

**PROJECT DELIVERY AND CONSTRUCTION AGREEMENT
AB 900 JAIL FINANCING PROGRAM**

by and among

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

and

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

and

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

and

MONTEREY COUNTY

Effective Date of October 31, 2014

**(FOR A JAIL FACILITY
LOCATED IN THE COUNTY OF MONTEREY)**

TABLE OF CONTENTS

	Page
ARTICLE 1 GENERAL.....	3
1.1 General Covenants, Acknowledgements and Agreements of the Parties	3
1.2 Approvals, Consents and Actions Necessary to Maintain Eligibility in the AB 900 Jail Financing Program.....	3
1.3 AB 900 Jail Lease Revenue Bond Financing	4
1.4 The Department and the BSCC Act as Liaison of the Board and Finance to the Participating County	5
1.5 Representations and Warranties of the Participating County	5
1.6 Representations and Warranties of the Board.....	6
1.7 Representations and Warranties of the Department and BSCC.....	7
1.8 Compliance with Terms and Conditions of the Project Documents.....	7
1.9 Conflicts Between Terms of Documents	8
1.10 Indemnity	8
1.11 Assignment or Subletting of the Facility	8
1.12 Relationship of the Parties	9
ARTICLE 2 TERM AND TERMINATION OF AGREEMENT	9
2.1 Term of Agreement.....	9
2.2 Termination of Agreement.....	9
ARTICLE 3 COST SHARING OF THE PROJECT.....	11
3.1 Financing Eligibility of the Project.....	11
3.2 Excess Project Costs	11
3.3 Project Cost Savings	12
ARTICLE 4 PROJECT SCOPE, COST AND SCHEDULE	12
4.1 The Project.....	12
4.2 Modification of Project Scope, Cost or Schedule.....	12
4.3 Excess Project Costs	13
ARTICLE 5 BIDDING AND CONSTRUCTION PHASE OF THE PROJECT.....	13
5.1 Construction Covenant of the Participating County	13
5.2 Procurement and Enforcement of Construction Contract.....	13
5.3 Completion of the Project	13
5.4 Project Access.....	14
5.5 Insurance	14
ARTICLE 6 CERTAIN OBLIGATIONS POST PROJECT COMPLETION.....	16
6.1 Private Use of the Project	16
6.2 No Liens.....	16
ARTICLE 7 RECORD RETENTION.....	16
7.1 Establishment of Official Project File.....	16
7.2 Preservation of Records	16

TABLE OF CONTENTS
(continued)

	Page
ARTICLE 8 MISCELLANEOUS	17
8.1 Entire Agreement	17
8.2 Amendment	17
8.3 Waiver	17
8.4 Counterparts	17
8.5 Headings	17
8.6 Further Assurances	17
8.7 Survival	17
8.8 Governing Law	17
8.9 Compliance with Laws	18
8.10 Partial Invalidity	18
8.11 Notices	18
8.12 Force Majeure	19
8.13 Exculpation	19
8.14 Benefits of this Agreement Limited to the Parties	19
EXHIBIT A PROJECT SCOPE, COST AND SCHEDULE DESCRIPTION	A-1
EXHIBIT B FORM OF GROUND LEASE	B-1
EXHIBIT C FORM OF RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION	C-1
EXHIBIT D FORM OF FACILITY SUBLEASE	D-1
EXHIBIT E-1 DESCRIPTION OF PARTICIPATING COUNTY FUNDING Cash Contribution	E-1
EXHIBIT E-2 DESCRIPTION OF PARTICIPATING COUNTY FUNDING In-kind (Soft) Match	E-2

**PROJECT DELIVERY AND CONSTRUCTION AGREEMENT
AB 900 JAIL FINANCING PROGRAM
(FOR A JAIL FACILITY
LOCATED IN MONTEREY COUNTY)**

This PROJECT DELIVERY AND CONSTRUCTION AGREEMENT (this “Agreement”) is entered into as of October 31, 2014, (the “Effective Date”) by and among the STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA (the “Board”), an entity of state government of the State of California (the “State”), the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA (the “Department”), an entity of state government of the State, the BOARD OF STATE AND COMMUNITY CORRECTIONS OF THE STATE OF CALIFORNIA (the “BSCC”), an entity of state government of the State, and the COUNTY OF MONTEREY (the “Participating County”), a political subdivision of the State. For purposes of this Agreement, the Board, the Department, the BSCC and the Participating County are referred to collectively as the “Parties,” and individually as a “Party.” The Board, the Department and the BSCC are referred to collectively herein, as the “Agencies” and individually as an “Agency.”

WHEREAS, pursuant to Chapter 3.12 of Part 10b of Division 3 of Title 2 of the California Government Code (commencing at Section 15820.91) (the “Law”), the Board is authorized to finance the acquisition, design and construction of a jail facility approved by the BSCC pursuant to Section 15820.916 of the California Government Code (the “AB 900 Jail Financing Program”); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter 6 and this Agreement and other agreements relating to this Project, the cost of certain design and construction activities will be eligible for reimbursement under the AB 900 Jail Financing Program; and

WHEREAS, the Participating County has proposed to build or renovate a jail facility, as more particularly described in **Exhibit A** attached hereto (the “Project”), to be located at 1410 Natividad Road, Salinas, CA 93906, real property controlled by the Participating County through fee-simple ownership (the “Site”); and

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

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

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WHEREAS, concurrently with the execution of this Agreement, the BSCC and the Participating County, with the consent of the Board and the Department, intend to enter into an agreement to assist in complying with BSCC's rules and regulations concerning jail construction for the AB 900 Jail Financing Program (the "BSCC Agreement"); and

WHEREAS, the Board intends to oversee and issue lease revenue bonds for the Project, subject to satisfaction of certain conditions and requirements of the Board, including but not limited to establishment of Project scope, cost and schedule; approval of preliminary plans; involvement in working drawings approval and authorization for the Participating County to request construction bids; requesting actions to be taken to obtain one or more interim loans in connection with the Project (the "Interim Loan") and, subject to section 1.3 below, the Board intends to issue and sell its lease revenue bonds to repay the Interim Loan and provide additional financing for the Project, as necessary (the "Bonds"); and

WHEREAS, prior to authorization by the Board of actions to be taken to provide for the Interim Loan, the Department shall have certified to the Board that the Participating County is a participating county as required by Section 15820.91 of the California Government Code and the BSCC shall have approved the Project in accordance with Section 15820.911 of the California Government Code; and

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

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

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

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

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

WHEREAS, in the event the Board is unable to issue the Bonds to finance the Project and the Interim Loan has been provided, the Department shall commit a sufficient amount of its annual support appropriation to repay the Interim Loan and any other interim financing costs associated with the Interim Loan.

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

ARTICLE 1

GENERAL

1.1 General Covenants, Acknowledgements and Agreements of the Parties.

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

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

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

1.2 Approvals, Consents and Actions Necessary to Maintain Eligibility in the AB 900 Jail Financing Program. The Participating County acknowledges its eligibility for Project financing pursuant to the AB 900 Jail Financing Program is subject to and contingent upon the following approvals, consents and actions by the Board and Finance;

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

(b) A determination by the Board that the Participating County match as set forth in Article 3 has been satisfied as required by the Law and the source of the Cash (hard)

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Match (as hereinafter defined) and any associated security or terms related thereto has been determined by the Board to be compatible with the financing of the Project pursuant to the AB 900 Jail Financing Program;

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

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

(e) Both the Board and Finance have approved the Preliminary Plans for the Project. As used herein "Preliminary Plans" shall mean a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate, for each utility, site development, conversion, and remodeling project, the drawings shall be sufficiently descriptive to accurately convey the location, scope, cost, and the nature of the improvement being proposed;

(f) Finance has approved the Working Drawings for the Project and authorized the Participating County to proceed with soliciting competitive bids for construction of the Project. As used herein "Working Drawings" shall mean a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project;

(g) The Department has provided the Board the certification required by Section 15820.91 of the California Government Code, which certification the Department intends to provide upon satisfaction of the required statutory and regulatory conditions;

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

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

(j) The sale of the Bonds.

1.3 AB 900 Jail Lease Revenue Bond Financing. State financing for the AB 900 Jail Financing Program is predicated on the Board's ability to issue Bonds for the Project. The Board, acting in good faith, intends to authorize the request for the Interim Loan and, subject to approvals, consents, and actions set forth in section 1.2, to issue Bonds for the Project. The Agencies will make reasonable and good faith efforts to assist in gaining assurance that the Site, the Project, the Participating County's ultimate use of the Project and the Cash (hard) Match (as

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hereinafter defined) are developed and implemented in such a way to facilitate the financing of the Project through the issuance and sale of the Bonds.

Prior to the Board's authorization to request the Interim Loan, the Department shall have certified to the Board that the Participating County is a participating county as required by Section 15820.91 of the California Government Code and the BSCC shall have approved the design and construction of the Project in accordance with Section 15820.911 of the California Government Code.

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

In the event the Board determines that it is not feasible or appropriate to issue Bonds or to authorize the Interim Loan request, the Participating County is not entitled to receive the Maximum State Financing (as hereinafter defined) or other State funding for the Project, and shall not receive reimbursement from the State for any Project costs. However, in the event the Board is unable to issue the Bonds to finance the Project and the Interim Loan has been provided, the Department shall commit a sufficient amount of its annual support appropriation to repay the Interim Loan and any other interim financing costs associated with the Interim Loan and all associated costs.

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

1.5 Representations and Warranties of the Participating County.

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

(b) The Participating County has taken all actions and has obtained all

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consents necessary to enable the Participating County to enter into this Agreement, to be bound hereby, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

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

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

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

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

1.6 Representations and Warranties of the Board.

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

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

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

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

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

1.7 Representations and Warranties of the Department and the BSCC.

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

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

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

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

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

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

1.8 Compliance with Terms and Conditions of the Project Documents. The Parties agree to comply with all terms and conditions relating to the respective Party of this Agreement, the BSCC Agreement, the Ground Lease, the Right of Entry and all exhibits and schedules

attached hereto and thereto relating to the Party (collectively, the “Project Documents”), as well as all applicable laws including, without limitation, the Law and those laws, regulations and guidelines set forth in the BSCC Agreement.

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

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

1.11 Assignment or Subletting of the Facility.

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

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

(i) Any sublease of the Facility by the Participating County shall explicitly provide that such sublease is subject to all rights of the Department and the Board under the Facility Sublease, including, the right to re-enter and re-let the Facility or terminate such lease upon a default by the Participating County; and

(ii) At the request of the Department or the Board, the Participating County shall furnish the Department, the Board and the State Treasurer with an opinion of nationally-recognized bond counsel acceptable to the Board to the effect that such sublease will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income tax purposes.

