

# Attachment A

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## Attachment A – Project Schedule and Critical Issues

### **Project Team**

Resource Management Agency (RMA) staff serve as Project Managers for the New Juvenile Hall Project (Project) on behalf of the Probation Department. The Contractor is Zovich & Sons Inc. dba Zovich Construction. DLR, Inc. is the Project Architect and APSI/Sixth Dimension serves as the Construction Manager. Staff augmentation engineer services are provided by Kitchell CEM.

### **Schedule and Budget Impacts**

The following major issues have been identified by staff as having a potential impact on the Project schedule and budget. The exact impact of each issue may require additional analysis. All issues listed below must be resolved before Phase I can be completed and Probation begins its transition into the new buildings.

### **Project Approval and Scope Changes from California State Fire Marshall (CSFM)**

Field inspections by the CSFM inspector have resulted in additional requirements related to sprinkler systems and fire-rated construction. Requirements include additional sprinkler heads under exterior roof overhangs in all buildings, upgrading glass in several doors to fire-rated material and applying fire-rated sealant to the top of numerous Concrete Masonry Unit (CMU) walls. In some areas, completed work must be disturbed for changes to be implemented.

RMA is working closely with the Contractor, Architect, Construction Manager and Project consultant team to address CSFM issues in the most cost and time efficient way possible. Design changes to fulfill CSFM inspection requirements are approved in the form of Change Orders. In some cases, engineering judgements are issued to obtain CSFM approval for suitable comparable solutions without significant cost increases. The time required to implement CSFM requirements has the potential for significant time delays, and additional Project budget increases.

### **Board of State and Community Corrections (BSCC) Inspections**

The California Building Standards Code is the building code for California and Title 24 of the California Code of Regulations (CCR). It is maintained by the California Building Standards Commission which is granted the authority to oversee processes related to California building codes by California Building Standards Law. Building codes under Title 24 of the CCR are established based on several criteria: standards adopted by states based on national model codes, national model codes adapted to meet California conditions and standards passed by the California legislature that address concerns specific to California. Title 24 is a broad set of requirements for energy conservation, green design, construction and maintenance, fire and life safety, and accessibility that apply to the structural, mechanical, electrical, and plumbing systems in a building. Title 24 applies to all buildings in California not just state owned buildings. BSCC Title 15 sets forth the minimum standards for local detention facilities.

Juvenile detention facilities must conform to both CCR Title 24 (construction) and BSCC Title 15 (operational) requirements. BSCC inspectors conduct plan and field reviews to verify the Project is in compliance with these regulations. There are several outstanding issues listed below which must be addressed for Phase I to be certified for occupancy by BSCC.

Privacy screens in double-occupancy rooms – Buildings 1A and 1B include double occupancy rooms with two (2) beds and a single toilet/sink combination unit. BSCC inspectors have required that a privacy screen be added in these rooms next to the bed directly facing the toilet. The solution must balance BSCC’s interpretation of required privacy with the operational needs of the design to avoid hiding spaces and allow Probation staff to see into the cell during inspections. A mock up privacy screen was noted as acceptable during a recent BSCC site visit. These privacy screens are now being manufactured and installed. This change from the original approved plans has resulted in additional construction costs which are included in this funding request. Further costs may be incurred if any additional changes are required for BSCC approval. This scope change may be a factor in the Project schedule delay.

No-Climb Fencing – The BSCC required a change to the interior security fence from chain link fence with concertina (razor) wire to a no-climb fence and no razor wire. This change does not apply to the exterior fence. The change has resulted in additional change order costs which are included in this funding request. The lengthy lead time from the Contractor’s supplier (eight [8] to ten [10] weeks) may be a factor in the Project schedule delay.

### **Excessive Heating Ventilation and Air Conditioning (HVAC) System Noise**

Excessive noise coming from HVAC registers was identified during commissioning. This is especially problematic in sleeping quarters, where the noise was almost double the acceptable level. The exact cause is still under investigation. Adjustments to the system output to address the noise reduced output below the minimum airflow required by code. The project team continues to work with all parties involved to identify causes and solutions. The potential impact to the project budget is unknown at this time and is dependent on the outcome of further system review. The extended time needed to complete commissioning may be a factor in the Project schedule delay.

