and bandwidth requirements.
- 2.19.29 The IVVS will provide the Inmate/Ward with standard information retrieved from the facility's jail management system (i.e., court dates, trust account balances).
- 2.19.30 The IVVS shall allow the facility to create visitation billing charges.
  - 2.19.30.1 IVVS shall allow the facility to charge for visits when an Inmate/Ward has

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exceeded his/her established free visit quota.

2.19.30.2 [Reserved].

2.19.30.3 IVVS must have the ability to differentiate between professional visitors (e.g. allow public defenders to have free visits, while charging private attorneys for remote visits etc.)

2.19.30.4 IVVS shall allow visitation charges to be based upon per minute or per visit.

2.19.30.5 IVVS shall allow the facility to implement a non-refundable processing fee.

2.19.30.6 [Reserved].

2.19.30.7 IVVS shall take into account Inmate/Wards mandated free visit quota and dynamically calculate charges during the scheduling process.

2.19.30.8 IVVS shall allow the facility to create a custom visitation cancellation policy that allows for varying cancellation charges based upon when the visitor cancels the visit.

2.19.30.9 IVVS shall dynamically display the cancellation and refund policy while the visitor is scheduling and canceling visits.

2.19.30.10 IVVS shall have capability of automatically refunding a visitor for a charged visit that has been cancelled as a result of:

2.19.30.10.1 Inmate/Ward release

2.19.30.10.2 Facility imposed restriction

2.19.30.10.3 Station unavailability

2.19.30.10.4 Facility event (example: weather closure, dorm lockdown)

2.19.30.11 IVVS shall allow authorized facility staff to override or refund visitation charges

## **2.20 Pricing and Revenue Share**

2.20.1 Contractor shall provide detailed pricing for software and hardware cost components of turnkey solution, including pricing for enclosures. Contractor shall be responsible for costs of any associated interfaces, network/internet access, cabling, wiring and/or conduit, and for other costs incurred in

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implementing the system and its associated services and features.

- 2.20.2 If Contractor includes optional features that are not part of the IVVS solution, Contractor shall list and provide a brief description of each optional feature and the corresponding detailed and itemized costs.
- 2.20.3 Contractor shall include revenue share (percentage or stated dollar amount) with the County on the IVVS fees charged for remote video visitation visits.

**2.21 System Support, Testing, Maintenance and Repairs**

- 2.21.1 The equipment, cabling, wiring and conduit installed at the County facilities shall remain the sole and exclusive property of the County. The County Department will not be responsible for any damage to the IVVS equipment.
- 2.21.2 Contractor shall provide all necessary labor, parts, materials and transportation to maintain all IVVS units, hardware, and related service equipment in good working order and in compliance with equipment manufacturer's specifications throughout the term of the contract.
- 2.21.3 Contractor shall provide Customer Service support for video visitation system that includes 24/7/365 US-based call center fully owned and operated by the Contractor.
- 2.21.4 Contractor shall provide a "live" Help Desk support function to the County at no cost to the County during the term of the contract. The Help Desk function shall be capable of providing support via telephone to the County's personnel for the functions of the Hosted Inmate/Ward Video Visitation System. This "live" Help Desk shall be available 24 hours a day, 7 days a week, 365 days per year. The "live" Help Desk support function provided by the Contractor shall be located within the continental United States.
- 2.21.5 Contractor shall describe how it performs standard system testing to ensure that the IVVS and its network services are fully implemented and ready to accept visitation traffic and County's use. This description shall include Contractor and industry-standard methodologies, procedures, and protocols consistent with the IVVS solution for the County, as well as what is required of County's personnel during this system testing. All hardware, software, software licensing, etc. required to perform the testing shall be provided at no cost to the County.
- 2.21.6 Contractor shall be responsible for all maintenance and repairs to the IVVS.

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- 2.21.7 Contractor shall provide 24/7/365 phone support for software and hardware problems, and shall comply with response times detailed in Exhibit II – Inmate/Ward Video Visitation System - Service Level Agreement. A single point of contact with Contractor, via a toll-free telephone number and an e-mail address, must be established by Contractor for reporting all IVVS problems. This toll-free maintenance/repair telephone number shall be available for reporting IVVS problems twenty-four (24) hours per day, every day of the year.
- 2.21.8 Contractor shall warrant all equipment for a minimum of two years from installation and provide the County with all warranty documentation.
- 2.21.9 Contractor shall provide and maintain an inventory of spare parts and spare parts kits at specified County Department facilities, readily available for repairs and maintenance of the IVVS. Contractor shall provide a statement of spare part availability and delivery durations when such parts are not on hand at the site.
- 2.21.10 The Contractor shall develop procedures and schedules to conduct monthly preventive maintenance on the IVVS and all equipment, and instruments included therein, and preparation of Monthly Maintenance Reports indicating the nature and scope of the preventative maintenance performed. The Contractor shall provide all necessary labor, parts, materials, technical personnel and transportation necessary to maintain the IVVS and all of its components in good working order, including the performance of preventive maintenance.
- 2.21.11 Contractor shall adhere to and comply with the Inmate/Ward Video Visitation System Service Level Agreement in Exhibit II.

**2.22 Other Optional Service Offerings**

- 2.22.1 Provide information, if any, on Contractor’s video arraignment component, additional cost (if any), and how it would interface with the IVVS.
- 2.22.2 Describe system’s other optional features and capabilities in detail. Indicate if part of standard service offering; if “optional”, indicate cost, if any.

**2.23 Training/Ongoing Operations**

- 2.23.1 Contractor shall provide onsite training and all end-user training on the IVVS to designated County Department’s staff at no additional cost to the County. Contractor shall provide a detailed scope of training, including training schedule, length of training, various times training can be provided and number of personnel that can attend a training session. Training will occur no later than 14

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days from the “go-live” date, at no cost to the County.

2.23.2 Contractor shall provide training materials to County staff Inmate/Ward training at no additional cost to the County.

2.23.3 Contractor shall provide full training for all assigned system users on how to generate system reports; how to create, delete, and modify Inmate/Ward programming and profiles; and how to maintain Inmate/Ward alert levels and respond accordingly when these levels are exceeded.

2.23.4 Contractor shall provide training on system upgrades or any component thereof, if any.

2.23.5 Contractor shall provide user manuals to the County.

2.23.6 Contractor must describe its standard system testing to ensure that the proposed IVVS and associated services are fully implemented and ready to accept visitation traffic and County’s use. This description must include Contractor and industry standard methodologies, procedures and protocols.

2.23.7 Contractor shall describe what is required of the County Department’s personnel during the system testing. All hardware, software, licensing, etc. required to perform the testing must be provided by Contractor to the County at no cost. System testing will simulate normal operating conditions and include full traffic load representing high traffic situations for visitation traffic.

2.23.8 Contractor will not utilize 3rd party trainers and will provide full training in all components of the IVVS.

**2.24 Management Reporting**

2.24.1 Project Status Report: Contractor shall submit Project Status Reports during the System Implementation Period to the County. The Contractor shall submit such reports to the County Designee on the 1st and 15th of each month or the next working day if the due date falls on a Saturday, Sunday or holiday. The reports shall, at a minimum, state:

2.24.1.1 Period covered by report

2.24.1.2 Project progress and plans

2.24.1.3 Issues tracking, including deficiencies

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- 2.24.1.4 Project schedule, including work scheduled for completion which was completed and work scheduled for completion which was not completed
- 2.24.1.5 Updates to Project Control Document
- 2.24.1.6 Project risks identified through the quality assurance process
- 2.24.1.7 Any other information that the County or may reasonably require
- 2.24.2 Monthly Project Report: The Contractor shall submit Monthly Project Reports pertaining to the operation and maintenance of the IVVS. Monthly reports shall be for the period including the first day of the month through the last day of the month. The reports shall include, but not be limited to, the following:
  - 2.24.2.1 Inmate/Ward Video Visitation Detail Reports
  - 2.24.2.2 Revenue Share Reports (on Remote Visits)
  - 2.24.2.3 Total Video Visits Completed and Billed Report: Report shall be in summary format by facility
  - 2.24.2.4 Any Unauthorized Video Visit Activity Detected Report: Report shall be in summary format by facility and shall contain any information available to support the subsequent investigation of such activities
  - 2.24.2.5 System Outages and/or Maintenance Performed Report: Report shall be in summary format by facility and shall contain a brief problem description and corrective action taken to resolve the problem. The report shall also include the date, time and who notified the County.
  - 2.24.2.6 IVVS Inspection and Maintenance Log: This report shall be submitted to the County on a quarterly basis or as required by the County.
  - 2.24.2.7 Contractor's reporting system must have Ad Hoc Query and report capability and may require format modification to enhance readability at the request of the County.
- 2.25 Year-End Summary Report:**

Contractor shall submit Year-End Summary Reports, including Annual System Management Reports, pertaining to the operation of the Contractor's IVVS.

  - 2.25.1 Contractor shall submit one (1) soft copy of each of the Monthly Project Report, Monthly System Management Report and Year-End Summary Report

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on CD-Rs to the County.

2.25.2 Contractor's written reports shall utilize Microsoft Word for the narrative portions and Microsoft Excel for the Inmate/Ward billing and revenue share reports.

2.25.3 Contractor's written reports are due no later than 5:00 p.m. (PST) on the 5th business day of the month reporting on IVVS for the prior month.

2.25.4 Contractor's Year-End Summary Report is due no later than 5:00 pm, on the fifth (5th) business day of the month following Agreement year-end, reporting on the IVVS for the subject Agreement year.

**2.26 Audit**

County's duly authorized representatives shall have access, at reasonable times, to all reports, recordings, records, documents, files and personnel necessary to audit and verify Contractor's charges and revenue share to County hereunder. Contractor agrees to retain reports, recordings, records, documents and files related to charges hereunder for a period of five (5) years following the date of final payment for the Contractor's services. County reserves the right to audit and verify Contractor's records before final payment is made. County representatives shall have the right to reproduce any of the aforesaid documents. Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to County's Project Manager.

**2.27 Annual Review**

Within thirty (30) calendar days following the end of the Agreement year, Contractor Project Manager or Senior Management personnel shall meet with the County (at County's discretion) and provide a comprehensive report of IVVS activity for the Agreement year, along with providing a comprehensive presentation recapping any key areas of successes and/or concerns, as well as addressing intended strategies for the upcoming contract year. This shall also include a Contract Review for the preceding year.

**2.28 Inmate/Ward Video Visitation System Cost, Fees and Revenue Share**

2.28.1 The Contractor shall provide a turnkey IVVS. The cost of any infrastructure work will be the responsibility of the Contractor.

2.28.2 Provide list of fees and charges for IVVS visits (on-site and remote).

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- 2.28.3 Provide a list of all other on-going fees such as hardware and/or software maintenance costs, licensing fees, warranty costs, etc. Contractor shall disclose all other additional fees and surcharges that are charged for IVVS visits, and provide a brief description of each. It is the County's preference that additional fees are minimized.
- 2.28.4 Contractor shall state applicable Federal, State and Local taxes.
- 2.28.5 Contractor shall pay the County a revenue share on the IVVS fees and charges (not including true mandatory Federal, State, and Local fees and legitimate pass-through fees) for remote and inter-facility video visitation visits.
- 2.28.6 Describe the procedure for handling collectible and uncollectible revenue.
- 2.28.7 If any revenue share payments due under Attachment C of this Agreement (Payment Amounts and Inmate/Ward Video Visitation Billing Rates) are not received by the County within the period specified in Attachment C, County is entitled to recover interest thereon. Said interest shall be at the rate of ten (10) percent per annum or any portion thereof (based upon a 365/66 day year) calculated from the date payment is due.

**2.29 Project Implementation**

2.29.1 Project Control Document (PCD)

Upon effective date of Agreement, the Contractor shall create and deliver to the County, Project Control Documents (PCDs) consistent with the Scope of Work. The contents of each PCD shall include the following:

- 2.29.1.1 Introduction
- 2.29.1.2 Executive Summary
- 2.29.1.3 Project Mission and Objectives
- 2.29.1.4 Project Scope
- 2.29.1.5 Work Breakdown Structure
- 2.29.1.6 Master Project Schedule
- 2.29.1.7 Change Control Plan
- 2.29.1.8 Project Team

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2.29.1.9 Risk Assessment and Management

**2.30 Inmate/Ward Video Visitation System**

Contractor shall submit detailed plans for the provision of necessary telephone equipment and the new IVVS, while minimizing the impacts to current operations. The new IVVS shall become fully operational upon successful completion of all system testing and acceptance by the County. System acceptance test criteria is as follows: all IVVS units tested and verified as fully operational, without Deficiencies, and written acceptance by the concerned County's Project Manager. All IVVS installation plans and schedules will be reviewed and approved by the County's Project Manager in order to minimize impacts to normal operations.

**2.31 Project Approach**

Contractor shall present an overview, which shall be a narrative description, of Contractor's plan for providing the IVVS to the County. Contractor shall provide in full detail, its understanding and response to the Scope of Work.

**2.32 Implementation Plan and Schedule**

Contractor shall provide a detailed Implementation Plan and Schedule. The installation shall include a user testing and acceptance provision for the County Sheriff's Office and Probation Department. Time is of the essence in providing a fully functional Inmate/Ward video visitation system, and Contractor is required to provide a fully functional system tested and accepted by the County. At the County Sheriff's Office and Probation Department's discretion, any failure or deficiency within the Vendor's control to provide this service within the agreed-upon implementation schedule provided by the Vendor may incur a penalty until fully functional. Implementation Plan and Schedule shall include the following:

2.32.1 Summary of management/work plan for this Project

2.32.2 Project Schedule with Project Milestone Dates

**2.33 Project Implementation Team**

2.33.1 Contractor shall provide the name, years of service, educational attainment/degrees, qualifications, Project Management certification, address and telephone number(s) for the Contractor's Project Implementation Manager,

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which will be the County's main point of contact during the IVVS installation.

- 2.33.2 Contractor shall provide the name, years of service, educational attainment/degrees, qualifications, address and telephone number(s) for the Contractor's Account Manager, which will be the County's main point of contact during the Contract(s) term.
- 2.33.3 Contractor shall provide its Project Team Organization Chart, clearly showing the organization of the team and hierarchy of members. It must include:
  - 2.33.3.1 Organizational framework for the proposed Project Team
  - 2.33.3.2 Company name and key staff name for each role identified in the chart
- 2.33.4 Contractor shall provide the names, years of service, educational attainment/degrees, qualifications, addresses and telephone numbers of each member of Contractor's Project Implementation Team, including an Escalation Chart with complete contact information.