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

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

ARTICLE 2

TERM AND TERMINATION OF AGREEMENT

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

2.2 Termination of Agreement.

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

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

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

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

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

(v) In the event the Board determines the Participating County is no longer eligible for Project financing under the AB 900 Jail Financing Program as set forth in section 1.2 hereof; or

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

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

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

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

(iii) In the event the Board determines the Participating County is no longer eligible for Project financing under the AB 900 Jail Financing Program as set forth in section 1.2 hereof.

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

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

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

ARTICLE 3

COST SHARING OF THE PROJECT3.1 Financing Eligibility of the Project.

(a) *General.* Subject to the terms and provisions hereof, the costs for design and construction of the Project shall be shared by the State and the Participating County with the State providing financing up to a maximum of eighty million dollars (\$80,000,000) (“Maximum State Financing”) and the Participating County providing the Cash (hard) Match (as hereinafter defined) funding and the In-Kind (soft) Match (as hereinafter defined) funding (collectively, the “Participating County Funding” and together with other Participating County-borne project costs not included as the Participating County Funding and the Maximum State Financing, the “Total Project Costs”). Provided, however, that the Board may provide all or a portion of the Maximum State Financing for Project costs at its discretion as set forth herein. The sources for the Maximum State Financing shall be limited to the proceeds of the Interim Loan, and the proceeds of the Bonds. If Bonds are issued and sold, the proceeds will be used to repay the Interim Loan and to provide additional financing for the Project as appropriate. If the Bonds are issued and sold, in no event or circumstance shall the State or the Agencies be obligated to pay the Participating County under this Agreement or any other Project Document any amount in excess of the Maximum State Financing.

(b) *Cash (hard) Match.* Subject to all terms and provisions of this Agreement, the Participating County agrees to appropriate and spend cash (hard) matching funds for the Project as provided in the BSCC Agreement (“Cash (hard) Match”). **Exhibit E-1** is a detailed description of and certification related to the source or sources of the Cash (hard) Match and any associated security or terms related thereto as approved by the Agencies, which detail and assurance of has been deemed sufficient by the Board to determine that the use of such funds as the Cash (hard) Match is compatible with the financing of the Project pursuant to the AB 900 Jail Financing Program. Any modifications to the source or sources of the Cash (hard) Match or the associated security and terms related thereto as described in **Exhibit E-1** must be approved by the Agencies. The Participating County shall ensure that all Cash (hard) Match is encumbered prior to Finance approval of proceeding to bid the Construction Contract (as hereinafter defined).

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

3.2 Excess Project Costs. In no event shall any Project scope, cost, budget or schedule changes be authorized by the Participating County which would cause the amount of Total Project Costs to be exceeded unless the Participating County covenants to fund such excess with lawfully available funds and the Participating County first obtains the consent of the Agencies. The Participating County is solely responsible for any and all cost, expenses or fees of the Project which exceed the Maximum State Financing and the Participating County covenants

to use its best efforts to promptly appropriate sufficient amounts to cover such cost, expenses or fees. The Participating County waives any and all claims against any of the Agencies or the State in the event that Total Project Costs exceed the amount initially established by the Board.

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

ARTICLE 4

PROJECT SCOPE, COST AND SCHEDULE

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

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

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

As used herein “substantial” is as defined in Section 6863 of the State Administrative Manual. As used herein a minor change is any change which does not rise to the level of a substantial change as defined in Section 6863 of the State Administrative Manual. Finance shall

determine whether any reported event or circumstance requires its approval and recognition or other formal action by the Board.

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

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

ARTICLE 5

BIDDING AND CONSTRUCTION PHASE OF THE PROJECT

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

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

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

the Board.

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

5.5 Insurance.

(a) Insurance Obligations of the Participating County.

(i) Requirements during construction. Not later than the start of construction, and continuing through completion of construction of the Project, the Participating County, at its own cost and expense, shall secure and maintain or cause to be secured and maintained (i) fire, lightning and extended coverage insurance on the Project, which initially may be in the form of a builder's risk policy providing coverage in an amount not less than the construction costs expended for the Project and, if no builder's risk insurance is in effect, shall be in the form of a commercial property policy in an amount equal to one hundred percent (100%) of the then current replacement cost of the Project, excluding the replacement cost of the unimproved real property constituting the Site (except that such insurance may be subject to a deductible clause not to exceed two million five hundred thousand dollars (\$2,500,000) for any one loss), and (ii) earthquake insurance (if such insurance is available on the open market from reputable insurance companies at a reasonable cost) on any structure comprising part of the Project in an amount equal to the full insurable value of such structure or the amount of the attributable portion of the Interim Financing, whichever is less (except that such insurance may be subject to a deductible clause not to exceed two million five hundred thousand dollars (\$2,500,000) for any one loss). The extended coverage endorsement shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke, vandalism and malicious mischief and such other hazards as are normally covered by such endorsement.

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

(ii) Requirements after construction completion. The Participating County, at its own cost and expense, shall secure and maintain or cause to be secured and maintained from an insurance company or companies approved to do business in the State and maintain after completion of construction and/or when placing the Project in operation, the following insurance coverage for the Project:

a. General liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence. Evidence of such insurance shall be on a General Liability Special Endorsement form and should provide coverage for premises and operations, contractual, personal injury and fire legal liability;

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b. By signing this Agreement, the Participating County hereby certifies that it is aware of the provisions of Section 3700, *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply, and it will cause its subtenants and assignees to comply, with such provisions at all such times as they may apply during the term of this Agreement.

c. Auto insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of not less than one million dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles or coverage for any auto.

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

(iv) Insurance Certificate. Any and all insurance policies related to the Project shall name the Board and the Department as additional insured parties and the Participating County shall deliver to the Agencies a certificate or certificates of insurance authorized by the insurers describing the insurance coverage and stating that it is in full force and effect.

(v) Self-Insurance. Notwithstanding any other provision of this Section, the Participating County may satisfy the insurance obligations hereunder by a combination of commercial insurance, formal risk pooling under the statutory provisions of the State, and/or a self-funded loss reserve in whatever proportions are deemed appropriate by the Participating County. The Participating County shall furnish the Agencies with a certificate or other written evidence of the Participating County's election to provide or cause to be provided all or part of its coverage under a risk pooling, risk retention, or self-insurance program or any combination thereof.

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

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

ARTICLE 6

CERTAIN OBLIGATIONS POST PROJECT COMPLETION

6.1 Private Use of the Project.

6.1.1 *Provision of Information Regarding Private Use.* The Participating County acknowledges that under the terms of the Facility Sublease, a form of which is attached hereto as **Exhibit D**, the Participating County will covenant to provide updated information to the Board, the Department and the State Treasurer annually regarding private use, if any, of the Project.

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

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

ARTICLE 7

RECORD RETENTION

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

7.2 Preservation of Records. The Participating County agrees to protect records adequately from fire or other damage. When records are stored away from the Participating County's principal office, a written index of the location of records stored must be on hand and ready access must be assured. All the Participating County records contained in the Official

Project File must be preserved for a minimum of three years after the last date on which no Bonds are outstanding. These records shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and audit by the Agencies or designees, by state government auditors or designees, or by federal government auditors or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the relevant time period set forth in the third sentence of this paragraph, the related records must be retained until the completion of the action and resolution of all issues which arise from it if such date is later than the end of the afore-mentioned three-year period.

ARTICLE 8

MISCELLANEOUS

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

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

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

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

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

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

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

8.8 Governing Law. The laws of the State shall govern this Agreement, the interpretation thereof and any right or liability arising hereunder. Any action or proceeding to

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enforce or interpret any provision of this Agreement shall be brought, commenced or prosecuted in the courts of the State located in the County of Sacramento. All parties expressly assert that Sacramento County is not a forum inconvenience.

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

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

8.11 Notices. All notices and other official communications between the Parties shall be in writing and shall be given by hand delivery or by recognized overnight courier who maintains verification of delivery (deemed to be duly received on the date delivered), or by registered mail, postage prepaid, return receipt requested (deemed to be duly received five (5) days after such mailing) or by telecopy (deemed to be received on the date sent providing that the facsimile was properly addressed and disclosed the number of pages transmitted on its front sheet and that the transmission report produced indicates that each of the pages of the facsimile was received at the correct facsimile number) to each of the respective Parties as follows:

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

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

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

If to the Participating County: County of Monterey
168 W Alisal Street
Salinas, CA 93901
Attention: Deputy County Counsel
Facsimile: 831-755-5283

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

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

8.13 Exculpation. Notwithstanding anything to the contrary contained in this Agreement, in any Bond Document, Project Document or other certificate, agreement, document or instrument executed in connection with the AB 900 Jail Financing Program, the liability of the Board hereunder shall be limited to and satisfied solely out of proceeds of the Interim Loan, if any, or the Bonds, if any, permitted to be used for such purpose. Except as provided above, the Participating County shall not have the right to obtain payment from the Agencies or from any other assets of the Agencies. The Participating County shall not enforce the liability and obligation of the Agencies to perform and observe the obligations contained in this Agreement, or any other documents delivered in connection herewith in any action or proceeding wherein a money judgment in excess of the available proceeds of the foregoing sources shall be sought against the Agencies.


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

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

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

STATE PUBLIC WORKS BOARD OF
THE STATE OF CALIFORNIA

By: 
Stephen Benson
Deputy Director

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
Deborah Hysen
Deputy Director
Facility Planning, Construction and Management

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF
CALIFORNIA

By: _____
Kathleen T. Howard
Executive Director

COUNTY OF MONTEREY

By: _____
Louis R. Calcagno
Chairperson

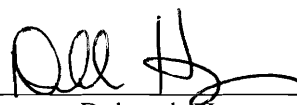
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Stephen Benson
Deputy Director

DEPARTMENT OF CORRECTIONS AND
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By: _____

Deborah Hysen
Deputy Director
Facility Planning, Construction and Management

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF
CALIFORNIA

By: _____
Kathleen T. Howard
Executive Director

COUNTY OF MONTEREY

By: _____
Louis R. Calcagno
Chairperson

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By: _____
Deborah Hysen
Deputy Director
Facility Planning, Construction and Management

BOARD OF STATE AND COMMUNITY
CORRECTIONS OF THE STATE OF
CALIFORNIA

By: *Kathleen T. Howard*
Kathleen T. Howard
Executive Director

COUNTY OF MONTEREY

By: _____
Louis R. Calcagno
Chairperson

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Deborah Hysen
Deputy Director
Facility Planning, Construction and Management

BOARD OF STATE AND COMMUNITY CORRECTIONS OF THE STATE OF CALIFORNIA

By: _____
Kathleen T. Howard
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COUNTY OF MONTEREY

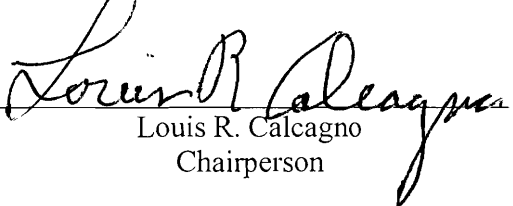
By: 
Louis R. Calcagno
Chairperson

EXHIBIT A

PROJECT SCOPE, COST AND SCHEDULE DESCRIPTION

Monterey County
Jail Facility

PROJECT SCOPE

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.