### **Water Intrusion into Multiple Buildings**

Water intrusion was discovered in buildings 1A/1B, 4 and 6 during rain events in December 2019. Water appeared to be leaching through the Concrete Masonry Unit (CMU) walls as well as pooling in spots on the floors. A site walk with multiple stakeholders including the CMU manufacturer identified several potential causes. RMA is working closely with the Contractor, Architect, Construction Manager and Project consultants to verify these findings and take action as necessary. The potential impact to the project budget is unknown at this time and is dependent on required solution(s). The time required to identify the cause(s) and any required solutions may be factors in the Project schedule delay.

### **Time Impact Analysis (TIA)**

Change orders and construction delays can be attributed to multiple factors. Excusable, Compensable delay days are accepted by the County as outside the Contractor’s control and extend the construction contract term, precluding the Contractor from paying liquidated damages to the County. The County is also responsible for Contractor costs incurred per the contract terms during this time extension. Delays determined to be the Contractor’s fault are considered Non-Excusable/Non-Compensable delays, and the Contractor may be required to pay liquidated damages to the County. Assessing liquidated damages could lead to a legal challenge by the

Contractor. Excusable, Non-Compensable (Concurrent) delays result in an extension to the project schedule. However, liquidated damages may not be assessed for Excusable/Non-Compensable delays, and the County may not be liable for some or all of the Contractor's costs associated with the time extension. The Project Team reviews each delay with the Contractor to determine which party or parties are responsible. If the parties cannot come to an agreement, contract guidelines provide a process to resolve the dispute through claims.

Staff anticipate that additional TIAs will be submitted by the Contractor as the project schedule continues to extend out beyond the original term or the schedule calculated by existing TIAs.

#### Current TIA Status and Analysis

To date, the Contractor has submitted four (4) TIAs totaling 539 delay days. Of the 539 days, 48 have been accepted as Excusable, Compensable under TIA #2, 105 are proposed Excusable, Compensable under TIA #3, and 386 days are under review by the Project Team or may be the subject of further claims by the Contractor. TIA #5 was received by the County on February 13, 2020 and is pending review.

TIA #1 (37 days) was submitted by the Contractor on November 8, 2017. Analysis by the Construction Manager found no impact to the schedule as a result of the activities identified in the claim. As a result, TIA #1 was rejected by the County.

TIA #2 (126 days) was submitted by the Contractor on January 9, 2018. Initial review by the Construction Manager identified 48 days of Excusable, Compensable delays. In August 2018 the Project Team issued a unilateral Change Order #60, agreeing to a project delay of seventy-four (74) days, forty-eight (48) days Excusable, Compensable and twenty-six (26) days Excusable, Non-Compensable. This effectively extended the contract end date from July 4, 2019 to October 17, 2019 (74 days). At the time, the Contractor did not agree to the County's unilateral Change Order #60 and refused to sign the documentation. However, the Contractor subsequently submitted a pay application for August 2019 which included the unilaterally approved charges for Change Order #60.

TIA #3 (294 days) was submitted by the Contractor on August 29, 2019. The Construction Manager review concluded the total claim should be revised to 286 days, with 105 being compensable. The remaining 189 days, including the eight (8) day difference in totals, are still under review. The County and Contractor have not settled any days under TIA #3.

TIA #4 (82 days) was submitted by the Contractor on October 23, 2019. The Construction Manager has submitted an additional services cost proposal to analyze TIA #4, which is pending County review and approval.

#### TIA Budget Impact

The 48 Excusable, Compensable days for TIA #2, approved under Change Order 60 were paid at a daily rate of approximately \$2622.35 for a total cost of \$125,872.99. This amount is already included in the current approved Project budget.

A daily rate for the remaining 105 Excusable, Compensable days identified by the Construction Manager under TIA #3 has not been determined. The Contractor provided a proposed daily rate of \$4,560 for TIA #3. Using this daily rate as a placeholder, the potential costs for all outstanding days would be approximately \$2,240,000. Because the pending TIAs and corresponding daily rates for delay days are still under negotiation, costs for potentially compensable, excusable, and/or non-compensable delay days have not been included in any funding requests to date.