<b>3.0 TERM OF AGREEMENT</b>
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- 3.1 The initial term shall commence with the signing of this AGREEMENT through and including three (3) years, with the option to extend this AGREEMENT for two (2) additional one (1) year periods.
  - 3.1.1 County is not required to state a reason if it elects not to renew this AGREEMENT.
- 3.2 CONTRACTOR shall commence negotiations for any desired rate changes a minimum of ninety days (90) prior to the expiration of this AGREEMENT in order to be considered.
  - 3.2.1 Both parties shall agree upon rate extension(s) or changes in writing.
- 3.3 County reserves the right to cancel this AGREEMENT, or any extension of this AGREEMENT, without cause, with a **thirty day (30) written notice, or immediately with cause.**

<b>4.0 COMPENSATION AND PAYMENT</b>
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- 4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the pricing sheet attached hereto.
- 4.2 Prices shall remain firm unless mutually agreed by the parties. County does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 4.3 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety (90) days prior to the expiration of this AGREEMENT.
- 4.4 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than 30 days.
- 4.5 CONTRACTOR shall levy only those fees and surcharges as permitted by law.
- 4.6 Tax:
  - 4.6.1 The rates listed in Attachment A do not include applicable taxes or third party processing charges.
  - 4.6.2 County is registered with the Internal Revenue Service, San Francisco office, and registration number 94-6000524. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.

<b>5.0 INVOICES AND PURCHASE ORDERS</b>
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- 5.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to the following addresses:
  - 5.1.1 Monterey County Sheriff's Office  
Accounting Department  
1414 Natividad Road  
Salinas, CA 93906
  - 5.1.2 Electronically to: MCSOSheriff.Fiscal@co.monterey.ca.us
  - 5.1.3 Monterey County Probation Department  
Finance Unit  
20 East Alisal Street  
Salinas, CA 93901

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- 5.2 CONTACTOR shall reference the RFP/ number on all invoices submitted to the County. CONTRACTOR shall submit such invoices periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. County shall certify the invoice, either in the requested amount or in such other amount as County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- 5.3 All County of Monterey Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 5.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by the County. Surcharges and additional fees not included the AGREEMENT must be approved by County in writing via an Amendment.

**6.0 STANDARD INDEMNIFICATION**

- 6.1 CONTRACTOR shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CONTRACTOR's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors

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## 7.0 INSURANCE REQUIREMENTS

### 7.1 Evidence of Coverage:

7.1.1 Prior to commencement of this AGREEMENT, CONTRACTOR shall provide a “Certificate of Insurance” certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, CONTRACTOR upon request shall provide a certified copy of the policy or policies.

7.1.2 This verification of coverage shall be sent to the County Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall not receive a “Notice to Proceed” with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by County’s Office. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

7.2 Qualifying Insurers: All coverages, except surety, shall be issued by companies which hold a current policy holder’s alphabetic and financial size category rating of not less than A- VII, according to the current Best’s Key Rating Guide or a company of equal financial stability that is approved by County’s Purchasing Office.

### 7.3 Insurance Coverage Requirements:

7.3.1 Without limiting CONTRACTOR’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

7.3.1.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

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7.3.1.2 Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

7.3.1.3 Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this AGREEMENT, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

7.3.1.4 Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, CONTRACTOR shall, upon the expiration or earlier termination of this AGREEMENT, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this AGREEMENT.

7.4 Other Insurance Requirements:

7.4.1 All insurance required by this AGREEMENT shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.

7.4.2 Each liability policy shall provide that County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or

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be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

7.4.3 Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

7.4.4 Prior to the execution of this AGREEMENT by County, CONTRACTOR shall file certificates of insurance with County's contract administrator and County's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.

7.4.5 CONTRACTOR shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles County, at its sole discretion, to terminate this AGREEMENT immediately.

## 8.0 RECORDS AND CONFIDENTIALITY

8.1 Confidentiality: CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this AGREEMENT, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and

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all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this AGREEMENT except for the sole purpose of carrying out CONTRACTOR's obligations under this AGREEMENT. County agrees to treat Contractor's proposal and other information marked as "confidential" as a trade secret under California law.

- 8.2 County Records: When this AGREEMENT expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this AGREEMENT.
- 8.3 Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this AGREEMENT.
- 8.4 Access to and Audit of Records: County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of County or as part of any audit of County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this AGREEMENT for a period of three years after final payment under the AGREEMENT.

<b>9.0 NON-DISCRIMINATION</b>
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- 9.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).
- 9.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

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- 9.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

**10.0 OVERRIDING CONTRACTOR PERFORMANCE REQUIREMENT**

- 10.1 Independent Contractor: CONTRACTOR shall be an independent contractor and shall not be an employee of Monterey County, nor immediate family of an employee of County. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc.,) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.
- 10.2 Non-Assignment: CONTRACTOR shall not assign this contract or the work required herein without the prior written consent of County.
- 10.3 Any subcontractor shall comply with all of County of Monterey requirements, including insurance and indemnification requirements as detailed in THIS AGREEMENT.

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## **11.0 CONFLICT OF INTEREST**

- 11.1 CONTRACTOR covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this AGREEMENT. Without limitation, CONTRACTOR represents to and agrees with COUNTY that CONTRACTOR has no present, and will have no future, conflict of interest between providing COUNTY services hereunder and any other person or entity (including but not limited to any federal or state environmental or regulatory agency) which has any interest adverse or potentially adverse to COUNTY, as determined in the reasonable judgment of the Board of Supervisors of COUNTY OFFICE.
- 11.2 CONTRACTOR agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this AGREEMENT for COUNTY will be kept confidential and not be disclosed to any other person. CONTRACTOR agrees to immediately notify COUNTY in accordance with the Notices Section of this AGREEMENT, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this AGREEMENT. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to COUNTY hereunder.

## **12.0 COMPLIANCE WITH APPLICABLE LAWS**

- 12.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 12.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services. CONTRACTOR will inform County of any pricing or other changes to this Contract necessitated by a change in law.
- 12.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

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### **13.0 TIME OF ESSENCE**

Time is of the essence in respect to all provisions of this AGREEMENT that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this AGREEMENT.

### **14.0 PERFORMANCE ASSURANCE AND WAIVER OF BREACH**

14.1 Assurance of Performance: If at any time County believes CONTRACTOR may not be adequately performing its obligations under this AGREEMENT or that CONTRACTOR may fail to complete the Services as required by this AGREEMENT, County may request from CONTRACTOR prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in CONTRACTOR'S performance. CONTRACTOR shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. CONTRACTOR acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this AGREEMENT. If County accepts the plan it shall issue a signed waiver.

14.1.1 Waiver: No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this AGREEMENT shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

### **15.0 FORCE MAJEURE**

15.1 "Force Majeure" means any cause beyond the reasonable control of a party, including but not limited to acts of God, civil or military disruption, fire, strike, flood, riot, war, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities.

15.2 If any party hereto is delayed or prevented from fulfilling its obligations under this AGREEMENT by Force Majeure, said party will not be liable under this

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AGREEMENT for said delay or failure, nor for damages or injuries resulting directly from the inability to perform scheduled work due to Force Majeure.

- 15.3 CONTRACTOR shall be granted an automatic extension of time commensurate with any delay in performing scheduled work arising from Force Majeure. CONTRACTOR agrees to resume such work within three (3) days after the Force Majeure has subsided enough to do so.

**16.0 HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT-HIPAA COMPLIANCE**

Where applicable, CONTRACTOR agrees to operate its business in a manner as necessary to permit County to comply with its obligations under the Health Insurance Portability and Accountability Act of 1996, Subtitle F, Public Law 104-191, relating to the privacy and security of confidential health information, and any final regulations or rules promulgated by the U.S. Department of Health and Human Services thereunder (collectively, the "HIPAA Standards").

**17.0 WARRANTY BY CONTRACTOR**

CONTRACTOR shall fully warrant all materials, equipment, and service against poor and inferior quality or workmanship for a period of not less than one (1) year from date of final acceptance by the COUNTY or longer if equipment is warranted for a longer time period. Time is of the essence of this AGREEMENT. CONTRACTOR shall repair or replace any inoperable materials or equipment in a timely manner during warranty period.

**18.0 GUARANTEE OF MALWARE FREE GOODS**

All software/hardware purchased must be free of malicious code such as viruses, Trojan horse programs, worms, spyware, etc. Validation of this must be written into the contract. Malicious code or malware (short for malicious software) is defined as software (or firmware) designed to damage or do other unwanted actions on a computer system. Common examples of malware include viruses, worms, Trojan horses and spyware. Viruses, for example, can cause havoc on a computer's hard drive by deleting files or directory information. Spyware can gather data from a user's system without the user knowing it. This can include anything from the web pages a user visits to personal information, such as credit card numbers.

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**19.0 NOTICES**

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to County contract administrator or to CONTRACTOR’S responsible officer; (2) when personally delivered to the party’s principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party’s FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party’s office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

TO COUNTY:  
Contracts/Purchasing Officer  
County of Monterey, Contracts/Purchasing  
1488 Schilling Place  
Salinas, CA 93901  
Tel. No.: (831) 755-4990  
  
[derrm@co.monterey.ca.us](mailto:derrm@co.monterey.ca.us)  
FAX No.: (831) 755-4969

TO CONTRACTOR:  
Name Pablo Nichols - General Counsel  
Printed Name and Title  
Address: 655 Montgomery St. 18th Floor  
San Francisco, CA 94530  
Tel. No. (415) 300-4367  
Email: [pablo@telmate.com](mailto:pablo@telmate.com)  
FAX No.: (415) 520-0343

**20.0 LEGAL DISPUTES**

20.1 CONTRACTOR agrees that this AGREEMENT and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction’s laws.

20.2 Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.

20.3 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.

The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge

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21.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By:   
 Contracts/Purchasing Officer

Date: 12-14-16

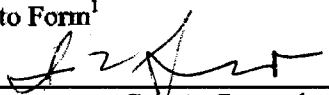
By: \_\_\_\_\_  
 Department Head (if applicable)

Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Board of Supervisors (if applicable)

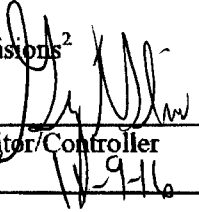
Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By:   
 County Counsel

Date: 11/09/2016

Approved as to Fiscal Provisions<sup>2</sup>

By:   
 Auditor/Controller

Date: 11-9-16

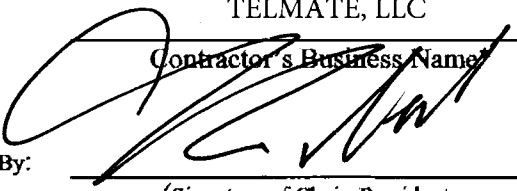
Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
 Risk Management

Date: \_\_\_\_\_

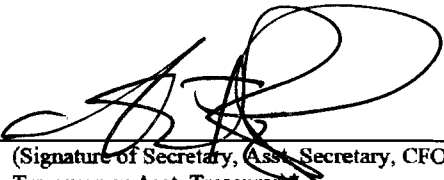
**CONTRACTOR**

TELMATE, LLC  
 Contractor's Business Name

By:   
 (Signature of Chair, President, or Vice-President)\*

Kevin O'Neil - President  
 Name and Title

Date: 10/10/16

By:   
 (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

ANITA NIKAEEN VP FINANCE  
 Name and Title

Date: 10/12/16

County Board of Supervisors' Agreement Number: \_\_\_\_\_, approved on (date): \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

<sup>1</sup>Approval by County Counsel is required

<sup>2</sup>Approval by Auditor-Controller is required

<sup>3</sup>Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

Revised 09/28/12

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**EXHIBIT I – INMATE TELEPHONE SERVICES - SERVICE LEVEL AGREEMENT****Definition of Service Level Agreement**

A Service Level Agreement (SLA) is an agreement between the County/Probation and the Contractor to provide a service at a performance level that meets or exceeds the specified performance objective(s). The SLA lays out the metrics by which that service is measured, and the remedies or penalties, should the agreed-upon levels not be achieved. If the specified service levels are not met, then the contractor is required to issue specified credits.

The Inmate/Ward Telephone Services contract has specific performance metrics, or Key Performance Indicators (KPIs) for services deemed sufficiently essential to County/Probation operations, and the contractor must comply with those KPIs. For each KPI, the Contractor is required to meet the specified Acceptable Quality Levels (AQLs).

**Service**

Table 1 lists each KPI and the performance level requested by the County/Probation. Performance is aggregate-based, meaning that the performance is to be measured at the County/Probation hierarchy level (of the County's and Probation's billing organizations) over a one-calendar-month period.

**Table 1- Service-Specific SLAs**

<i>Service</i>	<b>KPI</b>	<b>Performance Standards/AQL</b>
Implementation & Installation	Fully functional Inmate/Ward Telephone System, tested and accepted by the County/Probation	90 Business Days
<b><i>Maintenance:</i></b>		
Voice Services and Network Access/Transport Services	Availability  Call Blockage, Dropped Calls	99.95%  .07
Telephones	Operational, working telephones	100%
<b><i>Management Reports:</i></b>		
Monthly Project Reports, Monthly System Management Reports, and Year-End Summary Reports	One (1) soft copy of each of the Monthly Project Reports, Monthly System Management Reports, and Year-End Summary Reports on CD-Rs to the County/Probation Project Manager and to the County/Probation Designee	Written reports are due no later than 5:00 p.m. (PST) on the 5th business day of the month reporting on ITS for the prior month.  Year-End Summary Reports are due no later than 5:00 pm, on the fifth (5th) business day of the month

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		following Agreement year-end, reporting on the ITS for the subject Agreement year.
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**III. Implementation & Installation Penalty**

Potential Contractor shall provide a detailed Implementation Plan and Schedule. The installation will include a user testing and acceptance provision for the County/Probation. Time is of the essence in providing a fully functional inmate phone system, and the potential Contractor is required to provide a fully functional system tested and accepted by the County/Probation. At the County Sheriff's Office and Probation Department's discretion, any failure or deficiency within the Contractor's control to provide this service within the agreed-upon implementation schedule provided by the Contractor may incur a penalty until fully functional.

**IV. Late Management Reports Penalty**

This section removed during negotiation.

**V. System Problems, Outages, and Other Deficiencies**

The Service is unavailable during any period of time that it experiences a Service Outage, or other service-affecting Problem or Deficiency. Upon County/Probation's or County/Probation-authorized Agent's request, Contractor will issue credits for each Service Outage, Problem, or Deficiency. Contractor shall pay the County/Probation the total amount of credit due within thirty (30) days from the month Deficiencies occurred under the Agreement.