EXHIBIT A
Page 2

PROJECT COST

Study / Acquisition		\$ 1,328,000
Preliminary Plans		\$ 3,064,000
Working Drawings		\$ 4,440,000
Construction		\$ 80,068,000
Contract	\$ 65,273,000	
Contingency	\$ 6,527,000	
A & E Costs	\$ 1,383,000	
Other Project Costs	\$ 6,885,000	
Total Project Cost		<hr/> \$ 88,900,000

PROJECT SCHEDULE

Preliminary Plan Approval	May 2015
Approval to Proceed to Bid	February 2016
Contract Award Approval	June 2016
Project Completion	September 2018

EXHIBIT B

FORM OF GROUND LEASE

RECORDING REQUESTED BY AND)
 WHEN RECORDED MAIL TO:)
)
 _____)
 _____)
 _____)
 Attention: _____)

[Space above for Recorder's use]

GROUND LEASE

by and between the

[PARTICIPATING COUNTY]
 as Landlord,

and

DEPARTMENT OF CORRECTIONS AND REHABILITATION
 OF THE STATE OF CALIFORNIA,
 as Tenant

Dated as of _____, 20__

(FOR A JAIL FACILITY
 LOCATED IN THE COUNTY OF _____)

NO DOCUMENTARY TRANSFER TAX DUE. This Ground Lease is recorded for the benefit of the State of California and is exempt from California transfer tax pursuant to Section 11928 of the California Revenue and Taxation code

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and from recording fees pursuant to Sections 6103 and 27383
of the California Government Code

TABLE OF CONTENTS

	Page
SECTION 1. Definitions.....	2
SECTION 2. Effective Date	4
SECTION 3. Representations, Warranties and Covenants.....	4
SECTION 4. Lease of the Site, Access, Utilities and Repairs Easements and Recordation of Lease	7
SECTION 5. Landlord Right of Entry for Construction and Operation.....	8
SECTION 6. Purpose and Use.....	8
SECTION 7. Assignment or Sublease.....	8
SECTION 8. No Commitment to Issue the Bonds and Non-Liability of the Department and the State	9
SECTION 9. Cooperation.....	9
SECTION 10. Term and Extension	9
SECTION 11. Rental	9
SECTION 12. Taxes and Assessment	9
SECTION 13. Right of First Offer and Priority of Ground Lease	10
SECTION 14. Damage or Destruction	10
SECTION 15. Insurance	10
SECTION 16. Condition and Title to the Improvements on Termination	10
SECTION 17. The Department’s Right to Terminate	11
SECTION 18. The Participating County’s Right to Terminate.....	11
SECTION 19. Non-Termination, Default and Damages.....	11
SECTION 20. Waste and Hazardous Materials.....	11
SECTION 21. Eminent Domain	11
SECTION 22. Non-Discrimination	12
SECTION 23. Liens.....	12
SECTION 24. Indemnification	13
SECTION 25. Non-Encumbrance	13
SECTION 26. Miscellaneous	13

TABLE OF CONTENTS
(continued)

	Page
Exhibit A	Project Description..... A-1
Exhibit B	Legal Description of the SiteB-1
Exhibit C	Form of Easement Agreement for Grant of Access, Utilities and Repairs.....C-1
Exhibit D	Form of Legal Opinion Letter..... D-1
Exhibit E	List of the Permitted EncumbrancesE-1
Exhibit F	Pending and Threatened Lawsuits F-1

GROUND LEASE

THIS GROUND LEASE, dated as of _____, 20__ for reference only (this "Ground Lease"), is entered into by and between COUNTY OF _____ (the "Participating County"), a Political Subdivision of the State of California (the "State"), as Landlord, and the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA (the "Department"), an entity of state government of the State, as Tenant. The Participating County and the Department are sometimes referred to collectively as the "Parties", and individually as a "Party".

RECITALS

WHEREAS, pursuant to Chapter 3.12 of Part 10b of Division 3 of Title 2 of the California Government Code (commencing at Section 15820.91), the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a jail facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section 15820.916 and following, as amended, (the "AB 900 Jail Financing Program"), the Participating County, the Department, BSCC and the Board entered into the Project Delivery and Construction Agreement (the "PDCA") dated as of _____, 20__, for reference only; and

WHEREAS, further to the PDCA, the Participating County has proposed to build a jail facility as more particularly described in Exhibit A attached hereto (the "Project"), to be located on real property owned in fee simple by the Participating County and legally described in Exhibit B attached hereto (the "Site"); and

WHEREAS, further to the PDCA, the Department desires to ground lease the Site from the Participating County to assist the Participating County in obtaining eligibility for the Board lease revenue bond financing to finance a portion of the construction of the Project (the "Bonds"); and

WHEREAS, the Department and the Board desire that the term of this Ground Lease not terminate or expire until the Bonds have been paid in full or retired under the provisions of the Bond Documents; and

WHEREAS, the Participating County is desirous of maintaining its eligibility to receive financing for the Project, and to achieve this end, the Participating County is willing to lease the Site to the Department; and

WHEREAS, concurrently with the execution of this Ground Lease, the Department as the Licensor and the Participating County as the Licensee, have entered into a Right of Entry for Construction and Operation (the "Right of Entry") in substantially the form attached as Exhibit C to the PDCA, authorizing the Participating County to enter the Site for the purpose of constructing the Project and for operation of the Project upon substantial completion of construction; and

WHEREAS, if the Participating County maintains its eligibility in the AB 900 Jail Financing Program, and the Board in its sole discretion, is able to issue the Bonds to finance the Project in its typical and customary manner, the Department will concurrently sublease the Site

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to the Board, (the "Site Lease"), and enter into a Facility Lease (the "Facility Lease") providing for the Board to sublease to the Department the Site and the Project (together the "Facility"). The Site Lease and the Facility Lease will provide security for the Bonds to be issued by the Board under an indenture (the "Indenture") between the Board and the Treasurer of the State, as trustee (the "State Treasurer"); and

WHEREAS, if the Board is able to issue the Bonds for the Project in its typical and customary manner, concurrently with executing the Site Lease and the Facility Lease, the Department and the Participating County intend to enter into a Facility Sublease (the "Facility Sublease") whereby the Department will sublet the Facility to the Participating County pursuant to the terms of the Facility Sublease; and

NOW, THEREFORE, in consideration of the mutual obligations of the Parties hereto, the Participating County hereby leases to the Department, and the Department hereby leases from the Participating County, the Site subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which the Participating County and the Department hereby mutually agree.

SECTION 1. Definitions.

As used herein, the following terms shall have the following meanings:

- (a) "AB 900 Jail Financing Program" has the meaning given to such term in the Recitals.
- (b) "Abatement Event" shall have the meaning given to such term in the Facility Lease.
- (c) "Board" means the State Public Works Board of the State of California, an entity of state government of the State.
- (d) "Bond Documents" mean each and every document evidencing the Bonds, including, but not limited to, the Site Lease, the Facility Lease, the Facility Sublease, and the Indenture.
- (e) "Bonds" has the meaning given to such term in the Recitals.
- (f) "BSCC" has the meaning given to such term in the Recitals.
- (g) "Claims" has the meaning given to such term in Section 23 of this Ground Lease.
- (h) "Department" has the meaning given to such term in the preamble.
- (i) "DGS" means the Department of General Services of the State of California, an entity of state government of the State.
- (j) "Easements" mean the access, utilities and repairs easements described in Subsection 4(b) of this Ground Lease.

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(k) “Easement Agreement” means an easement agreement memorializing the grant of Easements by the Participating County, as grantor, to the Department, as grantee, in the form of Exhibit C attached hereto.

(l) “Easement Property” means real property owned by the Participating County that is burdened by the Easement Agreement as described in Exhibit 2 to the Easement Agreement.

(m) “Effective Date” means the date this Ground Lease is valid, binding and effective as provided in Section 2 of this Ground Lease.

(n) “Facility” has the meaning given to such term in the Recitals.

(o) “Facility Lease” has the meaning given to such term in the Recitals.

(p) “Facility Sublease” has the meaning given to such term in the Recitals.

(q) “Ground Lease” has the meaning given to such term in the preamble, including all exhibits attached hereto.

(r) “Hazardous Materials” mean any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste”, “extremely hazardous waste”, or “restricted hazardous waste” under Section 25115, 25117 or 25122.7 of the California Health and Safety Code, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Talmer Hazardous Substance Account Act), (iii) defined as a “hazardous material”, “hazardous substance”, or “hazardous waste” under Section 25501 of the California Health and Safety Code.

(s) “Improvements” mean the physical construction of the Project and other buildings, improvements, structures, furnishings and equipment placed in, under or upon the Site by the Participating County under the terms and conditions in the Right of Entry or this Ground Lease.

(t) “Indemnitees” has the meaning given to such term in Section 24 of this Ground Lease.

(u) “Indenture” has the meaning given to such term in the Recitals.

(v) “Landlord” has the meaning given to such term in the preamble.

(w) “Leasehold Estate” means the real property right and interest held by the Department as Tenant to possess, use and access the Site and the Project under the terms and conditions of this Ground Lease.

(x) “Participating County” has the meaning given to such term in the preamble.

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- (y) “Parties” has the meaning given to such term in the preamble.
- (z) “Party” has the meaning given to such term in the preamble.
- (aa) “PDCA” has the meaning given to such term in the Recitals.
- (bb) “Permitted Encumbrances” has the meaning given to such term in Subsection 3(b)(4) of this Ground Lease.
- (cc) “Project” means the buildings, structures, works and related improvements constructed or to be constructed on the Site, as are more particularly described in Exhibit A attached hereto, and any and all additions, betterments, extensions and improvements thereto.
- (dd) “Resolution” has the meaning given to such term in Subsection 3(b)(1) of this Ground Lease.
- (ee) “Right of Entry” has the meaning given to such term in the Recitals.
- (ff) “Right of First Offer” has the meaning given to such term in Section 13 of this Ground Lease.
- (gg) “Site” has the meaning given to such term in the Recitals.
- (hh) “Site Lease” has the meaning given to such term in the Recitals.
- (ii) “State” means the state government of the State of California.
- (jj) “State Treasurer” has the meaning given to such term in the Recitals.
- (kk) “Tenant” has the meaning given to such term in the preamble.
- (ll) “Term” has the meaning given to such term in Section 10 of this Ground Lease.

SECTION 2. Effective Date.

The Parties hereby confirm and agree that this Ground Lease is effective and binding on the Parties upon the first day (the “Effective Date”) on which this Ground Lease has been consented to by the Board and a duly authorized representative of the Board has consented to this Ground Lease by executing it below.

SECTION 3. Representations, Warranties and Covenants.

(a) Representations and Warranties of the Department. In addition to any express agreements of Tenant herein, the Department makes the following representations and warranties to the Participating County as of the Effective Date:

(1) The Department has full legal right, power and authority to enter into this Ground Lease as Tenant and to carry out and consummate all transactions contemplated by this Ground Lease and by proper action has duly authorized the execution and delivery of this

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Ground Lease. The Department shall cause an opinion, dated as of [the date in the preamble of this Ground Lease] and in substantially the form of Exhibit D attached to this Ground Lease, to be delivered to the Board contemporaneously with the Department's execution of this Ground Lease;

(2) The officers of the Department executing this Ground Lease are duly and properly holding their respective offices and are fully authorized to execute this Ground Lease; and

(3) This Ground Lease has been duly authorized, executed and delivered by the Department, and will constitute a legal, valid and binding agreement of the Department, enforceable against the Department in accordance with its terms on the Effective Date.

(b) Representations, Warranties and Covenants of the Participating County. In addition to any express agreements of Landlord herein, the Participating County makes the following representations, warranties and covenants to the Department as of the Effective Date:

(1) The Participating County, by Resolution of the Board of Supervisors ("Resolution"), has full legal right, power and authority to enter into this Ground Lease as Landlord, to transfer and convey the Leasehold Estate to the Department under this Ground Lease, and to carry out and consummate all transactions contemplated by this Ground Lease and by proper action has duly authorized the execution and delivery of this Ground Lease. The Participating County shall cause an opinion, dated as of [the date in the preamble of this Ground Lease] and in substantially the form of Exhibit D attached to this Ground Lease, to be delivered to the Board contemporaneously with the Participating County's execution of this Ground Lease.

(2) The officers of Participating County executing this Ground Lease are duly and properly holding their respective offices and have the legal power, right and are fully authorized to execute this Ground Lease pursuant to the Resolution.

(3) This Ground Lease has been duly authorized, executed and delivered by Participating County, and will constitute a legal, valid and binding agreement of Participating County, enforceable against the Participating County in accordance with its terms upon the Effective Date.

(4) The Participating County is the owner in fee simple of the Site and has marketable and insurable fee simple title to the Site, there is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending against the Site or pending against the Participating County which could affect the Participating County's title to the Site, affect the value of the Site, or subject an owner of the Site to liability and there are no outstanding mortgages, deeds of trust, bond indebtedness, leaseholds, pledges, conditions or restrictions, liens or encumbrances against the Site except as identified in Exhibit E, attached hereto, collectively, the "Permitted Encumbrances".

(5) No consent, permission, authorization, order, license, or registration with any governmental authority is necessary in connection with the execution and delivery of this Ground Lease, except as have been obtained.

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(6) There exists no litigation or other proceeding pending or threatened against the Participating County except as identified in Exhibit F, attached hereto, that, if determined adversely, would materially and adversely affect the ability of the Participating County to perform its obligations under this Ground Lease.

(7) This Ground Lease is, and all other instruments, documents, exhibits, and agreements required to be executed and delivered by the Participating County in connection with this Ground Lease are and shall be, duly authorized, executed and delivered by the Participating County and shall be valid, legally binding obligations of and enforceable against the Participating County in accordance with their terms.

(8) Neither the execution and delivery of this Ground Lease and documents referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Ground Lease and the documents referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any agreements or instruments to which the Participating County is a party or affecting the Site.

(9) There are no attachments, execution proceedings, or assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings pending against the Participating County.

(10) There are no and have been no:

(A) actual or pending public improvements which will result in the creation of any liens, encumbrances or assessments upon the Site, including public assessments or mechanics liens, other than the Permitted Encumbrances, and the Participating County agrees to indemnify, defend and hold the Department free and harmless from and against any claims, liabilities, losses, costs, damages, expenses and attorneys' fees arising from any liens, encumbrances or assessments that have been, or may be, imposed upon the Site as a consequence of actual or impending public improvements at or after the Effective Date, including any obligations to pay a fee or assessment for infrastructure to the extent such liability survives or continues at or after the Effective Date, and the Department agrees to cooperate with the Participating County, at the Participating County's costs and to the extent permitted by law, with respect to the Participating County's efforts to remove any such liens, fees, assessments, or encumbrances.

(B) uncured notices from any governmental agency notifying the Participating County of any violations of law, ordinance, rule, or regulation, including Environmental Laws, occurring on the Site.

(C) notices of any condemnation, zoning or other land-use regulation proceedings, either instituted or planned to be instituted, which would detrimentally affect the use, operation or value of the Site.

(11) The Participating County hereby agrees that it will not enter into any new leases or any other obligations or agreements that will affect the Site at or after the Effective Date, without the express prior written consent of the Department and approval of the Board.

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(12) The Participating County will not subject the Site to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the Effective Date without the express prior written consent of the Department and the approval of the Board.

(13) The Participating County shall promptly notify the Department of any event or circumstance that makes any representation or warranty of the Participating County under this Ground Lease untrue or misleading, or of any covenant of the Participating County under this Ground Lease incapable or less likely of being performed. The Participating County's obligation to provide the notice described in the preceding sentence to the Department shall in no way relieve the Participating County of any liability for a breach by the Participating County of any of its representations, warranties or covenants under this Ground Lease.

(14) The Department shall at all times during the Term have access to and from the Site.

(15) No representation, warranty or statement of the Participating County in this Ground Lease or in any document, certificate, exhibit or schedule furnished or to be furnished to the Department pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

SECTION 4. Lease of the Site, Access, Utilities and Repairs Easements and Recordation of Lease.

(a) Lease of the Site and Recordation of Ground Lease. The Participating County hereby leases the Site to the Department and the Department leases the Site from the Participating County. The Participating County further agrees to provide, or cause to be provided, to the Department and its assigns or sublessees, adequate parking spaces at no cost, and such utility services as the Participating County customarily provides or causes to be provided to facilities similar to the Project, including without limitation electricity, gas, water, sewer, garbage disposal, heating, air conditioning and telephone. The Department and the Board shall have the right to record this Ground Lease in the Official Records of the Participating County as of the Effective Date or anytime thereafter.

[Use Note: Section 4(b) and the Easement Agreement are necessary if Site access and utilities are provided by other real property. The execution form of the Easement Agreement is attached as Exhibit C.]

(b) Access, Utilities and Repairs Easement. As of the Effective Date, the Participating County agrees to grant to the Department, for the use, benefit and enjoyment of the Department and its lessees, successors and assigns, and their respective employees, invitees, agents, independent contractors, patrons, customers, guests and members of the public using or visiting the Site or the Project, a non-exclusive easement over, across and under the Easement Property for the purpose of: a) ingress, egress, passage or access to and from the Site by pedestrian or vehicular traffic; b) installation, maintenance and replacement of utility wires, cables, conduits and pipes; and c) other purposes and uses necessary or desirable for access to and from the Site for the repair, operation and maintenance of the Facility (collectively the "Easements"). The grant of the Easements shall be

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memorialized in that certain Easement Agreement for Grants of Access, Utilities and Repairs (the "Easement Agreement") in substantially the form of Exhibit C attached to this Ground Lease. The Department and the Board shall have the right to record the Easement Agreement in the Official Records of the Participating County as of the Effective Date or anytime thereafter. The Easements to be granted by the Participating County are subject to the limitations set forth in the Easement Agreement. In the event of a conflict or ambiguity, with respect to the terms of the Easements, between this Ground Lease and the Easement Agreement, the terms of the Easement Agreement shall control.

SECTION 5. Landlord Right of Entry for Construction and Operation.

(a) Landlord Right of Entry for Construction and Operation. Notwithstanding anything to the contrary contained herein, Landlord has reserved the right to enter and use the Site for construction of the Project pursuant to the terms and conditions in the Right of Entry.

(b) Quiet Enjoyment. The Participating County covenants that the Department, its assigns or sublessees, may quietly have, hold, and enjoy all of the Site and the Improvements during the Term of this Ground Lease and any extended term hereof, without hindrance or interruption by the Participating County or by any other person or persons lawfully or equitably claiming by, through or under the Participating County, except as limited by the Permitted Encumbrances.

SECTION 6. Purpose and Use.

The Parties reasonably expect for the Site to be used by the Department, and each of its assignees or sublessees during the Term of this Ground Lease, for the purpose of causing the construction, operation and maintenance of the Project and appurtenances thereto; provided however, the Parties acknowledge that the Site may be utilized for other types of correctional housing or other public purposes as may be required to exercise the Board's obligations, rights and remedies under the Bond Documents.

The Participating County acknowledges and confirms that the Department's use of the Leasehold Estate created hereunder includes, but is not limited to, allowing for potential financing and construction of the Project and the leasing of the Site and/or the Facility pursuant to the Site Lease, the Facility Lease, and the Facility Sublease and for such other purposes as may be incidental thereto. The Participating County further acknowledges and confirms the Board's right to relet the Facility in the event of a default under the Facility Lease and to provide for all other rights and remedies of the Board, the State Treasurer, and the owners of the Bonds in the event of a default under the Bond Documents.

SECTION 7. Assignment or Sublease.

The Department may sublet or assign all or a portion of the Site or the Project or assign this Ground Lease or any interest therein, without the prior consent or approval of the Participating County; provided, however, any sublet or assignment shall be subject to the prior approval of the Board and Participating County is provided notice of said sublet or assignment. Notwithstanding that the Participating County's consent or approval is not required for any subletting of the Site or the Project, to assist with the Board's financing of the Project, the

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Participating County hereby consents to and approves the sublease of the Site, together with the Improvements, to the Board under the Site Lease and the further subletting of the Facility by the Board to the Department under the Facility Lease.

SECTION 8. No Commitment to Issue the Bonds and Non-Liability of the Department and the State.

The delivery of this Ground Lease shall not directly, indirectly or contingently, obligate the Department, the Board or any other subdivision of the State to issue the Bonds or levy any form of taxation or to make any appropriation with respect to the Project. Any obligation of the Department created by or arising out of this Ground Lease shall not impose a debt or pecuniary liability upon the Department, the Board or any other subdivision of the State, or a charge upon the general credit or taxing powers thereof but shall be payable solely out of funds duly authorized and appropriated by the State.