Reporting of all System problems, outages and other Deficiencies shall be handled through Contractor's Technical Support Center, which shall be accessible online, toll-free telephone and fax numbers, and email. Contractor shall provide for 24 hours per day, 7 days per week on-call technical support staff to support the County/Probation and the Contractor's on-site technical staff in resolving System Outages, Problems, and other Deficiencies. County/Probation will assign one of the following "Severity Levels." Contractor must respond to and resolve these in accordance with the following timeframes, following the determination and/or notification of the Problem, Outage or other Deficiency:

**Table 2 - Severity Levels and Credits**

Severity Level	Severity Level Description	Duration of Service Outage	Credits
Priority Level One	<b>CRITICAL (Includes but not limited to):</b> <ul style="list-style-type: none"> <li>• 25% or more of a single Housing unit's (Module / Dorm / Pod) telephones are out of service</li> <li>• Multiple housing units are not in operation</li> <li>• Multiple inmate phones are not operational</li> <li>• Intake phones are not operational</li> <li>• 25% or more of calls placed in a 24-hour period experience poor voice quality (high levels of static, noise, voice distortion) caused by faulty hardware equipment, routers, bandwidth limitations, or software</li> <li>• 25% or more of calls are dropped in a 24-hour period</li> </ul>	≤ 6 hours	No Credit
		Between 6 hours and 12 hours	\$75 per hour that component of ITS is deficient

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	<ul style="list-style-type: none"> <li>Entire system failure</li> </ul> <p>Response time, technician on site, and completion of repairs and Deficiency resolution to County/Probation's satisfaction is made within 6 hours of initial notification of County/Probation or County/Probation's Agent by Contractor, or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p>	<p>Between 12 hours and 24 hours</p> <p>&gt; 24 hours</p>	<p>\$100 per hour that component of ITS is deficient</p> <p>\$150 per hour that component of ITS is deficient</p>
<p><b>Priority Level Two</b></p>	<p><b>SEVERE (Includes but not limited to):</b></p> <ul style="list-style-type: none"> <li>10% to 24% of a single housing unit's (Module/ Dorm / Pod) telephones are out of service</li> <li>10% to 24% of calls are dropped in a 24-hour period</li> <li>10% to 24% or more of calls placed in a 24-hour period experience poor voice quality (high levels of static, noise, voice distortion) caused by faulty hardware equipment, routers, bandwidth limitations, or software</li> <li>More than ten (10) Inmates/Wards are not able to make telephone calls as a result of a single telephone is out of service</li> <li>One entire housing unit that is not in operation or one inmate phone not operational</li> </ul> <p>Response time, completion of repairs, and Deficiency resolution to County/Probation's satisfaction is made within <u>24</u> hours of initial notification of County/Probation or County/Probation's Agent by Contractor or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p>	<p>≤ 24 hours</p> <p>&gt; 24 hours</p>	<p>No Credit</p> <p>\$100 per hour that component of ITS is deficient</p>

<b>Priority Level</b>	<b>SEVERE (Includes but not limited to):</b>		
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<p><b>Two</b></p>	<ul style="list-style-type: none"> <li>• 10% to 24% of a single housing unit's (Module/ Dorm / Pod) telephones are out of service</li> <li>• 10% to 24% of calls are dropped in a 24-hour period</li> <li>• 10% to 24% or more of calls placed in a 24-hour period experience poor voice quality (high levels of static, noise, voice distortion) caused by faulty hardware equipment, routers, bandwidth limitations, or software</li> <li>• More than ten (10) Inmates/Wards are not able to make telephone calls as a result of a single telephone is out of service</li> <li>• One entire housing unit that is not in operation or one inmate phone not operational</li> </ul> <p>Response time, completion of repairs, and Deficiency resolution to County/Probation's satisfaction is made within <u>24</u> hours of initial notification of County/Probation or County/Probation's Agent by Contractor, or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p>	<p>≤ 24 hours</p> <p>&gt; 24 hours</p>	<p>No Credit</p> <p>\$100 per hour that component of ITS is deficient</p>
<p><b>Priority Level Three</b></p>	<p><b>MINOR (Includes but not limited to):</b></p> <ul style="list-style-type: none"> <li>• One of multiple phones in a housing unit that is not in operation, and additional phones are in the area available for inmate use.</li> <li>• Intermittent dropped calls or &lt;10% of calls are dropped</li> <li>• Intermittent poor voice quality on calls or &lt;10% of calls experience poor voice quality</li> </ul> <p>Response time, completion of repairs, and Deficiency resolution to County/Probation's satisfaction is made within <u>2</u> business days of initial notification of County/Probation or County/Probation's Agent by Contractor, or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p>	<p>≤ 2 days</p> <p>&gt; 2 days</p>	<p>No Credit</p> <p>\$75 per day that component of ITS is deficient</p>

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<b>Priority Level Four</b>	<b>COSMETIC (Includes but not limited to):</b>  A telephone is damaged but is capable of completing telephone calls  Response time, completion of repairs or replacement of damaged phones, and Deficiency resolution to County/Probation's satisfaction is made within <u>10</u> business days of initial notification of County/Probation or County/Probation's Agent by Contractor, or from County/Probation's or County/Probation Agent's initial service request to Contractor.	≤ 10 days	No Credit
		> 10 days	\$75 per day that component of ITS is deficient or damaged phones are not replaced

**VI. Chronic Trouble**

A Chronic Trouble (Chronic) defined as an Inmate/Ward Telephone System problem, network problem, outage, or other deficiency which has experienced 3 separate trouble tickets opened against it for Availability, by the County/Probation or County/Probation-authorized Agent, or Contractor, for the same/similar symptom(s) or problem(s) over a rolling 30-day period. A Chronic's rolling 30-day counter is considered "reset" upon a period of 30 days free of same/similar trouble.

**Table 3 – Chronic Trouble Credits**

Severity Level	Consecutive Months' Occurrence	Credits
Priority Level One	3	3% of Monthly Revenue Commissions
	6	5% of Monthly Revenue Commissions
	>6	Option to open contract for discussion, up to and including cancellation of contract without penalty
Priority Level Two	3	1% of Monthly Revenue Commissions
	6	2% of Monthly Revenue Commissions
	9	3% of Monthly Revenue Commissions
	12	5% of Monthly Revenue Commissions
	>12	Option to open contract for discussion, up to and including cancellation of contract without penalty

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## EXHIBIT II – INMATE VIDEO VISITATION SYSTEM - SERVICE LEVEL AGREEMENT

### I. Definition of Service Level Agreement

A Service Level Agreement (SLA) is an agreement between the County/Probation and the Contractor to provide a service at a performance level that meets or exceeds the specified performance objective(s). The SLA lays out the metrics by which that service is measured, and the remedies or penalties, should the agreed-upon levels not be achieved. If the specified service levels are not met, then the contractor is required to issue specified credits.

The Inmate/Ward Video Visitation System contract has specific performance metrics, or Key Performance Indicators (KPIs) for services deemed sufficiently essential to County and Probation operations; the Contractor must comply with those KPIs. For each KPI, the Contractor is required to meet the specified Acceptable Quality Levels (AQLs).

### II. Service

Table 1 lists each KPI and the performance levels. Performance is aggregate-based, meaning that the performance is to be measured over a one-calendar-month period.

**Table 1- Service-Specific SLAs**

Service	KPI	Performance Standards/AQL
Implementation and Installation	Fully functional Inmate/Ward Video Visitation System, tested and accepted by the County and Probation	90 Business Days
<i>Maintenance</i> Video Visitation Services and Associated Network Access/Transport Services	<ul style="list-style-type: none"> <li>Video Quality (No Video Blockage, No Dropped Video Visitation Sessions)</li> <li>Scheduling Software Availability</li> </ul>	99.95%
Video Visitation Units	Operational, working units	100%

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Service	KPI	Performance Standards/AQL
<p><b>Management Reports</b>                      Monthly Project Reports, Monthly System Management Reports and                      Year-End Summary Reports</p>	<p>One (1) soft copy of each of the Monthly Project Reports, Monthly System Management Reports, and Year-End Summary Reports on CDRs to the County/Probation Project Manager or County/Probation Designee and to Probation</p>	<p>Written reports are due no later than 5:00 p.m. (PST) on the 5th business day of the month reporting on VVS for the prior month</p> <p>Year-End Summary Reports are due no later than 5:00 pm, on the fifth (5th) business day of the month following Agreement year-end, reporting on the VVS for the subject Agreement year</p>

**III. Implementation and Installation Penalty**

Potential Contractor shall provide a detailed Implementation Plan and Schedule. The installation will include a user testing and acceptance provision for the County/Probation. Time is of the essence in providing a fully functional video visitation system, and the potential Contractor is required to provide a fully functional system tested and accepted by the County and Probation.

**IV. Late Management Reports Penalty**

This section removed during negotiation.

**V. System Problems, Outages, and Other Deficiencies**

The Service is unavailable during any period of time that it experiences a Service Outage, or other service-affecting Problem or Deficiency. Upon County/Probation’s or County/Probation-authorized Agent’s request, Contractor will issue credits for each Service Outage, Problem, or Deficiency. Contractor shall pay the County/Probation the total amount of credit due within thirty (30) days from the month Deficiencies occurred under the Agreement.

Reporting of all System problems, outages and other Deficiencies shall be handled through Contractor's Technical Support Center, which shall be accessible online, toll-free telephone, fax number, and email. Contractor shall provide for 24 hours per day, 7 days per week on-call technical support staff to support the County/Probation or County/Probation Designee in resolving System Outages, Problems, and other Deficiencies. County/Probation will assign one of the following “Severity Levels.” Contractor must respond to and resolve these in accordance with the following timeframes, following the determination and/or notification of the Problem, Outage or other Deficiency:

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**Table 2 - Severity Levels and Credits**

Severity Level	Severity Level Description	Duration of Service Outage	Credits
<p><b>Priority Level One</b></p>	<p><b>CRITICAL (Includes but not limited to):</b></p> <ul style="list-style-type: none"> <li>• 50% or more of a Facility's Video Visitation System (at any one area) is out of service</li> <li>• Multiple Facilities' Video Visitation System units are not in operation</li> <li>• Multiple Video Visitation System units are not operational</li> <li>• 50% or more of Video Visitation sessions placed in a 24-hour period experience poor Video Visitation session quality (high levels of visual and audio static, noise, distortion) caused by faulty hardware equipment, routers, bandwidth limitations or software</li> <li>• 50% or more of Video Visitation sessions are dropped in a 24-hour period</li> <li>• Entire system failure</li> </ul> <p>Response time, technician on site, and completion of repairs and Deficiency resolution to County/Probation's satisfaction is made within 6 hours of initial notification of County/Probation or County/Probation's Agent by Contractor or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p>	<p>&lt;or = to 4 hours</p>	<p>No Credit</p>
		<p>Between 4 hours and 12 hours</p>	<p>\$75 per hour that component of VVS is deficient (includes network access and cabling and wiring)</p>
	<p>County/Probation has the option to require Contractor to replace VVS in its entirety or its individual components, including network access and cabling and wiring, if Contractor is unable to resolve the deficiency to the County/Probation's satisfaction within a reasonable timeframe exceeding 72 hours.</p>	<p>Between 12 hours and 24 hours</p>	<p>\$100 per hour that component of VVS is deficient (includes network access and cabling and wiring)</p>
		<p>&gt;24 hours</p>	<p>\$200 per hour that component of VVS is deficient (includes network access and cabling and wiring)</p>

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Severity Level	Severity Level Description	Duration of Service Outage	Credits
Priority Level Two	<p><b>SEVERE (Includes but not limited to):</b></p> <ul style="list-style-type: none"> <li>• 25% to 49% of a Facility's Video Visitation System (in Housing Units and Lobby) is out of service</li> <li>• 25% to 49% of Video Visitation sessions are dropped in a 24-hour period</li> <li>• 25% to 49% or more of calls placed in a 24-hour period experience poor voice quality (high levels of visual and audio static, noise, distortion) caused by faulty hardware equipment, routers, bandwidth limitations, or software</li> <li>• More than ten (10) Inmates/Wards are not able to initiate Video Visitation System sessions as a result of a single Video Visitation unit out of service</li> <li>• One entire housing unit that is not in operation or one Video Visitation System unit not operational</li> </ul> <p>Response time, completion of repairs, and Deficiency resolution to County/Probation's satisfaction is made within 24 hours of initial notification of County/Probation or County/Probation's Agent by Contractor, or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p> <p>County/Probation has the option to require Contractor to replace VVS in its entirety or its individual components, including network access and cabling &amp; wiring, if Contractor is unable to resolve the deficiency to the County/Probation's satisfaction within a reasonable timeframe exceeding 72 hours.</p>	≤ 24 hours	No Credit
		> 24 hours	\$150 per hour that component of VVS is deficient (includes network access and cabling and wiring)

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Severity Level	Severity Level Description	Duration of Service Outage	Credits
<p><b>Priority Level Three</b></p>	<p><b>MINOR (Includes but not limited to):</b></p> <ul style="list-style-type: none"> <li>• One of multiple Video Visitation units in a housing unit or lobby that is not in operation, and additional units are in area available for inmate use</li> <li>• Intermittent dropped Video Visitation sessions or &lt;25% of Video Visitation sessions are dropped</li> <li>• Intermittent poor Video Visitation session quality on sessions or &lt;25% of sessions experience poor visual and audio quality</li> <li>• &lt;25% of a Facility's Video Visitation System (in Housing Units and Lobby) is out of service</li> <li>• &lt;25% of Video Visitation sessions are dropped in a 24-hour period</li> <li>• &lt;25% or more of Video Visitation visits placed in a 24-hour period experience poor voice quality (high levels of visual and audio static, noise, distortion) caused by faulty hardware equipment, routers, bandwidth limitations or software</li> </ul> <p>Response time, completion of repairs and Deficiency resolution to County/Probation's satisfaction is made within <u> 2 </u> business days of initial notification of County/Probation or County/Probation's Agent by Contractor, or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p> <p>County/Probation has the option to require Contractor to replace VVS in its entirety or its individual components, including network access and cabling &amp; wiring, if Contractor is unable to resolve the deficiency to the County/Probation's satisfaction within a reasonable timeframe exceeding 5 business days.</p>	<p>≤ 2 days</p>	<p>No Credit</p>
		<p>&gt; 2 days</p>	<p>\$75 per day that component of VVS is deficient (includes network access and cabling and wiring)</p>
		<p>&gt; 2 days</p>	<p>\$150 per day that component of VVS is deficient (includes network access and cabling and wiring)</p>
<p><b>Priority Level Four</b></p>	<p><b>COSMETIC (Includes but not limited to):</b></p> <ul style="list-style-type: none"> <li>• A Video Visitation unit is damaged but is capable of completing Video Visitation sessions</li> <li>• Video Visitation System enclosure, furniture, hardware, or other equipment is damaged, but VVS is still capable of completing Video Visitation sessions</li> </ul> <p>Response time, completion of repairs or replacement of damaged units, and Deficiency resolution to County/Probation's satisfaction is made within <u> 10 </u> business days of initial notification of County/Probation or County/Probation's Agent by Contractor, or from County/Probation's or County/Probation Agent's initial service request to Contractor.</p> <p>County/Probation has the option to require Contractor to replace affected VVS components if Contractor is unable to resolve the deficiency to the County/Probation's satisfaction within a reasonable timeframe exceeding 15 days.</p>	<p>≤ 10 days</p>	<p>No Credit</p>
		<p>&gt; 10 days</p>	<p>\$75 per day that component of VVS is deficient or damaged VVS units are not replaced</p>

**VI. Chronic Trouble**

A Chronic Trouble (Chronic) defined as an Inmate/Ward VVS problem, associated network problem, outage or other deficiency which has experienced 3 separate trouble tickets opened against it for Availability, by the

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County/Probation or County/Probation-authorized Agent, or Contractor, for the same/similar symptom(s) or problem(s) over a rolling 30-day period. A Chronic’s rolling 30-day counter is considered “reset” upon a period of 30 days free of same/similar trouble.