SECTION 9. Cooperation.

The Participating County has a duty to fully cooperate and provide all necessary assistance to the Department and the Board to aid them in their efforts to finance the Project. The Participating County acknowledges that it is authorized and directed to provide cooperation concerning the issuance of the Bonds, including without limitation, executing and delivering such certificates, legal opinions or instruments as the Department or the Board may reasonably request. The Participating County's legal counsel, Chief Administrative Officer and its Sheriff are authorized and directed to cooperate in the issuance of the Bonds and to execute all documents reasonably needed to accomplish such financing.

SECTION 10. Term and Extension.

The Term of this Ground Lease shall commence on the Effective Date and shall co-terminate on the same date as the Facility Lease, unless such Term is extended by the parties thereto, or unless sooner terminated as provided herein, except no termination of this Ground Lease shall occur until all the Bonds and all other indebtedness incurred by the Board for the Project, if any, have been fully repaid.

SECTION 11. Rental.

The Department shall pay the Participating County rental in the sum of Ten Dollars (\$10.00) per year, all of which rental shall be deemed to have been prepaid to the Participating County by the Department on the Effective Date and, thereby acknowledges the Participating County's match funding requirement has been sufficiently met. The Participating County agrees that the payment of such rental is adequate consideration for the leasing of the Site, together with the Improvements, under this Ground Lease.

SECTION 12. Taxes and Assessment.

The Department shall pay or cause to be paid all lawful taxes that may be levied at any time upon any interest the Department may have under this Ground Lease (including both the Site and the Improvements after the Effective Date). The Participating County and the

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Department each represent and acknowledge that neither Party believes or expects that its respective interests in the Site are subject to payment of property taxes. The Department shall have the right to contest the validity of any levy or tax assessment levied upon the Department's interest in the Site.

SECTION 13. Right of First Offer and Priority of Ground Lease.

(a) Right of First Offer. Should the Participating County decide to sell the Site at any time during the Term of this Ground Lease, the Participating County shall notify the Department and the Board in writing of such intention prior to soliciting offers from any prospective purchasers. In such event, the Department and the Board shall have fifteen (15) months from receipt of such notification of intention to sell to inform the Participating County of the Department's interest in acquiring the Site. The Participating County understands that the State's acquisition process requires an appropriation of funds and the approval of the Board. The Participating County agrees to reasonably cooperate with the Department in obtaining such approval and in meeting any other State property acquisition requirements that may exist at that time. If the Department informs the Participating County of the Department's intention to acquire the Site within said fifteen (15) month period, the Parties agree to negotiate a purchase agreement in good faith and at a price that is the fair market value of the Site at the time the Department exercises its Right of First Offer.

(b) Priority of Ground Lease. If the Department and the Participating County are unable to agree on the terms and conditions for the purchase and sale of the Site, or if the Board does not approve the acquisition of the Site by the Department, the Participating County shall be free to market and sell the Site to a third party; provided, however, any new owner of the Site shall acquire the Site subject to this Ground Lease and any encumbrances related to the Bonds and the Bond Documents. The Department and the Board shall have no obligation to subordinate the Ground Lease, the Bonds or the Bond Documents to accommodate the new owner or lender(s).

SECTION 14. Damage or Destruction.

Damage or destruction to the Project shall not act to terminate or cancel this Ground Lease. In the event of any damage or destruction of the Project, the use of the proceeds of any property casualty or builder's risk insurance required to be procured and maintained pursuant to the PDCA, or any insurance required by the Facility Lease or Facility Sublease shall be governed by the terms of the agreement that required the procurement of such insurance.

SECTION 15. Insurance.

Except for insurance obligations that may arise as a result of the issuance of the Bonds by the Board, or as may be required by the PDCA, the Department shall have no obligation to purchase insurance for the Site or the Project, including but not limited to any general liability, earthquake, flood, fire or extended casualty coverage.

SECTION 16. Condition and Title to the Improvements on Termination.

Upon termination or expiration of this Ground Lease, the Department shall have no

obligation, to remove the Improvements. Title to the Improvements, including the Project, during the Term shall be vested in the State. Subject to the terms and conditions in the Bond Documents, at the termination or expiration of this Ground Lease, fee title to the Improvements, including the Project, shall vest in the Participating County and become the property of the Participating County without further action of any Party and without the necessity of a deed from the Department to the Participating County.

SECTION 17. The Department's Right to Terminate.

The Department, with the approval of the Board, shall have the right to terminate this Ground Lease upon thirty (30) days written notice to the Participating County without any liability; provided, however, no termination of this Ground Lease or reversion of title to any portion of the Site or vesting of title to the Project may occur until the Bonds have been fully paid or retired under the provisions of the Bond Documents.

SECTION 18. The Participating County's Right to Terminate

Participating County's proper exercise of its termination rights pursuant to Article 2, section 2.2(b) of the PDCA serves to terminate this Ground Lease effective on the date of termination of the PDCA.

SECTION 19. Non-Termination, Default and Damages.

This Ground Lease shall expire at the end of the Term. It is expressly agreed by the Parties to this Ground Lease that any default under this Ground Lease will not allow either Party to terminate or otherwise interfere with the Department's quiet enjoyment and beneficial use of the Site and the Project under this Ground Lease, the Site Lease or the Facility Lease. Until such time as the Bonds have been fully paid or retired under the provisions of the Bond Documents, the sole remedy of any Party upon such default shall be a suit for money damages or specific performance to remedy such a default.

SECTION 20. Waste and Hazardous Materials.

Neither the Participating County nor the Department shall knowingly commit, suffer or permit any waste or nuisance on the Site or any acts to be done thereon in violation of any laws or ordinances. To the Participating County's best knowledge, after having examined its documents, public records and other instruments and having made inquiry of appropriate departments and agencies with respect to the Site and, except as specifically provided in this Ground Lease, no Hazardous Materials, were used, generated, stored, released, discharged or disposed of on, under, in, or about the Site or transported to or from the Site. The Participating County represents with respect to the Site that neither the Participating County nor any other person or entity under the control of, or with the knowledge of the Participating County will cause or permit the use generation, storage, release, discharge, or disposal of any Hazardous Materials on, under, in, or about the Site or transported to or from the Site.

SECTION 21. Eminent Domain.

If the whole or any portion of the Site or the Project shall be taken in eminent domain

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proceedings, or by sale in lieu of such taking by a governmental entity threatening to use the power of eminent domain, and which taking in the collective judgment of the Department, the Board, and the State Treasurer renders the Site and/or the Project unsuitable for the continued use by the State, then this Ground Lease shall terminate when possession is taken by the condemning entity.

If this Ground Lease is terminated because of such taking and any of the Bonds are outstanding, then all proceeds from any permanent or temporary taking shall be used to repay any outstanding Bonds as provided in the Bond Documents, including any outstanding or accrued interest, and upon full repayment of the Bonds then the remaining proceeds, if any, shall be distributed to the Department and the Participating County according to their respective interests as provided in the Bond Documents. The Participating County and the Department shall each have the right to represent its own interest, at its own cost and expense, in any proceedings arising out of such taking, and each of the Participating County and the Department shall reasonably cooperate with the other, including without limitation, settling with the condemning authority only with the other Party's consent if such settlement would affect the other Party's rights.

If this Ground Lease is not terminated because of such taking, then it shall remain in full force and effect with respect to the remainder of the Site and the Project. The Participating County and the Department each waives the provisions of the California Code of Civil Procedure, Section 1265.130, or any similar law that permits a Party to petition a court to terminate this Ground Lease upon a taking affecting the Site or the Project, the Parties agreeing that any such termination rights shall be only as expressly set forth in this Ground Lease.

SECTION 22. Non-Discrimination.

During the performance of this Ground Lease, the Participating County shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. The Participating County shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

The Participating County shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.), the provisions of Article 9.5, Chapter I, Part I, Division 3, Title 2 of the Government Code (Government Code, Sections 11135- 11139.5), and the regulations or standards adopted to implement such article.

SECTION 23. Liens.

In the event the Department, the Board or their designees, at any time during the Term, causes any changes, alterations, additions, improvements, or other work to be done or performed or materials to be supplied, in or upon the Project or the Site, the Department, the Board or their designees shall pay, when due, all sums of money that may become due for any labor, services,

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materials, supplies or equipment furnished to or for the Department or the Board, upon or about the Project or the Site and which may be secured by any lien against the Project or the Site or the Department's or the Board's interest therein, and will cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or comes due; except that, if the Department or the Board desires to contest any such lien, it may do so. If any such lien is reduced to final judgment and such judgment or other process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed, said stay thereafter expires, the Department or the Board shall forthwith pay and discharge said judgment.

SECTION 24. Indemnification.

As required by Section 15820.915 of the California Government Code, the Participating County hereby agrees that it shall indemnify, protect, defend and hold harmless the State, including but not limited to, the Department, the Board, DGS, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants and agents (collectively the "Indemnitees"), for any and all claims, liabilities and losses arising out of the use of the Site or the Project, including, but not limited to all demands, causes of action and liabilities of every kind and nature whatsoever arising out of, related to, or in connection with (a) any breach of this Ground Lease by the Participating County; (b) the construction, operation, maintenance, use and occupancy of the Project; (c) any acts or omissions of any contractor hired by the Participating County or its agents or subcontractor hired by such contractor (collectively the "Claims"). The Participating County's obligation to indemnify, defend, and save harmless the Indemnitees shall extend to all Claims arising, occurring, alleged, or made any time, including prior to, during, or after this Ground Lease is in full force and effect. The Participating County's obligation to indemnify, defend, and save harmless the Indemnitees shall apply regardless of any active and/or passive negligent act or omission of the Indemnitees, but the Participating County shall not be obligated to provide indemnity or defense for Indemnitees wherein the Claims arise out of the gross negligence or willful misconduct of the Indemnitees. The indemnification obligation of the Participating County set forth in this Section shall survive the expiration of the Term or earlier termination of this Ground Lease.

SECTION 25. Non-Encumbrance.

The Participating County covenants that the Facility is not and will not be mortgaged, pledged, or hypothecated in any manner or for any purpose and has not been and will not be the subject of a grant of a security interest by the Participating County without the written consent of the Department and the Board. The Participating County further covenants that it shall not in any manner impair, impede or challenge the security, rights and benefits of the owners of the Bonds or the trustee for the Bonds.

SECTION 26. Miscellaneous.

(a) Amendments. This Ground Lease may only be amended, changed, modified or altered in writing by the Parties. As long as any of the Bonds are outstanding the Board must consent to any amendment hereto to be effective.

(b) Waiver. The waiver by any Party of a breach by the other Party of any term,

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covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

(c) Law Governing. This Ground Lease shall be governed exclusively by the provisions hereof and by the laws of the State and any action arising from or relating to this Ground Lease shall be filed and maintained in Sacramento County Superior Court, Sacramento, California.

(d) Section Headings. All articles, paragraph and section headings, titles or captions contained in this Ground Lease are for convenience of reference only and are not intended to define or limit the scope of any provision of this Ground Lease.

(e) Conflicts Between Terms of Documents. Nothing in this Ground Lease is intended to amend, modify or supersede the PDCA except as expressly provided herein. In the event of any inconsistency in the PDCA and this Ground Lease, the inconsistency shall be resolved by giving preference to the PDCA. In the event of any inconsistency between this Ground Lease and the Bond Documents, the inconsistencies shall be resolved by giving preference to the Bond Documents.

(f) Relationship of Parties. The Department and its agents and employees involved in the performance of this Ground Lease shall act in an independent capacity and not as officers, employees or agents of the Participating County.

(g) Successors and Assigns. The terms and provisions hereof shall extend to and be binding upon and inure to the benefit of the successors and assigns of the respective Parties.

(h) Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Ground Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason by a court of competent jurisdiction and the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants or conditions of this Ground Lease shall be affected thereby, and each provision of this Ground Lease shall be valid and enforceable to the fullest extent permitted by law.

(i) Notices. All notices herein which are to be given or which may be given by either Party to the other, shall be in writing and shall be deemed to have been given three (3) business days after deposit in the United States Mail, certified and postage prepaid, return receipt requested and addressed as follows:

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

To the Board: State Public Works Board
915 L Street, 9th Floor
Sacramento, CA 95814

EXECUTION COPY

Attention: Executive Director
Facsimile: 916-449-5739

To the Participating County: County of _____
[Street Address]
[City, State and Zip Code]
Attention: _____
Facsimile: _____

Nothing herein contained shall preclude the giving of any such written notice by personal service, in which event notice shall be deemed given when actually received. The address to which notices shall be mailed to a Party may be changed by written notice given to all Parties as hereinabove provided.

(j) Execution and Counterparts. This Ground Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Ground Lease. It is also agreed that separate counterparts of this Ground Lease may separately be executed by the signatories to this Ground Lease, all with the same force and effect as though the same counterpart had been executed by all of the signatories.

(k) Bankruptcy. In the event of any bankruptcy proceeding, this Ground Lease will not be treated as an executory contract and cannot be rejected by the Participating County.

(l) Exhibits. The following Exhibits are attached to this Ground Lease and incorporated by reference herein.

- Exhibit A: Project Description
- Exhibit B: Legal Description of the Site
- Exhibit C: Form of Easement Agreement for Grants of Access, Utilities and Repairs
- Exhibit D: Form of Legal Opinion Letter
- Exhibit E: List of the Permitted Encumbrances
- Exhibit F: Pending and Threatened Lawsuits

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

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IN WITNESS WHEREOF, the Parties hereto have caused this Ground Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

[PARTICIPATING COUNTY]

By: _____
Name: _____
Title: _____

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

By: _____
Name: Deborah Hysen
Title: Deputy Director
Facility Planning, Construction
and Management

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

By: _____
Name: Stephen Benson
Title: Deputy Director

Date: _____

**APPROVED: DEPARTMENT OF GENERAL
SERVICES OF THE STATE OF
CALIFORNIA**

(Pursuant to Government Code Section 11005)

By: _____
Name: Michael P. Butler
Title: Assistant Section Chief
Real Property Services Section

EXECUTION COPY

State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXECUTION COPY

State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXECUTION COPY

CERTIFICATE OF ACCEPTANCE

This is to certify that, pursuant to Section 27281 of the California Government Code, the interest in real property conveyed by the Ground Lease dated as of _____, 20__ for reference only from the County of _____, a Political Subdivision of the State of California to the State of California on behalf of the Department of Corrections and Rehabilitation of the State of California is hereby accepted by the undersigned officer on behalf of the State Public Works Board pursuant to authority conferred by said Board in its duly adopted delegation resolution on December 13, 2013.

Note to Recorder: If this certificate is for a correction deed, all corrections and/or changes to the previously recorded deed must be reviewed and accepted by the State prior to recording a correction deed. All correction deeds require a new Certificate of Acceptance dated subsequent to recordation of the original deed or the most recent correction deed if any.

ACCEPTED

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Name: Stephen Benson
Title: Deputy Director

Date: _____

APPROVED

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
Name: Deborah Hysen
Title: Deputy Director
Facility Planning, Construction
and Management

Date: _____

APPROVED

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA
(Pursuant to Government Code Section 11005)

By: _____
Name: Michael P. Butler
Title: Assistant Section Chief
Real Property Services Section

Date: _____

EXHIBIT A

Project Description

(Project Name)

PROJECT SCOPE

(Insert Project Scope from PDCA)

EXHIBIT B

Legal Description of the Site

[To be attached]

EXHIBIT C

Form of Easement Agreement for Grants of Access, Utilities and Repairs

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

NO DOCUMENTARY TRANSFER TAX DUE. This Ground Lease is recorded for the benefit of the State of California and is exempt from California transfer tax pursuant to Section 11928 of the California Revenue and Taxation code and from recording fees pursuant to Sections 6103 and 27383 of the California Government Code.

[THE AREA ABOVE IS RESERVED FOR RECORDER'S USE]

EASEMENT AGREEMENT FOR GRANTS OF
ACCESS, UTILITIES AND REPAIRS

This Easement Agreement for Grants of Access, Utilities and Repairs (this "Easement Agreement"), dated for reference only as of _____, 20__, is made by and between COUNTY OF _____, (the "Participating County"), a Political Subdivision of the State of California, as grantor, and the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA (the "Department"), an entity of state government of the State of California, as grantee.

RECITALS

A. The Participating County, as landlord, and the Department as tenant, entered into a ground lease dated as of _____, 20__ for reference only, (the "Ground Lease") for the lease of that certain real property located in the County of [_____] and more particularly described in Exhibit 1, attached hereto and incorporated herein by this reference (the "Site"); and

B. The Ground Lease provides that the Participating County, as owner of certain real property adjacent to the Site, shall grant Easements to the Department in the Easement Property, which is more particularly described in Exhibit 2, attached hereto and incorporated herein by this reference; and

C. The Participating County and the Department desire to the grant of Easements in the Easement Property on the terms and conditions contained in this Easement Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

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1. Definitions. Unless otherwise required by the context, all capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in the Ground Lease or the Project Delivery and Construction Agreement.

2. Grant and Description of Easements.

2.1 Grant of Access Easement. The Participating County, as the owner of the Easement Property, hereby establishes and grants to and for the benefit of the Department and the Board and their respective contractors, subcontractors, employees, lessees, licensees, permittees, successors and assigns a non-exclusive easement over and across the Easement Property as shown in Exhibit 2 hereto for purposes of ingress and egress to and from the Site and the Project (the "Access Easement"); provided, however, that rights pursuant to such Access Easement shall only be exercised if there is no reasonable access to the Site and the Project via adjacent public streets and roadways and subject to the security limitations set forth in Section 2.3 hereof; and provided further, that such Access Easement is only effective (i) during such times where the Department, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Sublease or (ii) during such times where the Board, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Lease.

2.2 Grant of Utilities and Repairs Easement. The Participating County, as the owner of the Easement Property, hereby grants to and for the benefit of the Department and the Board and their respective contractors, subcontractors, employees, lessees, licensees, permittees, successors and assigns a non-exclusive easement across, over and under the Easement Property as shown in Exhibit 2 hereto for the purpose of: a) installation, maintenance and replacement of utility wires, cables, conduits and pipes for "Utilities", as defined below; and b) other purposes and uses necessary or desirable for the repair, operation and maintenance of the Facility (the "Utilities and Repairs Easement" and together with the Access Easement, the "Easements"); provided, however, that such Utilities and Repairs Easement is subject to the security limitations set forth in Section 2.3 hereof; and; provided further, that such Utilities and Repairs Easement is only effective (i) during such times where the Department, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Sublease or (ii) during such times where the Board, or its lessees, successors or assigns, is in possession of the Facility and is responsible for maintenance and repair of the Facility under the terms of the Facility Lease. "Utilities" shall mean any and all wet and dry utilities (including sewer) necessary or required to service the Facility, including, without limitation, all electrical, natural gas, water, sewer, telephone, data, and other telecommunications services.

2.3 Security Limitation on Easements. The exercise of the rights granted under the Easements will be expressly subject to the limitations and requirements imposed by the Participating County's customary security measures for the Participating County's facilities that may be located on the Easement Property (the "Security Measures"). Prior to the exercise of any rights under the Easements, the Department or the Board, as the case may be, or their respective lessees, successors or assigns shall contact the [Title of Appropriate Individual at Participating County] to ensure that such exercise of rights granted under the Easements will be in compliance

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with the requirements of the Security Measures.

3. No Unreasonable Interference. The Participating County shall not conduct any activity on, under or about the Easement Property that would unreasonably interfere with the use of the Easements.

4. Term of Easement Agreement; No Termination by Breach. The term of this Easement Agreement shall be coextensive with the Term of the Ground Lease, as such Term may be extended or terminated as provided in the Ground Lease. No breach of this Easement Agreement shall entitle any of the parties hereunder to cancel, rescind, or otherwise terminate this Easement Agreement, but such limitation shall not affect in any manner any other rights or remedies which a party may have hereunder by reason of any breach.

5. Character. The Easements granted by this Easement Agreement shall be appurtenant to the Site and nonexclusive and for the use and benefit of the Department and the Board. This Easement Agreement is not intended to grant a fee interest in the Easement Property, nor is it intended to be a lease or a license. The Department acknowledges that the Easements herein granted are nonexclusive easements and that the Participating County and its successors and assigns may grant one or more additional non-exclusive easements in the Easement Property to third parties, so long as the rights granted by such easements do not materially interfere with or hinder the use of the Easements by the Department or the Board or that of their respective lessees, successors or assigns.

6. Covenants Running with the Land; Binding on Successors. Pursuant to California Civil Code section 1468, this Easement Agreement and the Easements are covenants related to the use, repair, maintenance and improvement of the properties benefited and burdened hereby, and, as such, the covenants set forth herein shall be binding upon the Easement Property and shall be binding upon all parties having or in the future acquiring any interest in the Easement Property.

7. Binding Effect. This Easement Agreement shall be binding on and shall inure to the benefit of the lessees, successors and assigns of the Participating County, the Department, and the Board.

8. Recordation of Easement Agreement. This Easement Agreement shall be recorded in the Official Records of [] County, State of California, and shall serve as notice to all parties succeeding to the interest of the parties hereto that their use of the Site and the Project and the Easement Property shall be benefited or restricted, or both, in the manner herein described.