**Table 3 – Chronic Trouble Credits**

Severity Level	Consecutive Months’ Occurrence	Credits
Priority Level One	3	10% of Monthly Recurring Charge
	6	20% of Monthly Recurring Charge
	>6	Replacement of the VVS in its entirety or its individual components, including network access and cabling & wiring. Option to open contract for discussion, up to and including cancellation of contract without penalty
Priority Levels Two and Three	3	5% of Monthly Recurring Charge
	6	10% of Monthly Recurring Charge
	9	20% of Monthly Recurring Charge
	>9	Replacement of the VVS in its entirety or its individual components, including network access, and cabling & wiring. Option to open contract for discussion, up to and including cancellation of contract without penalty
Priority Level Four	N/A	N/A

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## **ATTACHMENT A –RATES, FEES, and PAYMENTS TO COUNTY FOR INMATE TELEPHONE SERVICE, VIDEO VISITATION SERVICE, and TABLETS**

The County shall bear no responsibility for any costs, including below fees related to the ITS, VVS, or Tablet services. End user as it is used in this Attachment A is defined as Inmate utilizing the Inmate Telephone System or its components.

1. The initial VoIP calling rates payable by end user shall be as follows:
  - a. The call rate for Intrastate Prepaid and Collect Calls will be \$0.21 per minute.
  - b. The call rate for Interstate Prepaid Calls will be \$0.21 per minute.
  - c. The call rate for Interstate Collect Calls will be \$0.25 per minute.
  - d. The call rate for International Calls will be \$0.50 per minute.
  
2. The initial fees payable by end user OR depositor for Telmate's ITS services shall be as follows:
  - a. Automated payment fees such as deposits using credit card or debit card made via telephone: \$3.00 per transaction, paid by depositor.
  - b. Live agent fee (Quick Connect): \$5.95 per transaction, paid by depositor.
  - c. Paper bill fee: \$2.00 per transaction.
  - d. All third party transaction fees such as MoneyGram, Western Union, and credit card processing fees will be passed through to the depositor with no markup.
  - e. All taxes and regulatory fees will be passed through to the depositor or end user without markup.
  - f. The fee for a voicemail will be \$1.50 per call.
  - g. The fee for messages sent by a friend or family to a detainee will be \$0.25 per message.
  
3. The initial fees for Telmate's Commissary/Booking Load services shall be as follows:

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- a. The fee for Operator Accepted deposits using credit card or debit card made via telephone:  
\$2.99 per transaction + 6% of the transaction amount. This fee is paid by the depositor.
- b. Cash deposited into lobby/visitation area kiosk:  
\$1.99 per transaction + 4% of the transaction amount. This fee is paid by the depositor.
- c. Credit card/debit card deposits using web-based depositing option:  
\$2.99 per transaction + 6% of the transaction amount. This fee is paid by the depositor.
- d. Cash deposited into booking area kiosk: no fees shall be assessed to any party.
- e. Credit card/debit card deposit into booking area kiosk at time of booking:  
\$2.99 per transaction + 6% of the transaction amount. This fee shall be paid by the depositor.

Where Customer/County elects to have Telmate assist with the operation of commissary accounts, Telmate will act as Customer/County's agent for the purpose of accepting, on behalf of Customer/County, deposits to an inmate's trust/commissary account at Customer/County. Any and all deposits made to an inmate's commissary account at Customer/County's facilities through Telmate's system shall be deemed received by Customer/County as if made directly to Customer/County and shall be credited to the respective inmate's commissary account upon receipt by Telmate. Customer/County shall have sole control and managerial power over any and all funds deposited into an inmate's commissary account.

4. Tablet and Video Visitation Rates

- a. The rate for access to premium tablet services such as messaging, music, and games, will be \$0.05 per minute. There shall be no cost to inmate for commissary ordering, grievance filings, medical/sick call requests, programs service requests, law library requests, other forms, educational content, and PREA/criminal reports.
- b. The rate for remote VVS will be \$0.15 per minute on Tablets.

5. Facility Support Payments to County

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- a. Telmate will pay to County a facility support fee of five cents (\$0.05) per minute on specific VoIP telephony calls serviced by Telmate. The facility support fee will be paid to County on a per minute basis for Local, IntraLATA, InterLATA, Interstate, and other applicable call types designated by Telmate. Such facility support payments will be remitted to County by Telmate without deductions.
- b. Telmate shall provide County with 10% of the gross revenue derived from item 2.f above – voicemails left for inmates.
- c. Telmate shall provide County with 50% of the gross revenue, received from the per minute rate charged to detainees for access to Telmate's tablet equipment, excluding video and phone calls.
- d. Telmate shall provide County with 25% of the gross revenue resulting from remote VVS usage.
- e. Payments to County by Telmate for commissions and facility support shall be made in two (2) separate checks within thirty days following each month. . One check shall be sent to Monterey County Probation, at the address listed in Section 5.1.3 of this agreement. The second check shall be made payable to the Monterey County Sheriff's office at the address indicated in Section 5.1.1 of this agreement.

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# County of Monterey

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 24-512

November 12, 2024

**Introduced:** 10/24/2024

**Current Status:** Public Works, Facilities &  
Parks - Consent

**Version:** 1

**Matter Type:** BoS Agreement

- a. Authorize the Public Works, Facilities and Parks (PWFP) Director to execute Amendment No. 4 to the Board of State and Community Corrections (BSCC) SB 81 Round 1 Local Youthful Offender Rehabilitative Facility Construction Agreement for Monterey County New Juvenile Hall (NJH Agreement) in a form substantially similar to the "Execution Copy" of said Amendment No. 4, which reflects the final project milestone schedule and budget;
- b. Authorize the PWFP Director to execute an Amendment No. 4 to the BSCC AB 900 II Construction Agreement for Monterey County Jail Housing Addition (JHA Agreement) upon receipt from BSCC, which reflects the final project milestone schedule and budget;
- c. Authorize the PWFP Director to execute future Amendments to the NJH Agreement and JHA Agreements as necessary to reflect any closeout changes to match the final project scope, schedule and budget subject to the approval of BSCC and the Office of the County Counsel.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Public Works, Facilities and Parks (PWFP) Director to execute Amendment No. 4 to the Board of State and Community Corrections (BSCC) SB 81 Round 1 Local Youthful Offender Rehabilitative Facility Construction Agreement for Monterey County New Juvenile Hall (NJH Agreement) in a form substantially similar to the "Execution Copy" of said Amendment No. 4, which reflects the final project milestone schedule and budget;
- b. Authorize the PWFP Director to execute an Amendment No. 4 to the BSCC AB 900 II Construction Agreement for Monterey County Jail Housing Addition (JHA Agreement) upon receipt from BSCC, which reflects the final project milestone schedule and budget;
- c. Authorize the PWFP Director to execute future Amendments to the NJH Agreement and JHA Agreements as necessary to reflect any closeout changes to match the final project scope, schedule and budget subject to the approval of BSCC and the Office of the County Counsel.

### SUMMARY/DISCUSSION:

On September 13, 2024 the State Public Works Board (SPWB) approved the final scope, schedule and budget for the New Juvenile Hall project following the completion of post construction audits and close out process required for the release of 5% retention from the Board of State and Community Corrections (BSCC). As a result, the SB 81 Round 1 Local Youthful Offender Rehabilitative Facility Construction Agreement (NJH Agreement) between the County of Monterey (County) and BSCC needs to be updated to reflect the final project reconciliation.

Similarly, the Jail Housing Addition project is expected to go to the SPWB later this fiscal year

following California Department of Corrections and Rehabilitation (CDCR) review and if approved, an amendment to the AB 900 II Construction Agreement for Monterey County Jail Housing Addition (JHA Agreement) will also be needed to reflect the final project scope, schedule and budget.

The above-Board actions will allow the Public Works, Facilities and Parks (PWFP) Director to execute necessary amendments to both the NJH Agreement and JHA Agreement required to receive the final five percent (5%) retention from BSCC. These amendments do not change the project in any way and only reflect the completed project details in the associated agreements.

OTHER AGENCY INVOLVEMENT:

Public Works, Facilities and Parks (PWFP) continues to work jointly with BSCC and CDCR to meet all State requirements to maintain the conditional award for the grant funding.

FINANCING:

There is no cost to the County as a result of approving these and any future amendments. Updated Agreements are required for the County to receive the final five percent (5%) retention in State funding held until final project closeout.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: John Snively, Administrative Operations Manager (831) 759-6617

Reviewed by: Florence Kabwasa-Green, Interim Chief of Facilities

Lindsay Lerable, Assistant Director of Public Works, Facilities and Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

The following attachments are on file with the Clerk of the Board:

- Attachment A-SB 81 Round 1 Amendment No. 4
- Attachment B-SB 81 Round 1 Amendment No. 3
- Attachment C-SB 81 Round 1 Amendment No. 2
- Attachment D-SB 81 Round 1 Amendment No. 1
- Attachment E-SB 81 Round 1 Construction Agreement
- Attachment F-AB 900 Amendment No. 3
- Attachment G-AB 900 Amendment No. 2
- Attachment H-AB 900 Amendment No. 1
- Attachment I-AB 900 Construction Agreement



# County of Monterey

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 24-512

November 12, 2024

**Introduced:** 10/24/2024

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

- a. Authorize the Public Works, Facilities and Parks (PWF) Director to execute Amendment No. 4 to the Board of State and Community Corrections (BSCC) SB 81 Round 1 Local Youthful Offender Rehabilitative Facility Construction Agreement for Monterey County New Juvenile Hall (NJH Agreement) in a form substantially similar to the "Execution Copy" of said Amendment No. 4, which reflects the final project milestone schedule and budget;
- b. Authorize the PWF Director to execute an Amendment No. 4 to the BSCC AB 900 II Construction Agreement for Monterey County Jail Housing Addition (JHA Agreement) upon receipt from BSCC, which reflects the final project milestone schedule and budget;
- c. Authorize the PWF Director to execute future Amendments to the NJH Agreement and JHA Agreements as necessary to reflect any closeout changes to match the final project scope, schedule and budget subject to the approval of BSCC and the Office of the County Counsel.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Public Works, Facilities and Parks (PWF) Director to execute Amendment No. 4 to the Board of State and Community Corrections (BSCC) SB 81 Round 1 Local Youthful Offender Rehabilitative Facility Construction Agreement for Monterey County New Juvenile Hall (NJH Agreement) in a form substantially similar to the "Execution Copy" of said Amendment No. 4, which reflects the final project milestone schedule and budget;
- b. Authorize the PWF Director to execute an Amendment No. 4 to the BSCC AB 900 II Construction Agreement for Monterey County Jail Housing Addition (JHA Agreement) upon receipt from BSCC, which reflects the final project milestone schedule and budget;
- c. Authorize the PWF Director to execute future Amendments to the NJH Agreement and JHA Agreements as necessary to reflect any closeout changes to match the final project scope, schedule and budget subject to the approval of BSCC and the Office of the County Counsel.

### SUMMARY/DISCUSSION:

On September 13, 2024 the State Public Works Board (SPWB) approved the final scope, schedule and budget for the New Juvenile Hall project following the completion of post construction audits and close out process required for the release of 5% retention from the Board of State and Community Corrections (BSCC). As a result, the SB 81 Round 1 Local Youthful Offender Rehabilitative Facility Construction Agreement (NJH Agreement) between the County of Monterey (County) and BSCC needs to be updated to reflect the final project reconciliation.

Similarly, the Jail Housing Addition project is expected to go to the SPWB later this fiscal year following California Department of Corrections and Rehabilitation (CDCR) review and if approved, an

amendment to the AB 900 II Construction Agreement for Monterey County Jail Housing Addition (JHA Agreement) will also be needed to reflect the final project scope, schedule and budget.

The above-Board actions will allow the Public Works, Facilities and Parks (PWFP) Director to execute necessary amendments to both the NJH Agreement and JHA Agreement required to receive the final five percent (5%) retention from BSCC. These amendments do not change the project in any way and only reflect the completed project details in the associated agreements.

OTHER AGENCY INVOLVEMENT:

Public Works, Facilities and Parks (PWFP) continues to work jointly with BSCC and CDCR to meet all State requirements to maintain the conditional award for the grant funding.