9. Entire Agreement; Amendments. This Easement Agreement contains the entire agreement of the parties hereto relating to the Easements herein granted. Any representations or modifications concerning this Easement Agreement shall be of no force and effect, excepting a subsequent modification in writing, signed by the Department and approved by the Board and the current owner of the Easement Property and recorded in the Official Records of [] County, State of California.

10. Warranty of Authority. The Participating County represents and warrants as of

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the Effective Date that (i) it is the legal owner of the Easement Property, (ii) it has full power and authority to place the encumbrance of this Easement Agreement on the Easement Property, (iii) it has not conveyed (or purported to convey) any right, title or interest in or to the Easement Property, except as has been disclosed in writing to the Department prior to the Effective Date, and (iv) if necessary, it has the written consent of any lenders, tenants and subtenants of the Easement Property to the terms and conditions of this Easement Agreement.

11. Counterparts. This Easement Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

THE COUNTY OF [COUNTY]

By: _____
Name:
Title:

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

By: _____
Name:
Title:

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

By: _____
Name:
Title: Executive Director or Deputy Director

**APPROVED: DEPARTMENT OF GENERAL
SERVICES OF THE STATE OF
CALIFORNIA**

(Pursuant to Government Code Section 11005)
By: _____
Name:
Title:

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State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXECUTION COPY

State of California)

County of _____)

On _____, 20__ before me, _____, notary,
(here insert name and title of the officer)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that, pursuant to Section 27281 of the California Government Code, the easement interest in real property conveyed by the Easement Agreement for Grants of Access Utilities, and Repairs dated as of _____, 20__ for reference only from the County of _____, a Political Subdivision of the State of California to the State of California on behalf of the Department of Corrections and Rehabilitation of the State of California is hereby accepted by the undersigned officer on behalf of the State Public Works Board pursuant to authority conferred by said Board in its duly adopted delegation resolution on December 13, 2013.

Note to Recorder: If this certificate is for a correction deed, all corrections and/or changes to the previously recorded deed must be reviewed and accepted by the State prior to recording a correction deed. All correction deeds require a new Certificate of Acceptance dated subsequent to recordation of the original deed or the most recent correction deed if any.

ACCEPTED

STATE PUBLIC WORKS BOARD OF THE
STATE OF CALIFORNIA

By: _____
Name: _____
Title: _____

Date: _____

APPROVED

DEPARTMENT OF CORRECTIONS AND
REHABILITATION OF THE STATE OF
CALIFORNIA

By: _____
Name: _____
Title: _____

Date: _____

APPROVED

DEPARTMENT OF GENERAL SERVICES OF
THE STATE OF CALIFORNIA
(Pursuant to Government Code Section 11005)

By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT 1 TO EASEMENT AGREEMENT

LEGAL DESCRIPTION OF THE SITE

(To Be Attached)

EXHIBIT 2 TO EASEMENT AGREEMENT
LEGAL DESCRIPTION OF THE EASMENT PROPERTY

(To Be Attached)

EXHIBIT D

Form of Legal Opinion Letter

[LEGAL COUNSEL LETTERHEAD]

[Client]

State Public Works Board
of the State of California
Sacramento, California

Re: Ground Lease By and Between [insert name of the Participating County] and the Department for the [insert name of the Project] Located at [insert address of the Site]

Ladies and Gentlemen:

I am legal counsel for [insert name of client] with respect to the above referenced matter. I have examined originals or copies, certified or otherwise identified to my satisfaction, of such documents, exhibits, public records and other instruments in connection with the Ground Lease dated as of _____, 20__ for reference only between [insert name of the Participating County], as landlord, and the Department of Corrections and Rehabilitation of the State of California (the "Department"), as tenant, (the "Ground Lease"), and have conducted such other investigations of fact and law as I have deemed necessary for the purpose of this opinion.

I am of the opinion that:

[Use one of the following alternatives]

[Alternative 1: If the Participating County is the client]

1. The [insert name of the Participating County] is a political subdivision of the State of California created in accordance with the provisions of the Constitution of the State of California, with full legal right, power and authority to enter into and perform its obligations under the Ground Lease *[if easements are being granted under the terms of an Easement Agreement in the form of Exhibit C to the Ground Lease, add: "and Easement Agreement in the form attached as Exhibit C to the Ground Lease" and revise letter accordingly]*.

[Alternative 2: If the Department is the client]

1. The Department is an entity of state government of the State of California with full legal right, power and authority to enter into and perform its obligations under the Ground

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Lease [if easements are being granted under the terms of an Easement Agreement in the form of Exhibit C to the Ground Lease, add: “and Easement Agreement in the form attached as Exhibit C to the Ground Lease” and revise letter accordingly].

[The following provisions apply regardless of the client]

2. The Ground Lease [and Easement Agreement] [has/have] been duly authorized, executed and delivered by [insert name of client], and [is/are] valid and binding upon and enforceable against the [insert name of client] in accordance with [its/their] terms if [it is/they are] in like fashion valid and binding upon and enforceable against the respective other parties thereto, except that enforceability may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors’ rights generally and by the application of equitable principles if equitable remedies are sought.

3. The execution and delivery by the [insert name of client] of the Ground Lease [and Easement Agreement] and compliance with the provisions thereof do not and will not materially conflict with or constitute on the part of the [insert name of client] a breach of or a default under the law, administrative regulation, judgment, decree or any agreement or other instrument known to me which the [insert name of client] is a party or otherwise subject.

4. All actions on the part of the [insert name of client] necessary for the execution and performance of the Ground Lease [and Easement Agreement] have been duly and effectively taken, and no consent, authorization or approval of, or filing or registration with, any governmental or regulatory officer or body not already obtained or not obtainable in due course by the [insert name of client] is required to be obtained by the [insert name of client] for the making and performance of the Ground Lease [and Easement Agreement].

5. There is no action, suit or proceeding pending (with the service of process having been accomplished) to restrain or enjoin the execution and delivery of the Ground Lease [and Easement Agreement], or in any way contesting or affecting the validity of the Ground Lease [and Easement Agreement].

Very truly yours,

[INSERT NAME OF CLIENT]

By: _____

Name: _____

Its: _____

EXHIBIT E

List of the Permitted Encumbrances

[To be inserted]

1. Right of Entry for Construction and Operation

EXHIBIT F

Pending and Threatened Lawsuits

[To be inserted]

EXHIBIT C

FORM OF RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION

Location of Site
Agency: Department of Corrections and Rehabilitation of the State of California Real Property: _____

RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION

This RIGHT OF ENTRY FOR CONSTRUCTION AND OPERATION AGREEMENT (this “License”) is entered into as of _____ 20__, by and between the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA (the “Department”), an entity of state government of the State of California (the “State”), as licensor, and the COUNTY OF _____, (the “Participating County”), a political subdivision of the State of California, as licensee. The Department and the Participating County are sometimes individually referred to as “Party” and collectively as “Parties”.

RECITALS

WHEREAS, pursuant to Chapter 3.12 of Part 10b of Division 3 of Title 2 of the California Government Code (commencing at Section 15820.91), the State Public Works Board (the “Board”) is authorized to finance the acquisition, design and construction of a jail facility approved by the Board of State and Community Corrections (the “BSCC”) pursuant to Section 15820.916 of the California Government Code (the “AB 900 Jail Financing Program”); and

WHEREAS, the Participating County has proposed to build a jail facility, the _____ project (the “Project”), to be located at _____ real property controlled by the Participating County through fee-simple ownership (the “Site”); and

WHEREAS, contemporaneous with entry into this License, Participating County intends to lease the Site to the Department pursuant to a Ground Lease executed by and between the Participating County and the Department and consented to by the Board (the “Ground Lease”); and

WHEREAS, the Department, as lessee under the Ground Lease intends to provide the Participating County access to the Site for the purpose of jail construction-related activities and for operation of the Project upon substantial completion of construction.

WITNESSETH

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NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements by the Parties set forth herein and other good and valuable consideration, this License is subject to the following terms and conditions:

1. Grant of License – The Department hereby grants to the Participating County, its employees, consultants, representatives and contractors a non-exclusive, temporary license to enter the Site for site analysis, Project construction-related activities, and for operation of the Project upon substantial completion of construction (“Activities”), all as contemplated by that certain Project Delivery and Construction Agreement by and among the Department, the Board, the BSCC and the Participating County (the “PDCA”). This License is subordinate to all prior or future rights and obligations of the Department and the Board in the Site, except that the Department and the Board shall grant no rights inconsistent with the reasonable exercise by the Participating County of its rights under this License.
2. License Term – This License shall commence on the Effective Date of the Ground Lease and shall terminate on the date of termination of the PDCA (the “Term”).
3. Compliance with Laws – The Participating County shall conduct all Activities in compliance with all Federal, State and municipal statutes and ordinances, and with all regulations, orders and directives of appropriate governmental agencies (“Laws and Regulations”), as such Laws and Regulations exist during the Term of this License.
4. Inspections – The Department, the Board, and their representatives, employees, agents or independent contractors may enter and inspect the Site or any portion thereof or any improvements thereon, and the Project at any time and from time to time at reasonable times to verify the Participating County’s compliance with the terms and conditions of this License.
5. Special Condition – In the performance of the required studies and tests, the Participating County acknowledges that the Participating County will practice all due diligence to protect the Site.
6. Cooperation – In the event the Department or the Board has business on the Site or the Project, the Participating County agrees to coordinate the Activities with the Department or the Board to minimize any impairment of access to the Site or the Project and any inconvenience to or disruption of the Department’s or the Board’s business. Department and Board agree to coordinate their business at the Site or the Project so as to minimize any delay or disruption of the Participating County’s Activities.
7. Indemnity – As required by California Government Code Section 15820.915 the Participating County hereby agrees that it shall indemnify, defend and save harmless the State, including but not limited to the Board, CDCR and BSCC, and each of their respective officers, governing members, directors, officials, employees, subcontractors, consultants, and agents (collectively, “Indemnitees”) for any and all claims and losses arising out of the acquisition, design,

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construction, and operation of the Project, including, but not limited to all demands, causes of actions and liabilities of every kind and nature whatsoever arising out of, related to, or in connection with (a) any breach of this License by the Participating County; (b) operation, maintenance, use and occupancy of the Project; (c) any acts or omissions of any contractor hired by the Participating County or its agents or subcontractor hired by such contractor; and (d) personal injury, bodily injury or property damage resulting from the Activities of the Participating County, its employees, consultants, representatives and contractors (collectively, "Claims"). The Participating County's obligation to indemnify, defend and save harmless the Indemnitees shall extend to all Claims arising, occurring, alleged, or made at any time, including prior to, during, or after the period that this License is in full force and effect. The Participating County shall not be obligated to provide indemnity or defense for an Indemnitee where the claim arises out of the active negligence or willful misconduct of the Indemnitee. The indemnification obligations of the Participating County set forth in this Section shall survive any termination of this License.