FINANCING:

There is no cost to the County as a result of approving these and any future amendments. Updated Agreements are required for the County to receive the final five percent (5%) retention in State funding held until final project closeout.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: John Snively, Administrative Operations Manager (831) 759-6617

Reviewed by: Florence Kabwasa-Green, Interim Chief of Facilities

Lindsay Lerable, Assistant Director of Public Works, Facilities and Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

The following attachments are on file with the Clerk of the Board:

- Attachment A-SB 81 Round 1 Amendment No. 4
- Attachment B-SB 81 Round 1 Amendment No. 3
- Attachment C-SB 81 Round 1 Amendment No. 2
- Attachment D-SB 81 Round 1 Amendment No. 1
- Attachment E-SB 81 Round 1 Construction Agreement
- Attachment F-AB 900 Amendment No. 3
- Attachment G-AB 900 Amendment No. 2
- Attachment H-AB 900 Amendment No. 1
- Attachment I-AB 900 Construction Agreement

**FOURTH AMENDMENT TO  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
SB 81 ROUND 1 CONSTRUCTION AGREEMENT  
FOR MONTEREY COUNTY**

This Fourth Amendment (“**Amendment**”) to the April 18, 2016 Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of **October xx, 2024** (“**Amendment Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an agency of the government of the State of California (“**State**”), and Monterey County (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**Parties,**” and individually as a “**Party.**”

**RECITALS**

WHEREAS, the Parties entered into that certain Board of State and Community Corrections Jail Construction Agreement dated April 18, 2016 (“**Agreement**”).

WHEREAS, the Parties entered into the First Amendment Board of State and Community Corrections Jail Construction Agreement dated January 10, 2017 (“**First Amendment**”).

WHEREAS, the Parties entered into the Second Amendment Board of State and Community Corrections Jail Construction Agreement dated March 12, 2019 (“**Second Amendment**”).

WHEREAS, the Parties entered into the Third Amendment Board of State and Community Corrections Jail Construction Agreement dated July 30, 2021 (“**Third Amendment**”).

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

WHEREAS, Article 2 of the Agreement provides that any amendment to the Agreement shall be binding on (i) the State only if signed by the Agency Representative, and (ii) the Participating County only if signed or certified in form reasonably acceptable to BSCC by the Participating County Construction Administrator.

NOW, THEREFORE, by the signatures of their authorized representatives below, the Parties agree as follows:

**SECTION 1. AMENDMENTS TO AGREEMENT**

Replace Exhibit B, Section 5, Budget Classification Schedules, as follows:

Revised 2/15/2024

LINE ITEM	STATE FUNDS	CASH MATCH	IN-KIND MATCH	TOTAL
<b>Construction (No moveable equipment/furnishings)</b>	\$ 35,000,000	\$ 18,224,465	\$ -	\$ 53,224,465
<b>Architectural</b>		\$ 4,104,149	\$ 350,000	\$ 4,454,149
<b>CEQA</b>		\$ 13,660	\$ -	\$ 13,660
<b>Construction Management</b>		\$ 4,152,108	\$ 40,000	\$ 4,192,108
<b>Audit</b>			\$ 15,800	\$ 15,800
<b>Site Acquisition</b>			\$ 58,647	\$ 58,647
<b>Needs Assessment</b>			\$ 18,890	\$ 18,890
<b>County Administration</b>			\$ 3,770,051	\$ 3,770,051
<b>Transition Planning</b>			\$ 25,898	\$ 25,898
<b>TOTAL ELIGIBLE PROJECT COST</b>	<b>\$ 35,000,000</b>	<b>\$ 26,494,382</b>	<b>\$ 4,279,286</b>	<b>\$ 65,773,668</b>
<b>PERCENT OF TOTAL</b>	53.21%	40.28%	6.51%	100.00%

SECTION 2. AUTHORITY

Each Party represents to the other Party that this Amendment has been executed in compliance with the requirements of Article 2 of the Agreement.

SECTION 3. GENERAL PROVISIONS

Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of a conflict between any provision of the Agreement and a provision of this Amendment, the provision of this Amendment shall control. Except as otherwise amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

**[SIGNATURES TO IMMEDIATELY FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: \_\_\_\_\_  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: \_\_\_\_\_

“PARTICIPATING COUNTY”

County of Monterey:

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

Name and Title: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities & Parks

Date: \_\_\_\_\_



**THIRD AMENDMENT TO  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
SB 81 ROUND 1 CONSTRUCTION AGREEMENT  
FOR MONTEREY COUNTY**

This Third Amendment (“**Amendment**”) to the April 18, 2016 Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of July 30, 2021 (“**Amendment Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an agency of the government of the State of California (“**State**”), and Monterey County (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**Parties,**” and individually as a “**Party.**”

**RECITALS**

WHEREAS, the Parties entered into that certain Board of State and Community Corrections Jail Construction Agreement dated April 18, 2016 (“**Agreement**”).

WHEREAS, the Parties entered into the First Amendment Board of State and Community Corrections Jail Construction Agreement dated January 10, 2017 (“**First Amendment**”).

WHEREAS, the Parties entered into the Second Amendment Board of State and Community Corrections Jail Construction Agreement dated March 12, 2019 (“**Second Amendment**”).

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

WHEREAS, Article 2 of the Agreement provides that any amendment to the Agreement shall be binding on (i) the State only if signed by the Agency Representative, and (ii) the Participating County only if signed or certified in form reasonably acceptable to BSCC by the Participating County Construction Administrator.

NOW, THEREFORE, by the signatures of their authorized representatives below, the Parties agree as follows:

**SECTION 1. AMENDMENTS TO AGREEMENT**

Replace Exhibit B, Section 2, Project Timetable, as follows:

- |  |            |
|--|------------|
| 1. SPWB Project Establishment                    | 11/14/2014 |
| 2. Approval of Preliminary Plans                 | 7/10/2015  |
| 3. Proceed to Bid/Working Drawings DOF approval  | 2/18/2016  |
| 4. Advertise for Bids (start of bidding process) | 2/25/2016  |
| 5. Bids Due & Rejected                           | 5/19/2016  |
| 6. BOS Approves Re-Bid                           | 10/4/2016  |
| 7. DOF Approves Re-Bid                           | 10/27/2016 |
| 8. Advertise for Re-Bid                          | 11/3/2016  |
| 9. Re-Bid Due                                    | 2/9/2017   |
| 10. Notice of Conditional Award Letter           | 2/10/2017  |

11. Present Bid Results – CIC	2/13/2017
12. Protest Filing Period (February 10th thru 5pm, February 21st)	2/21/2017
13. Present Bid Results – BC	2/22/2017
14. BOS Approves Construction Award	3/21/2017
15. SPWB Meeting	4/14/2017
16. Approval of PMIB Loan	4/19/2017
17. Contract Award Approved by Department of Finance	4/4/2017
18. Notice to Proceed / Mobilization	4/24/2017
19. Juvenile Hall Expansion Construction Completion	10/31/2021
20. Occupancy	11/30/2021
21. Project Close-out	2/28/2022
22. Retention Release	5/31/2023

**SECTION 2. AUTHORITY**

Each Party represents to the other Party that this Amendment has been executed in compliance with the requirements of Article 2 of the Agreement.

**SECTION 3. GENERAL PROVISIONS**

Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of a conflict between any provision of the Agreement and a provision of this Amendment, the provision of this Amendment shall control. Except as otherwise amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

**[SIGNATURES TO IMMEDIATELY FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: *Kathleen T. Howard*  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: July 30, 2021

“PARTICIPATING COUNTY”

County of Monterey:

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

Name and Title: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities & Parks

Date: \_\_\_\_\_

**EXECUTION COPY**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

By: \_\_\_\_\_  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: \_\_\_\_\_

**“PARTICIPATING COUNTY”**

County of Monterey:

By: *Randall Y. Ishii*  
Signature

Name and Title: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities & Parks

Date: *27 Jul 21*

**SECOND AMENDMENT TO  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
SB 81 ROUND 1 CONSTRUCTION AGREEMENT  
FOR MONTEREY COUNTY**

This Second Amendment (“**Amendment**”) to the April 18, 2016 Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of March 12, 2019 (“**Amendment Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an agency of the government of the State of California (“**State**”), and Monterey County (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**Parties**,” and individually as a “**Party**.”

**RECITALS**

WHEREAS, the Parties entered into that certain Board of State and Community Corrections Jail Construction Agreement dated April 18, 2016 (“**Agreement**”).

WHEREAS, the Parties entered into the First Amendment to the Board of State and Community Corrections Jail Construction Agreement dated January 10, 2017 (“**First Amendment**”).

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

WHEREAS, Article 2 of the Agreement provides that any amendment to the Agreement shall be binding on (i) the State only if signed by the Agency Representative, and (ii) the Participating County only if signed or certified in form reasonably acceptable to BSCC by the Participating County Construction Administrator.

NOW, THEREFORE, by the signatures of their authorized representatives below, the Parties agree as follows:

**SECTION 1. AMENDMENTS TO AGREEMENT**

Replace Exhibit B, Section 2, Project Timetable, as follows:

See page 2.

## EXECUTION COPY

1. Project Establishment at PWB	November 14, 2014
2. Approval of Preliminary Plans	July 10, 2015
3. Proceed to Bid/Working Drawings DOF approval	February 18, 2016
4. Advertise for Bids (start of bidding process)	February 25, 2016
5. Bids Due & Rejected	May 19, 2016
6. BOS Approves Re-Bid	October 4, 2016
7. DOF Approves Re-Bid	October 27, 2016
8. Advertise for Re-Bid	November 3, 2016
9. Re-Bid Due	February 9, 2017
10. Notice of Conditional Award Letter	February 10, 2017
11. Present Bid Results – CIC	February 13, 2017
12. Protest Filing Period (February 10 <sup>th</sup> thru 5pm, February 21 <sup>th</sup> )	February 21, 2017
13. Present Bid Results – BC	February 22, 2017
14. BOS Approves Construction Award	March 21, 2017
15. SPWB Meeting	April 14, 2017
16. Approval of PMIB Loan	April 19, 2017
17. Contract Award Approved by Department of Finance	April 21, 2017
18. Notice to Proceed / Mobilization	April 24, 2017
19. Juvenile Hall Expansion Construction Completion	April 10, 2020
20. Occupancy	May 1, 2020
21. Project Close-out	August 31, 2020

**SECTION 2. AUTHORITY**

Each Party represents to the other Party that this Amendment has been executed in compliance with the requirements of Article 2 of the Agreement.

**SECTION 3. GENERAL PROVISIONS**

Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of a conflict between any provision of the Agreement and a provision of this Amendment, the provision of this Amendment shall control. Except as otherwise amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

**[SIGNATURES TO IMMEDIATELY FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: Kathleen T. Howard  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: 3/12/2019

“PARTICIPATING COUNTY”

County of Monterey:

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

Name and Title: John M. Phillip, Chairman of the Board of Supervisors

Date: \_\_\_\_\_



**EXECUTION COPY**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

By: \_\_\_\_\_  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: \_\_\_\_\_

**“PARTICIPATING COUNTY”**

County of Monterey: \_\_\_\_\_  
By: \_\_\_\_\_  
Signature

Name and Title: John M. Phillip, Chairman of the Board of Supervisors

Date: 3-12-19

**FIRST AMENDMENT TO  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
SB 81 CONSTRUCTION AGREEMENT  
FOR MONTEREY COUNTY, NEW JUVENILE HALL: JUVENILE DETENTION AND  
REHABILITATION CENTER**

This first Amendment (“**Amendment**”) to the April 18, 2016 Board of State and Community Corrections Local Youth Offender Rehabilitative Facility Construction Agreement (“**Amendment**”) is entered into as of January 10, 2017 (“**Amendment Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an agency of the government of the State of California (“**State**”), and Monterey County (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**Parties**,” and individually as a “**Party**.”

**RECITALS**

WHEREAS, the Parties entered into that certain Board of State and Community Corrections Local Youthful Offender Rehabilitative Facility Construction Agreement dated April 18, 2016 (“**Agreement**”).

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

WHEREAS, Article 2 of the Agreement provides that any amendment to the Agreement shall be binding on (i) the State only if signed by the Agency Representative, and (ii) the Participating County only if signed or certified in form reasonably acceptable to BSCC by the Participating County Construction Administrator.

NOW, THEREFORE, by the signatures of their authorized representatives below, the Parties agree as follows:

**SECTION 1. AMENDMENTS TO AGREEMENT**

Replace Exhibit B, Section 5, with the following:

LINE ITEM	STATE REIMBURSED	CASH MATCH	IN-KIND MATCH	TOTAL
1. Construction	\$35,000,000	\$6,636,920	\$0	\$41,636,920
2. Architectural		\$3,261,188	\$350,000	\$3,611,188
3. CEQA		\$39,700	\$0	\$39,700
4. Construction Management		\$1,996,646	\$40,000	\$2,036,646
5. Audit of Grant			\$50,000	\$50,000
6. Site Acquisition (Cost or Fair Market Value)			\$76,000	\$76,000
7. Needs Assessment			\$18,890	\$18,890
8. County Administration			\$3,792,552	\$3,792,552
9. Transition Planning			\$200,000	\$200,000
<b>TOTAL ELIGIBLE PROJECT COST</b>	<b>\$35,000,000</b>	<b>\$11,934,454</b>	<b>\$4,527,442</b>	<b>\$51,461,896</b>
<b>PERCENT OF TOTAL</b>	<b>68.01%</b>	<b>23.19%</b>	<b>8.80%</b>	<b>100.00%</b>

## SECTION 2. AUTHORITY

Each Party represents to the other Party that this Amendment has been executed in compliance with the requirements of Article 2 of the Agreement.

## SECTION 3. GENERAL PROVISIONS

Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of a conflict between any provision of the Agreement and a provision of this Amendment, the provision of this Amendment shall control. Except as otherwise amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

*Signatures to immediately follow on next page.*

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

By: Kathleen T. Howard  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: 01/09/17

**“PARTICIPATING COUNTY”**

County of Monterey:

By: \_\_\_\_\_  
Signature of Authorized County Administrator

Name and Title: Jane Parker, Chair of the Board

Date: \_\_\_\_\_

EXECUTION COPY

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: \_\_\_\_\_  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: \_\_\_\_\_

“PARTICIPATING COUNTY”

County of Monterey:

By:  \_\_\_\_\_  
Signature of Authorized County Administrator

Name and Title: Jane Parker, Chair of the Board

Date: 1/4/17

STATE OF CALIFORNIA

**BOARD OF STATE AND COMMUNITY CORRECTIONS  
LOCAL YOUTHFUL OFFENDER REHABILITATIVE FACILITY CONSTRUCTION  
AGREEMENT  
FOR MONTEREY COUNTY, NEW JUVENILE HALL: JUVENILE DETENTION AND  
REHABILITATION CENTER**

This Board of State and Community Corrections Local Youthful Offender Rehabilitative Facility Construction Agreement (“**Agreement**”) is entered into as of APRIL 18<sup>th</sup>, 2016 (“**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 Monterey County (“**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 local youthful offender rehabilitative facility as more particularly described in Exhibit B attached hereto (“**Project**”) located at 1420 Natividad Rd Salinas, CA 93906 (“**Site**”) under Article 3 of Chapter 1.5 of Division 2.5 of the California Welfare and Institutions Code and the corresponding regulations set forth in Title 15, Division 1, Chapter 1, Subchapter 7 of the California Code of Regulations (collectively, the “**SB 81 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 SB 81 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 SB 81 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 thirty five million dollars (\$35,000,000) (“**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

## EXECUTION COPY

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 SB 81 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

## EXECUTION COPY

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 SB 81 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



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only if signed or certified in form reasonably acceptable to BSCC by the County Construction Administrator.

County Construction Administrator: Donald Searle  
Title: RMA Architectural Services Manager  
Address: 168 W. Alisal St, 2<sup>nd</sup> Floor  
City, State, Zip: Salinas, CA, 93901  
Telephone: 831-755-5061  
Facsimile: 831-755-4958  
Email: searledd@co.monterey.ca.us

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: Shawne Ellerbee  
Title: RMA Administration and Finance Manager  
Address: 168 W. Alisal St, 2<sup>nd</sup> Floor  
City, State, Zip: Salinas, CA, 93901  
Telephone: 831-755-4794  
Facsimile: 831-755-4958  
Email: ellerbees@co.monterey.ca.us

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: Donald D. Searle  
Title: RMA Architectural Services Manager  
Address: 168 W. Alisal Street, 2<sup>nd</sup> Floor  
City, State, Zip: Salinas, CA, 93901  
Telephone: 831-755-5061  
Facsimile: 831-755-4958  
Email: searledd@co.monterey.ca.us

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 Local Youthful Offender Rehabilitative Facility Construction Agreement Standard Conditions attached hereto as Exhibit A; (2) Participating County's Project Proposal Monterey County New Juvenile Hall: Juvenile Detention and Rehabilitation Center dated December 18, 2008 ("**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 Juvenile Facilities and 2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program regulations contained in Title 15, Division 1, Chapter 1, Subchapters 5 and 7 of the California Code of Regulations ("**CCR**").
2. The Minimum Standards for Juvenile 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, Section 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 Local Youthful Offender Rehabilitative Facility 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 Local Youthful Offender Rehabilitative Facility. 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 SB 81 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)

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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 Local Youthful Offender Rehabilitative Facility. Participating County shall be responsible to maintain the local youthful offender rehabilitative facility upon Final Completion and staff and operate the local youthful offender rehabilitative facility 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,

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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

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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 local youthful offender rehabilitative facility 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 Welfare and Institutions Code Section 1971.

### 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 Welfare and Institutions Code Section 1971(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

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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]**



**EXECUTION COPY**

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

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

By: Kathleen T. Howard  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director  
Date: 04/18/16

**“PARTICIPATING COUNTY”**

County of: Monterey

By: Jane Parker  
Signature

Name and Title: Jane Parker, Chair of the Board of Supervisors County of Monterey  
Date: 04/15/2016

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

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: Kathleen T. Howard  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: 04/18/16

“PARTICIPATING COUNTY”

County of: Monterey

By: Jane Parker  
Signature

Name and Title: Jane Parker, Chair of the Board of Supervisors County of Monterey

Date: 04/15/2016

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BOARD OF STATE AND COMMUNITY CORRECTIONS


By:   
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: 04/18/16

“PARTICIPATING COUNTY”

County of: Monterey

By:   
Signature

Name and Title: Jane Parker, Chair of the Board of Supervisors County of Monterey

Date: 04/15/2016

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BOARD OF STATE AND COMMUNITY CORRECTIONS

By: Kathleen T. Howard  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: 04/18/16

“PARTICIPATING COUNTY”

County of: Monterey

By: Jane Parker  
Signature

Name and Title: Jane Parker, Chair of the Board of Supervisors County of Monterey

Date: 04/15/2016

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BOARD OF STATE AND COMMUNITY CORRECTIONS

By: Kathleen T. Howard  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: 04/18/16

“PARTICIPATING COUNTY”

County of: Monterey

By: Jane B Parker  
Signature

Name and Title: Jane Parker, Chair of the Board of Supervisors County of Monterey

Date: 04/15/2016

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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: Kathleen T. Howard, Executive Director

Date: 04/18/16

“PARTICIPATING COUNTY”

County of: Monterey

By:   
Signature

Name and Title: Jane Parker, Chair of the Board of Supervisors County of Monterey

Date: 04/15/2016

## 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, SB 81 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 (4) 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 youthful offender rehabilitative facility project, including site preparation (eligible for State Financing or Cash (hard) Match).

2. 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 youthful offender rehabilitative facility (eligible for State Financing or Cash (hard) Match).

3. 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 youthful offender rehabilitative facility (eligible for State Financing or Cash (hard) Match).

4. Installation of existing fixed equipment and furnishings as necessary for the operation of the BSCC-approved local youthful offender rehabilitative facility (eligible for State Financing or Cash (hard) Match).

B. Participating County Funding for the Project shall be a minimum of twenty-five percent (25%) of the Total Eligible Project Costs as Cash (hard) Match funds. 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. Architectural programming and design (by consultants and contractors);

3. Preparation costs for full or focused environmental reports (for activities by consultants and contractors); and

4. Construction management (for activities by consultants or contractors).

C. Participating County's In-kind (soft) Match funds cannot exceed 20 percent (20%) of the Total Eligible Project Costs. In-kind (soft) Match funds may be kept at the maximum allowable or reduced for each dollar that Cash (hard) Match funds are increased beyond the required minimum. 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. Eligible State Costs and Cash (hard) Match funds;

2. 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);

3. Needs assessments (staff salary/benefits and/or consultant costs directly related to the Project);

4. 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 detention facility;

5. Participating County administration (staff salary/benefits directly related to the Project for activities after August 24, 2007); and

6. Transition planning (staff salary/benefits and consultant activities directly related to the Project for activities after August 24, 2007).

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 SB 81 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. Off-site costs, including access roads and utilities development, outside of a reasonable buffer zone surrounding the perimeter of the security fence, local youthful offender



rehabilitative facility building, and parking lot.

3. Local youthful offender rehabilitative facility personnel and operational costs and related costs of supplies.
4. Construction management functions (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 Participating County-paid employees).
5. Architectural programming and design (ineligible for State Financing; eligible for cash (hard) match only if performed by consultants or contractors outside the regular county work force).
6. Landscaping (Except as expressly provided by BSCC Bulletin 11-LYORS 04 dated March 2, 2011).
7. Soil and water contamination assessment/mitigation.
8. Excavation of burial sites.
9. Moveable equipment and moveable furnishings.
10. 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).
11. Bonus payments for early completion of work.
12. Interest charges for late payments.
13. Interest on bonds or any other form of indebtedness required to finance Project costs.
14. Costs outside the scope of the BSCC-approved Project.
15. Fines and penalties due to violation of or failure to comply with federal, state or local laws, ordinances, or regulations.
16. Personal injury compensation or damages arising out of or connected with the Project, whether determined by adjudication, arbitration, negotiation, or otherwise.
17. All costs incurred in violation of the terms, provisions, conditions, or commitments of this Agreement.
18. Travel and per diem costs.
19. All costs attributable to Participating County building permit fees,

sewer/utility use or unit fees, and/or building inspection fees.

20. 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.

21. Maintenance costs.

22. Supplanting of existing construction, programs, projects, or personnel.

23. All costs arising out of or attributable to Participating County's malfeasance, misfeasance, mismanagement, or negligence.

24. Temporary holding or court holding facilities.

25. Local youthful offender rehabilitative facilities or portions thereof operated by jurisdictions other than the 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 or 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 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 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 ensure 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 monthly interval fiscal and progress/final report must be submitted within forty-five (45) calendar days after the end of the month.

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 youthful 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): Monterey

Name of Facility Subject to Construction: Monterey County New Juvenile Hall

#### SECTION 1. PROJECT DESCRIPTION

The project consists of the design and construction of an expansion and renovation to the existing juvenile facility on county-owned land in Salinas. This project includes demolition of several existing buildings, renovation to one of the existing dormitories, and construction of three new housing buildings; a new administration, visitation, and medical service building; a new kitchen, dining, laundry, and warehouse building; and a new school, gymnasium building. Demolition of the existing buildings and construction new buildings will occur in two phases to minimize interruptions in the daily operation of the facility.

The housing building will consists of two new medium-security housing building providing approximately 30 beds each; a new high-security housing building providing approximately 30 beds; and the renovation of the 30 bed dormitory area in an existing medium-security housing building, for a total of approximately 120 beds. Each housing building will include a unit security control room, showers, interview/exam rooms, day rooms, and outdoor recreation space.

The new administration, visitation, and medical services building will feature various program spaces, including areas for religious and mental health services; contact and non- contact visitation; central control; medical facilities; staff offices; intake processing; release; staff training area; staff locker rooms; a new kitchen, dining, laundry and warehouse building and a school, gymnasium building with a teacher resource room, educational offices and staff support areas.

This project will also include, but is not limited to electrical; plumbing; mechanical; heating, ventilation and air conditioning; security; staff and visitor parking; and fire protection systems as well as all other necessary appurtenances.

#### SECTION 2. PROJECT TIMETABLE

- |  |                   |
|--|-------------------|
| 1. Project Establishment at PWB                                    | November 14, 2014 |
| 2. Approval of Preliminary Plans                                   | July 13, 2015     |
| 3. Proceed to Bid/Working Drawings DOF approval                    | April 15, 2016    |
| 4. Advertise for Bids (start of bidding process)                   | April 21, 2016    |
| 5. Bids Due  | May 23, 2016      |
| 6. Construction Contract Award by County<br>(Board of Supervisors) | June 21, 2016     |
| 7. Approval of PMIB Loan   | July 20, 2016     |
| 8. Contract Award Approved by Department of Finance                | July 25, 2016     |
| 9. Notice to Proceed / Mobilization                                | July 29, 2016     |

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10. Juvenile Hall Expansion Substantial Completion  
11. Occupancy

August 20, 2018  
August 29, 2018

### SECTION 3. CONSTRUCTION MANAGEMENT PLAN

APSICM-Sixth Dimension LLC shall provide on-site services including, but not limited to, project management, cost estimating, value engineering, project scheduling and analysis, cost-benefit analyses, project reports, claims analysis and negotiation, construction observation, and/or general construction management of Project. CM will report directly to designated County Project Manager (PM) for project direction and guidance. The following services may be required for the project:

- Review Construction Contractor's (Contractor) construction schedule and make recommendations as to its accuracy, conformance with County milestone dates, and recovery.
- Attend and participate in the preconstruction conference.
- CM shall conduct all on-site construction meetings, generally weekly, including the ability to provide video conferencing.
- CM shall conduct weekly meetings with Contractor, County, and Architect to ensure timely review and response to questions and resolution of field conflicts or incorporation of design changes, review project progress, schedule and budget, review special inspections, building department inspections, and others
- Prepare and distribute meeting minutes for all on-site meetings.
- Observe construction and make recommendations to the PM concerning construction progress, quality of construction, and conformance with the contract documents.
- Review, evaluate, recommend, and report to PM all Change Orders (CO) prepared by the Contractor that may substantially impact the operational character of the new facility, project schedule, or project budget, or that are not in conformance with County design documents.
- Classify, record, and maintain all RFI, PCO, and CO records logs following attached County Project filing template.
- Manage and facilitate collection and review of local participation trades compliance documents as required for the timely response of the County to any labor compliance related California Public Record Act (CPRA) or Public Contract Code (PCC) request(s).
- Thoroughly review and evaluate all payment applications submitted and comment and record concerns.
- Participate in claims analysis and negotiation if necessary.
- Participate in the commissioning and acceptance testing process ensuring that building systems function as required. Assist Commissioning Agent as necessary including maintaining documentation necessary for LEED Silver Certification.
- Ensure that full building documentation per the construction contract and operational materials are received from Contractor and are available in the format required by the construction contract documents for turnover to County.

**SECTION 4. KEY PERSONNEL**

**Construction Manager:** Shawn Anderson – Senior Construction Manager

Will be directly responsible for managing all efforts of the APSI-Sixth Dimension Team. Responsible for coordinating with the Owner, stakeholders, county inspector, testing and special inspections consultant, Safety inspector during construction activities. The Senior CM will manage the construction budget and schedule. He will work directly with the County’s Project Manager and General Contractor to ensure the requirements of the construction documents will be delivered.

**Field Office Manager/ Document Control:** To Be Determined

Manage Field office in addition will be responsible for project controls tracking RFI and submittal management, document control, LEED and project reporting during the construction phase.

**Field Engineer:** To Be Determined

Responsible for processing of RFI, bulletins, submittals, changes orders, pay application requests, and vendor invoices. Monthly review of baseline schedule updates and short interval schedules, work with the GC weekly on schedule impacts. Observe LEED program efforts, track, report and coordinate with Document Control Specialist.

**Scheduler:** Sharad Mathur PMP CCM, PSP

Work with GC to establish project baseline schedule. Review and prepare monthly schedule updates. Review and advise on all schedule impacts i.e. weather, rfi’s and change orders.

**Cost Estimator:** Peter Garan CPE, LEED GA

Provide change order estimates (as-needed basis).

**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.

	<b>LINE ITEM</b>	<b>STATE FUNDS</b>	<b>CASH MATCH</b>	<b>IN-KIND MATCH</b>	<b>TOTAL</b>
1	<b>Construction (No moveable equipment/furnishings)</b>	\$35,000,000	\$6,636,920	\$- 0	\$41,657,377
2	<b>Architectural</b>		\$3,211,188	\$400,000	\$3,611,188
3	<b>CEQA</b>		\$186,841	\$- 0	\$186,841
4	<b>Construction Management</b>		\$1,996,646	\$40,000	\$2,036,646
5	<b>Audit</b>			\$50,000	\$50,000
6	<b>Site Acquisition</b>			\$76,000	\$76,000
7	<b>Needs Assessment</b>			\$18,890	\$18,890
8	<b>County Administration</b>			\$3,792,552	\$3,792,552
9	<b>Transition Planning</b>			\$200,000	\$200,000
	<b>TOTAL ELIGIBLE PROJECT COST</b>	\$35,000,000	\$12,052,052	\$4,577,442	\$51,629,494
	<b>PERCENT OF TOTAL</b>	67.79%	23.34%	8.87%	100.00%



**THIRD AMENDMENT TO  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
AB 900 II CONSTRUCTION AGREEMENT  
FOR MONTEREY COUNTY**

This Third Amendment (“**Amendment**”) to the December 6, 2016 Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of June 18, 2021 (“**Amendment Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an agency of the government of the State of California (“**State**”), and Monterey County (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**Parties**,” and individually as a “**Party**.”

**RECITALS**

WHEREAS, the Parties entered into that certain Board of State and Community Corrections Jail Construction Agreement dated December 6, 2016 (“**Agreement**”).

WHEREAS, the Parties entered into the First Amendment Board of State and Community Corrections Jail Construction Agreement dated December 8, 2017 (“**First Amendment**”).

WHEREAS, the Parties entered into the Second Amendment Board of State and Community Corrections Jail Construction Agreement dated September 7, 2020 (“**Second Amendment**”).

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

WHEREAS, Article 2 of the Agreement provides that any amendment to the Agreement shall be binding on (i) the State only if signed by the Agency Representative, and (ii) the Participating County only if signed or certified in form reasonably acceptable to BSCC by the Participating County Construction Administrator.

NOW, THEREFORE, by the signatures of their authorized representatives below, the Parties agree as follows:

**SECTION 1. AMENDMENTS TO AGREEMENT**

Replace Exhibit B, Section 2, Project Timetable, as follows:

- |  |                   |
|--|-------------------|
| 1. SPWB - Project Establishment                  | October 16, 2013  |
| 2. Recognize Revised Scope, Cost & Schedule      | May 9, 2014       |
| 3. SPWB Approval of Preliminary Plans            | August 14, 2015   |
| 4. BOS Approval to Advertise for Bid             | December 6, 2016  |
| 5. SFM Approves WD's for Bid                     | December 23, 2016 |
| 6. Proceed to Bid/Working Drawings DOF approval  | March 21, 2017    |
| 7. Advertise for Bids (start of bidding process) | March 23, 2017    |
| 8. Bids Due                                      | May 4, 2017       |
| 9. BOS Approves Construction Contract            | June 7, 2017      |
| 10. SPWB Bond Item/Interim Financing Approval    | June 22, 2017     |
| 11. SPWB Revised Project Cost Action             | July 14, 2017     |
| 12. PMIB Meeting Date                            | August 16, 2017   |

**EXECUTION COPY**

13. Contract Award Approved by DOF	July 21, 2017
14. Notice to Proceed / Mobilization	September 5, 2017
15. Completion	July 31, 2021
16. Occupancy	October 29, 2021
17. Retention Release	January 31, 2023

**SECTION 2. AUTHORITY**

Each Party represents to the other Party that this Amendment has been executed in compliance with the requirements of Article 2 of the Agreement.

**SECTION 3. GENERAL PROVISIONS**

Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of a conflict between any provision of the Agreement and a provision of this Amendment, the provision of this Amendment shall control. Except as otherwise amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

**[SIGNATURES TO IMMEDIATELY FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

By: *Kathleen T. Howard*  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: 06/09/2021

**“PARTICIPATING COUNTY”**

County of Monterey:

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

Name and Title: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities & Parks

Date: \_\_\_\_\_



EXECUTION COPY

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: \_\_\_\_\_  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: \_\_\_\_\_

“PARTICIPATING COUNTY”

County of Monterey:

By: Randell Y. Ishii  
Signature

Name and Title: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities & Parks

Date: 9 Jun 21

**SECOND AMENDMENT TO  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
AB 900 II CONSTRUCTION AGREEMENT  
FOR MONTEREY COUNTY**

This Second Amendment (“**Amendment**”) to the December 6, 2016 Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of September 7, 2020 (“**Amendment Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an agency of the government of the State of California (“**State**”), and Monterey County (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**Parties**,” and individually as a “**Party**.”

**RECITALS**

WHEREAS, the Parties entered into that certain Board of State and Community Corrections Jail Construction Agreement dated December 6, 2016 (“**Agreement**”).

WHEREAS, the Parties entered into the First Amendment Board of State and Community Corrections Jail Construction Agreement dated December 8, 2017 (“**First Amendment**”).

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

WHEREAS, Article 2 of the Agreement provides that any amendment to the Agreement shall be binding on (i) the State only if signed by the Agency Representative, and (ii) the Participating County only if signed or certified in form reasonably acceptable to BSCC by the Participating County Construction Administrator.

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Replace Exhibit B, Section 2, Project Timetable, as follows:

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| 4. BOS Approval to Advertise for Bid             | December 6, 2016  |
| 5. SFM Approves WD’s for Bid                     | December 23, 2016 |
| 6. Proceed to Bid/Working Drawings DOF approval  | March 21, 2017    |
| 7. Advertise for Bids (start of bidding process) | March 23, 2017    |
| 8. Bids Due                                      | May 4, 2017       |
| 9. BOS Approves Construction Contract            | June 7, 2017      |
| 10. SPWB Bond Issue                              | June 22, 2017     |
| 11. SPWB Revised Project Cost Action             | July 14, 2017     |
| 12. Contract Award Approved by DOF               | July 21, 2017     |
| 13. PMIB Meeting Date                            | August 16, 2017   |
| 14. Notice to Proceed / Mobilization             | September 5, 2017 |
| 15. Completion                                   | January 31, 2021  |

**EXECUTION COPY**

- 16. Occupancy
- 17. Retention Release

February 28, 2021  
October 31, 2021

**SECTION 2. AUTHORITY**

Each Party represents to the other Party that this Amendment has been executed in compliance with the requirements of Article 2 of the Agreement.

**SECTION 3. GENERAL PROVISIONS**

Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of a conflict between any provision of the Agreement and a provision of this Amendment, the provision of this Amendment shall control. Except as otherwise amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

**[SIGNATURES TO IMMEDIATELY FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: Kathleen T. Howard  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: 07/30/2020

“PARTICIPATING COUNTY”

County of Monterey:

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

Name and Title: Christopher M. Lopez, Chair of the Board

Date: \_\_\_\_\_

**EXECUTION COPY**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

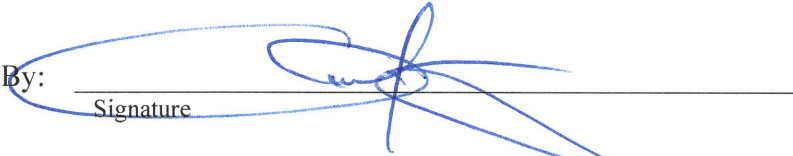
By: \_\_\_\_\_  
Signature of Executive Officer or Designee

Name and Title: Kathleen T. Howard, Executive Officer

Date: \_\_\_\_\_

**“PARTICIPATING COUNTY”**

County of Monterey:

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

Name and Title: Christopher M. Lopez, Chair of the Board

Date: 9/1/2020

**FIRST AMENDMENT TO  
BOARD OF STATE AND COMMUNITY CORRECTIONS  
AB 900 II CONSTRUCTION AGREEMENT  
FOR MONTEREY COUNTY**

This first Amendment (“**Amendment**”) to the December 6, 2016 Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of December 8, 2017 (“**Amendment Effective Date**”), by and between the Board of State and Community Corrections (“**BSCC**”), an agency of the government of the State of California (“**State**”), and Monterey County (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**Parties**,” and individually as a “**Party**.”

**RECITALS**

WHEREAS, the Parties entered into that certain Board of State and Community Corrections Jail Construction Agreement dated December 6, 2016 (“**Agreement**”).

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

WHEREAS, Article 2 of the Agreement provides that any amendment to the Agreement shall be binding on (i) the State only if signed by the Agency Representative, and (ii) the Participating County only if signed or certified in form reasonably acceptable to BSCC by the Participating County Construction Administrator.

NOW, THEREFORE, by the signatures of their authorized representatives below, the Parties agree as follows:

**SECTION 1. AMENDMENTS TO AGREEMENT**

Replace Exhibit B, Section 5, Budget Classification Schedules, as follows:

LINE ITEM	STATE FUNDS	CASH MATCH	IN-KIND MATCH	TOTAL
<b>1. Construction (with Contingency)</b>	\$71,800,000	\$0		\$71,800,000
<b>2. Additional Eligible Costs</b>	\$1,459,322	\$0		\$1,459,322
<b>3. Architectural</b>	\$4,193,142	\$1,500,000		\$5,693,142
<b>4. Construction Management</b>	\$2,547,536	\$4,154,464		\$6,702,000
<b>5. CEQA</b>		\$170,766		\$170,766
<b>6. Audit</b>			\$35,000	\$35,000
<b>7. Site Acquisition</b>			\$1,306,000	\$1,306,000
<b>8. Needs Assessment</b>			\$21,770	\$21,770
<b>9. County Administration</b>			\$1,196,000	\$1,196,000
<b>10. Transition Planning</b>			\$500,000	\$500,000
<b>11. Real Estate Due Diligence</b>			\$16,000	\$16,000
<b>TOTAL ELIGIBLE PROJECT COSTS</b>	<b>\$80,000,000</b>	<b>\$5,825,230</b>	<b>\$3,074,770</b>	<b>\$88,900,000</b>
<b>PERCENT OF TOTAL PROJECT COST</b>	<b>89.10%</b>	<b>6.49%</b>	<b>3.42%</b>	<b>100%</b>

**SECTION 2. AUTHORITY**

Each Party represents to the other Party that this Amendment has been executed in compliance with the requirements of Article 2 of the Agreement.

**SECTION 3. GENERAL PROVISIONS**

Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Agreement. In the event of a conflict between any provision of the Agreement and a provision of this Amendment, the provision of this Amendment shall control. Except as otherwise amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and all of such counterparts shall together constitute one executed original instrument.

**[SIGNATURES TO IMMEDIATELY FOLLOW ON NEXT PAGE]**

**EXECUTION COPY**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

By: Kathleen T. Howard  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: 12/05/2017

**"PARTICIPATING COUNTY"**

County of Monterey:

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

Name and Title: Mary Adams, Chair of the Board

Date: \_\_\_\_\_



**EXECUTION COPY**

IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the Amendment Effective Date.

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

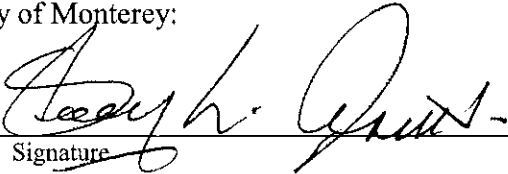
By: \_\_\_\_\_  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: \_\_\_\_\_

**"PARTICIPATING COUNTY"**

County of Monterey:

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

Name and Title: Mary Adams, Chair of the Board

Date: 12.5.17



# Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

## Board Order

### Agreement No.: A-13098

Upon motion of Supervisor Alejo, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Chair of the Board of Supervisors to execute the First Amendment to the Board of State and Community Corrections Jail Construction Agreement (in substantially the form attached) which corrects a clerical error and allows the Jail Housing Addition Project to proceed under the terms of AB 900 Jail Financing Program Phase II; and
- b. Authorized and directed the County Administrative Officer, Resource Management Director, and Sheriff to take such other further actions as may be necessary or appropriate to meet State requirements as defined under the AB 900 Jail Financing Program.

PASSED AND ADOPTED this 14<sup>th</sup> day of November 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams  
NOES: None  
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting November 14, 2017.

Dated: November 17, 2017  
File ID: A 17-440

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By Denise Hancock  
Deputy

STATE OF CALIFORNIA

**BOARD OF STATE AND COMMUNITY CORRECTIONS JAIL CONSTRUCTION  
AGREEMENT  
FOR THE MONTEREY COUNTY JAIL EXPANSION AB 900 PHASE II PROJECT**

This Board of State and Community Corrections Jail Construction Agreement (“**Agreement**”) is entered into as of December 6, 2016 (“**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 Monterey County, a Political Subdivision of the State of California (“**Participating County**”). BSCC and Participating County shall be referred to collectively herein as “**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 1414 Natividad Road, Salinas, CA 93906 (“**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 shall be 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 Section 3.1(a) of the PDCA. The State will provide financing (“**State Financing**”) (up to a maximum of Eighty Million Dollars (\$80,000,000) (“**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 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)(2), 1(C)(4), 3(D), 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 the PDCA; or

(d) 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 Section 1.2 of the PDCA.

3. In the event of termination provided in Article 1(C)(1), and unless the Parties agree in writing otherwise, Participating County shall, upon notification, refund to the BSCC an amount equal to all State Financing previously disbursed to 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.

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 Participating County Construction Administrator as identified below. Participating County agrees that its Participating 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 Participating 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 Participating 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 Participating County Construction Administrator.

County Construction Administrator: Donald D. Searle  
Title: RMA Architectural Services Manager  
Address: 168 W. Alisal Street, 2<sup>nd</sup> Floor  
City, State, Zip: Salinas, CA 93901  
Telephone: 831-755-5061  
Facsimile: 831-755-4958

Email: searledd@co.monterey.ca.us

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: Shawne Ellerbee  
 Title: RMA Administration & Finance Manager  
 Address: 168 W. Alisal Street, 2<sup>nd</sup> Floor  
 City, State, Zip: Salinas, CA 93901  
 Telephone: 831-755-4794  
 Facsimile: 831-755-4958  
 Email: ellerbees@co.monterey.ca.us

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: Donald D. Searle  
 Title: RMA Architectural Services Manager  
 Address: 168 W. Alisal Street, 2<sup>nd</sup> Floor  
 City, State, Zip: Salinas, CA 93901  
 Telephone: 831-755-5061  
 Facsimile: 831-755-4958  
 Email: searledd@co.monterey.ca.us

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 Monterey County Jail Expansion AB 900 Phase II, January 10, 2012 (“**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 Local Jail Construction Financing Program regulations and the Minimum Standards for Local Detention Facilities contained in Title 15, Division 1, Chapter 1, Subchapter 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, CCR.
3. California Public Contract Code.
4. California Environmental Quality Act (CEQA) contained in California Public Resources Code Section 2100 *et seq.* and California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000 *et seq.*
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 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 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 Participating 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 of the Schedule of Values as specified in Exhibit B.

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 (e).

#### 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.

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

BOARD OF STATE AND COMMUNITY CORRECTIONS

By: Kathleen T. Howard  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director

Date: 11/28/2016

“PARTICIPATING COUNTY”

County of: Monterey

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

Name and Title: Jane Parker, Chairman of the Board

Date:

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BOARD OF STATE AND COMMUNITY CORRECTIONS

By: \_\_\_\_\_  
Signature of Executive Director or Designee

Name and Title: Kathleen T. Howard, Executive Director  
Date:

“PARTICIPATING COUNTY”

County of: Monterey

By: Jane Parker  
Signature

Name and Title: Jane Parker, Chair~~man~~ of the Board  
Date: 12/6/16

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 five percent (5%) of the Total Eligible Project Costs as any combination of Cash (hard) Match and In-kind (soft) Match funds. 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 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 County, or those persons for whom the 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 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 County.

## ARTICLE 2. COUNTY'S GENERAL RESPONSIBILITY

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 County's responsibility.

## ARTICLE 3. 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. County shall at all times comply with all Applicable Laws (as defined in the Agreement).

B. Fulfillment of Assurances and Declarations. County shall fulfill all assurances, declarations, representations, and statements made by the 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. County shall expend all State Funds and identified matching funds solely for Eligible Project Costs. 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 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. 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. 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 County may contract with public or private contractors of services for activities necessary for the completion of the Project. County agrees that in the event of an inconsistency between the Agreement and any other Project Document and County's Agreement

for Construction with a contractor, the Project Documents will prevail. 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.

County assures that for any contract awarded by the 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.

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

County agrees that it is the County Construction Administrator's responsibility to provide a liaison between the County, the BSCC, and its contractor. 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 County in fully complying with all requirements of the contract.

County agrees to place appropriate language in all contracts for work on the Project requiring the 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 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 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. The contractor shall in all ways cooperate with the 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 the PDCA Article 1 Section 1.1(a), 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

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

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

The 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 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 PCC § 10115 et seq., GC § 8546.7 and 2 CCR § 1896.60 et seq. (as applicable).

County shall maintain all records for the period set forth in the PDCA (“**Record Maintenance Period**”). County agrees to protect records adequately from fire or other damage. When records are stored away from the County’s principal office, a written index of the location of records stored must be on hand and ready access must be assured. All 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 County shall be deposited into separate fund accounts which identify the funds and clearly show the manner of their disposition. 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. The 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 County to have a system audit performed by an auditor satisfactory to the BSCC to insure that the 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 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 County subject to the terms hereinafter described, or the County may hire, at County cost, an independent auditor to complete the final audit. Counties 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 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 county internal auditor performs the audit, the auditor must be organizationally independent from the county's accounting and project management functions. Additionally, internal county auditors who report to the financial officer, or to whom the financial officer reports, shall not perform the audit. The person conducting the audit shall be a certified public accountant, unless a 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

The 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, 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. The County agrees to submit fiscal invoices and progress/final reports to the BSCC on the appropriate form provided to the 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 monthly fiscal and progress/final report must be submitted within forty-five (45) calendar days after the end of monthly. The due dates for the invoices and progress reports are no later than:

B. Final Fiscal Invoice and Project Summary. The County agrees to submit to the BSCC a Final Fiscal Invoice and Project Summary on the appropriate form provided to the 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, 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, 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. County Breach of Agreement. The County has materially and substantially breached the terms and conditions of this Agreement or any other Project Document.
2. Insufficient County Funds. The 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. The 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 County, the BSCC's Executive Director or designee shall notify the County of the reasons for withholding and advise the County of the time within which the 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 County or require repayment of an equal amount to the state by the 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

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. 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. 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 30 to 60 days of receipt of 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

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 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.

A 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 30 calendar days of the notification of the action with which the 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 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 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 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

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 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: Monterey

Name of Facility Subject to Construction: Monterey County Jail

**SECTION 1. PROJECT DESCRIPTION**

This project will design and construct a new, approximately 135,000 square foot addition to the existing jail on approximately 2.6 acres of a greater 9± acres of county-owned land located in the city of Salinas. The expansion will include housing and program space and provide approximately 576 beds.

This project will include 8 two-tiered housing units, providing approximately 280 double-occupancy cells and 16 single-occupancy cells. The housing area will also include day rooms; control rooms; recreation yards; and program, treatment, interview and storage space. This building will also include a support area which will provide visitation space; a central control room; a sallyport; interview rooms; and training, storage, and staff support and administrative space. Due to reduced site availability, the county has reduced the staff and visitor parking for this project and will instead utilize existing parking areas.

This project will also include, but is not limited to, electrical; plumbing; mechanical; computerized heating, ventilation, and air conditioning; security; and fire protection systems; as well as an area of refuge and pathways, and all necessary appurtenances.

## 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.

1. Project Establishment at PWB	September 13, 2013
2. Recognize Revised Scope, Cost & Schedule	April 11, 2014
3. Approval of Preliminary Plans	August 14, 2015
4. Proceed to Bid/Working Drawings DOF approval	December 15, 2016
5. Advertise for Bids (start of bidding process)	December 15, 2016
6. Bids Due	January 26, 2017
7. Construction Contract Award by County (Board of Supervisors)	March 21, 2017
8. PMIB Meeting Date	April 19, 2017
9. Contract Award Approved by Department of Finance	April 21, 2017
10. Notice to Proceed / Mobilization	April 21, 2017
11. Substantial Completion	June 27, 2019
12. Occupancy	July 12, 2019

## 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:

APSICM-Sixth Dimension LLC shall provide on-site services including, but not limited to, project management, cost estimating, value engineering, project scheduling and analysis, cost-benefit analyses, project reports, claims analysis and negotiation, construction observation, and/or general construction management of Project. CM will report directly to designate County Project Manager (PM) for project direction and guidance. The following services may be required for the project:

- Review Construction Contractor's (Contractor) construction schedule and make recommendations as to its accuracy, conformance with County milestone dates, and recovery.
- Attend and participate in the preconstruction conference.
- CM shall conduct all on-site construction meetings, generally weekly, including the ability to provide video conferencing.
- CM shall conduct weekly meetings with Contractor, County, and Architect to ensure timely review and response to questions and resolution of field conflicts or incorporation of design changes, review project progress, schedule and budget, review special inspections, building department inspections, and others
- Prepare and distribute meeting minutes for all on-site meetings.
- Observe construction and make recommendations to the PM concerning construction progress, quality of construction, and conformance with the contract documents.
- Review, evaluate, recommend, and report to PM all Change Orders (CO) prepared by the Contractor that may substantially impact the operational character of the new facility, project schedule, or project budget, or that are not in conformance with County design documents.
- Classify, record, and maintain all RFI, PCO, and CO records logs following attached County Project filing template.
- Manage and facilitate collection and review of local participation trades compliance documents as required for the timely response of the County to any labor compliance related California Public Record Act (CPRA) or Public Contract Code (PCC) request(s).
- Thoroughly review and evaluate all payment applications submitted and comment and record concerns.
- Participate in claims analysis and negotiation if necessary.
- Participate in the commissioning and acceptance testing process ensuring that building systems function as required. Assist Commissioning Agent as necessary including maintaining documentation.
- Ensure that full building documentation per the construction contract and operational materials are received from Contractor and are available in the format required by the construction contract documents for turnover to County.

SECTION 4. KEY PERSONNEL

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

Construction Manager: Dave Anderson, Senior Construction Manager

Will be directly responsible for managing all efforts of the APSI-Sixth Dimension Team. Responsible for coordinating with the Owner, stakeholders, county inspector, testing and special inspections consultant, Safety inspector during construction activities. The Senior CM will manage the construction budget and schedule. He will work directly with the County's Project Manager and General Contractor to ensure the requirements of the construction documents will be delivered.

Field Office Manager/ Document Control: To Be Determined

Manage Field office in addition will be responsible for project controls tracking RFI and submittal management, document control, LEED and project reporting during the construction phase.

Field Engineer: To Be Determined

Responsible for processing of RFI, bulletins, submittals, changes orders, pay application requests, and vendor invoices. Monthly review of baseline schedule updates and short interval schedules, work with the GC weekly on schedule impacts. Observe LEED program efforts, track, report and coordinate with Document Control Specialist.

Scheduler: Sharad Mathur PMP CCM, PSP

Work with GC to establish project baseline schedule. Review and prepare monthly schedule updates. Review and advise on all schedule impacts i.e. weather, rfi's and change orders.

Cost Estimator: Peter Garan CPE, LEED GA

Provide change order estimates (as-needed basis).

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.

LINE ITEM	STATE FUNDS	CASH MATCH	IN-KIND MATCH	TOTAL
1. Construction (with Contingency)	\$71,800,000	\$0		\$71,800,000
2. Additional Eligible Costs	\$1,459,322	\$0		\$1,459,322
3. Architectural	\$4,193,142	\$1,500,000		\$5,693,142
4. Construction Management	\$2,547,536	\$4,154,464		\$6,702,000
5. CEQA		\$170,766		\$170,766
6. Audit			\$16,000	\$35,000
7. Site Acquisition			\$1,306,000	\$1,306,000
8. Needs Assessment			\$21,770	\$21,770
9. County Administration			\$1,196,000	\$1,196,000
10. Transition Planning			\$500,000	\$500,000
11. Real Estate Due Diligence			\$16,000	\$16,000
<b>TOTAL ELIGIBLE PROJECT COSTS</b>	<b>\$80,000,000</b>	<b>\$5,825,230</b>	<b>\$3,074,770</b>	<b>\$88,900,000</b>
<b>PERCENT OF TOTAL PROJECT COST</b>	<b>89.10%</b>	<b>6.49%</b>	<b>3.42%</b>	<b>100%</b>

## AMENDMENT #5 TO RFP-10537 AGREEMENT A-13370

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### AMENDMENT #5 TO RFP-10537, AGREEMENT A-13370 BY AND BETWEEN COUNTY OF MONTEREY & TELMATE, LLC

**THIS AMENDMENT NO. 5** is made to the Agreement for inmate/ward telephone services for the Monterey County Sheriff's Office and Monterey County Probation Department, by and between **TELMATE, LLC**, (hereinafter "CONTRACTOR"), and the County of Monterey, a political subdivision of the State of California, (hereinafter "County" (collectively, "the Parties")).

**WHEREAS**, the County and CONTRACTOR originally entered into this Agreement on December 14, 2016, with a term date ending December 13, 2019; and

**WHEREAS**, Agreement was amended by the Parties on January 8, 2020, (hereinafter "Amendment No. 1") to extend the term for one (1) additional year through December 13, 2020; and

**WHEREAS**, Agreement was amended by the Parties on December 17, 2020, (hereinafter "Amendment No. 2") to extend the term for one (1) additional year through December 13, 2021; and

**WHEREAS**, Agreement was amended by the Parties on March 9, 2022, (hereinafter "Amendment No. 3") per CPUC Decision Rulemaking 20-10-002 issued August 23, 2021, the FCC Third Report and Order on Reconsideration and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 12-375 on May 24, 2021 and 40682 Federal Register/Vol. 86, No. 142/Wednesday, July 28, 2021/Rules and Regulations, and to extend the term for an additional two (2) years through December 13, 2023; and

**WHEREAS**, California Senate Bill No. 1008 ("Senate Bill 1008") was approved by the Governor and filed with the Secretary of State on September 29, 2022. Senate Bill 1008 requires, among other things, effective January 1, 2023, a county or city youth residential placement or detention center shall provide voice communication services to incarcerated persons free of charge to the person initiating and the person receiving the communication. Senate Bill 1008 provides that a county or city agency shall not receive revenue from the provision of voice communication services or any other communication services to any person confined in a county or city youth residential placement detention center; and

**WHEREAS**, Agreement was amended by the Parties on November 9, 2023, (hereinafter "Amendment No. 4") to address payment to CONTRACTOR for juvenile ward telephone services to the Monterey County Probation Department for the juvenile institutions, for a total not to exceed amount of \$72,000, and to extend the term on a month-to-month basis, with County reserving the right to cancel with 30 days written notice or immediately for cause; and

**WHEREAS**, there is a continued need for services following the completion of a Request for Proposal (RFP) process, award of contract, and pending installation of new vendor equipment and services; and

## AMENDMENT #5 TO RFP-10537 AGREEMENT A-13370

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**WHEREAS**, the Parties wish to further amend the Agreement to add \$24,000 to the total amount payable for a total amount not to exceed \$96,000;

**NOW THEREFORE**, the County and CONTRACTOR hereby agree to amend the Agreement in the following manner:

- 1) **Attachment A-1 – RATES, FEES AND PAYMENTS TO COUNTY FOR INMATE TELEPHONE SERVICE, VIDEO VISITATION SERVICE AND TABLETS, second sentence of added Paragraph referencing “Juveniles”**, is amended to read as follows:

**Juveniles**

In consideration of Senate Bill 1008 and as it pertains to juvenile calls from the Monterey Juvenile Hall and Monterey County Youth Center, effective January 1, 2023, the County shall pay CONTRACTOR a monthly service fee in the amount of four thousand dollars (\$4,000.00).

Beginning July 1, 2024 through December 31, 2024, the County shall pay CONTRACTOR a monthly service fee in the amount of three thousand seven hundred dollars (\$3,700.00) plus applicable taxes, fees and other governmental charges for a total monthly amount not to exceed four thousand dollars (\$4,000.00).

For the period of January 1, 2023 through December 31, 2024, total amount paid to CONTRACTOR may not exceed \$96,000.

- 2) Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this AMENDMENT No. 5 and shall continue in full force and effect as set forth in the Agreement.
- 3) A copy of AMENDMENT NO. 5 shall be attached to the original Agreement executed by the County on December 14, 2016.



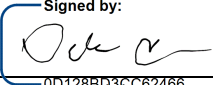
# AMENDMENT #5 TO RFP-10537 AGREEMENT A-13370

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

## MONTEREY COUNTY

## Telmate, LLC

\_\_\_\_\_  
Contracts/Purchasing Officer

By:   
\_\_\_\_\_  
Signature of Chair, President, or Vice-President

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

Deb Alderson CEO ViaPath

\_\_\_\_\_  
Printed Name and Title

*Approved as to Fiscal Provisions:*

\_\_\_\_\_  
Dated: 10/11/2024 | 8:23 AM PDT

\_\_\_\_\_  
DocuSigned by:  
*Patricia Ruiz*  
\_\_\_\_\_  
Deputy Auditor/Controller

By:   
\_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

\_\_\_\_\_  
Dated: 10/16/2024 | 7:20 AM PDT

John Pitsenberger CFO

\_\_\_\_\_  
Printed Name and Title

*Approved as to Liability Provisions:*

\_\_\_\_\_  
DocuSigned by:  
*David Bolton*  
\_\_\_\_\_  
Risk Management

\_\_\_\_\_  
Dated: 10/11/2024 | 8:25 AM PDT

\_\_\_\_\_  
Dated: 10/16/2024 | 8:24 AM PDT

*Approved as to Form:*

\_\_\_\_\_  
Signed by:  
*Anne Brereton*  
\_\_\_\_\_  
Anne K. Brereton

Deputy County Counsel

\_\_\_\_\_  
Dated: 10/15/2024 | 12:58 PM PDT

County Board of Supervisors' Agreement Number: A-13370.

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.