8. Insurance – The Participating County shall maintain the following insurances: 1) Commercial General Liability with limits of no less than one million dollars (\$1,000,000) per occurrence and Fire Legal Liability of no less than five hundred thousand dollars (\$500,000); 2) Automobile Liability with a combined single limit of no less than one million dollars (\$1,000,000) per accident and 3) Workers Compensation as required by law and Employers Liability with limits of no less than one million dollars (\$1,000,000) per occurrence. The Participating County shall be solely responsible for monitoring and ensuring that the necessary Workers Compensation Insurance is in effect for all persons entering onto the Site.
9. Utilities – The Department makes no guarantee as to the reliability or availability of utility services. The Department shall not supply any utility services to the Site or the Project.
10. Taxes and Assessments – It is expressly understood that this License is not exclusive and does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the Site or the Project to the Participating County. Any such acquisition of use rights shall be separate agreements at the sole discretion of the Department and the Board. Should taxes or assessments be levied upon any interest in this License, the Participating County agrees to pay all lawful taxes, assessments or charges created by this License. It is understood that this License may create a possessory interest subject to property taxation and the Participating County may be subject to the payment of property taxes levied on such interest.
11. Continuing Liability – No termination of this License shall release the Participating County from any liability or obligations hereunder resulting from any acts, omissions or events happening prior to the termination of this License and restoration of the Site to its prior condition.

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- 12. Attorneys' Fees – In the event of a dispute between the Parties with respect to the terms or condition of this License, it is agreed that each Party, including the prevailing Party, must bear its own costs and attorneys' fees.
- 13. Assignment, Subletting and Change in Use – The Participating County shall not transfer or assign this License and shall not sublet, license, permit or suffer any use of the Site or the Project or any part thereof.
- 14. Notices –
 - a. All notices or other communications required or permitted hereunder shall be in writing and shall be personally delivered (including by means of professional messenger service), sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below.
 - b. All such notices or other communications shall be deemed received upon the earlier of 1) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notices or 2) if mailed as provided above, on the date of receipt or rejection.

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

To the Board: State Public Works Board
915 L Street, 9th Floor
Sacramento, CA 95814
Attention: Executive Director
Facsimile: 916-449-5739

To the Participating County: _____ [County Name]
_____ [Address 1]
_____ [Address 2]
Attention: _____ [Title]
Facsimile: _____

- c. Notice of change of address or telephone number shall be given by written notice in the manner described in this Paragraph. The Participating County is obligated to notice all State offices listed above and the failure to provide notice to all State offices will be deemed to constitute a lack of notice.
- 15. Entire Agreement – This License contains all the agreements of the Parties regarding right of entry for construction and supersedes any prior License or

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negotiations. There have been no representations by the Department or understandings made between the Department and the Participating County regarding right of entry for construction and operation other than those set forth in this License. This License may not be modified except by a written instrument duly executed by the Parties hereto with the consent of the Board.

- 16. Counterparts – This License may be executed in one or more counterparts, each of which shall be deemed as original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this License by their duly authorized representatives on the date first above written.

THE COUNTY OF _____

By: _____
Name: _____
Title: _____

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

By: _____
Name: Deborah Hysen
Title: Deputy Director
Facility Planning, Construction and
Management

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

By: _____
Name: Stephen Benson
Title: Deputy Director

**APPROVED: DEPARTMENT OF
GENERAL SERVICES OF THE
STATE OF CALIFORNIA**
(Pursuant to Government Code Section 11005)

By: _____
Name: Michael P. Butler
Title: Assistant Section Chief
Real Property Services Section

EXHIBIT D

FORM OF FACILITY SUBLEASE

NOTE: THIS IS A GENERAL FORM OF FACILITY SUBLEASE ONLY. THE STATE PUBLIC WORKS BOARD AND THE STATE'S FINANCING TEAM HAVE FULL RIGHT AND AUTHORITY TO ALTER, CHANGE, AND MODIFY THIS GENERAL FORM AS NECESSARY, UPON ADVICE OF COUNSEL, TO FACILITATE THE FINANCING AS THEY DEEM NECESSARY.

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
[ADDRESS])
_____)
_____)
Attention:)

[Space above for Recorder's use]

FACILITY SUBLEASE
by and between the

DEPARTMENT OF CORRECTIONS AND REHABILITATION
OF THE STATE OF CALIFORNIA,
as Sublessor

and

County of [COUNTY],
as Sublessee

Dated as of _____, 20__

[PROJECT NAME]
([COUNTY])

NO DOCUMENTARY TRANSFER TAX DUE. This Facility Sublease is recorded for the benefit of the State of California and is exempt from California documentary transfer tax pursuant to Section 11928 of the California Revenue and Taxation Code and from recording fees pursuant to Sections 6103 and 27383 of the California Government Code.

TABLE OF CONTENTS

	Page
SECTION 1. Definitions.....	2
SECTION 2. Sublease of the Facility to the Participating County; Right of Entry	2
SECTION 3. Term	2
SECTION 4. Consideration and Conflicts between Documents	2
SECTION 5. Purpose and Use.....	2
SECTION 6. Obligations of Participating County	3
SECTION 7. Insurance	3
SECTION 8. Assignment or Subletting of Facility	5
SECTION 9. Hazardous Materials	6
SECTION 10. Termination, Breach, Default and Damages.....	7
SECTION 11. Additions, Betterments, Extensions or Improvements; Liens	10
SECTION 12. Continuing Disclosure	11
SECTION 13. Status of Private Activity Use of the Facility	11
SECTION 14. Tax Covenants	11
SECTION 15. No Merger.....	12
SECTION 16. Waste.....	12
SECTION 17. Amendments	12
SECTION 18. Waiver.....	13
SECTION 19. Non-Liability of the Department and other State Entities	13
SECTION 20. Indemnification	13
SECTION 21. Law Governing	14
SECTION 22. Headings	14
SECTION 23. Notices	14
SECTION 24. Successors and Assigns.....	15
SECTION 25. Validity and Severability	15
SECTION 26. Execution	15
SECTION 27. Multiple Originals.....	15
SECTION 28. Net Lease	15
EXHIBIT A LEGAL DESCRIPTION OF SITE.....	A-1

FACILITY SUBLEASE

This Sublease (this "Facility Sublease"), dated as of _____ 1, 20__, is made and entered into by and between the DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA, as sublessor (the "Department") and the COUNTY OF [COUNTY], as sublessee (the "Participating County").

R E C I T A L S

WHEREAS, pursuant to Chapter 3.11 of Part 10b of Division 3 of Title 2 of the California Government Code (the "Law"), the State Publics Work Board (the "Board") is authorized to finance the acquisition, design and construction of a jail facility approved by the Corrections Standards Authority pursuant to Section 15820.906 of the Government Code of the State (the "AB 900 Jail Financing Program"); and

WHEREAS, the Participating County [has built/is constructing] a jail facility (the "Project") financed pursuant to the AB 900 Jail Financing Program, which is located on _____, real property controlled by the Participating County through fee-simple ownership (the "Site"); and

WHEREAS, the Participating County has leased the Site to the Department pursuant to a Ground Lease Agreement, dated as of _____ 1, 20__ (the "Ground Lease") executed by and between the Participating County and the Department and consented to by the Board; and

WHEREAS, pursuant to the Law, the Board is authorized to issue lease revenue bonds for the Project (the "Bonds"), the Department, as lessor and the Board, as lessee, entered into a site lease dated as of _____ 1, 20__ (the "Site Lease"), providing for the sublease of the Site to the Board, and the Board, as sublessor, and the Department, as sublessee, entered into a facility lease dated as of _____ 1, 20__ (the "Facility Lease"), providing for the leasing of the Site and the Project (the Site, together with the Project, the "Facility"); and

WHEREAS, The Site Lease and the Facility Lease will provide security for the Bonds issued on the date hereof by the Board under an indenture[... as supplemented by the _____ supplemental indenture], (the "Indenture") between the Board and the Treasurer of the State of California, as trustee (the "State Treasurer"); and

WHEREAS, the Department, pursuant to the Law, is authorized to enter into one or more subleases and/or contracts with the Participating County; and

WHEREAS, the Participating County, as sublessee, will be responsible for all the maintenance and operating costs for the Facility; and

WHEREAS, payment of the Bonds will be made through annual state appropriations to the Department, but the costs of operating and maintaining the Facility will be paid by the Participating County; and

WHEREAS, it is the intent of the parties that upon the payment in full of the Bonds, the Site Lease, the Facility Lease and this Facility Sublease will terminate in accordance with their respective terms and fee title to the Project will vest in the Participating County pursuant to the terms and conditions in the Ground Lease.

NOW THEREFORE, the parties hereto mutually agree as follows:

SECTION 1. Definitions. Unless otherwise required by the context, all capitalized terms used herein and not defined herein shall have the meanings assigned such terms in the Facility Lease or the Indenture.

SECTION 2. Sublease of the Facility to the Participating County Subject to Facility Lease. The Participating County hereby leases the Facility from the Department, and the Department hereby leases the Facility to the Participating County, on the terms and conditions hereinafter set forth, subject to all easements, encumbrances and restrictions of record, including without limitation, the terms and conditions of the Site Lease. A legal description of the Site is attached hereto and incorporated herein as Exhibit A. This Facility Sublease is in all respects subordinate and subject to the Facility Lease. Participating County covenants it shall continuously operate and maintain the Facility and shall have no right to abandon the Facility.

SECTION 3. Term. The term of this Facility Sublease shall commence on the [the first day of the month following the commencement of the Facility Lease/on the date of initial issuance and delivery of the Bonds] and shall co-terminate on the same date as the Facility Lease, unless such term is extended by the parties thereto, or unless sooner terminated as provided herein, provided, however, except as set forth in Section 10(b) or (c), no termination of this Facility Sublease shall occur until all the Bonds and all other indebtedness incurred by the Board for the Project, if any, have been fully repaid.

SECTION 4. Consideration and Conflict between Documents. The Department makes this Facility Sublease in consideration for the public benefit to the State provided by the Project and for undertaking of the financial obligations required under this Facility Sublease. This Facility Sublease is subject to the terms of the Ground Lease, Site Lease and Facility Lease and in the event of a conflict between this Facility Sublease and any of the Ground Lease, Site Lease or the Facility Lease, the provisions of the Ground Lease, Site Lease or the Facility Lease, as the case may be, shall control.

SECTION 5. Purpose and Use. The Site shall be used by the Participating County for the purpose of staffing, operating and maintaining the Project and appurtenances related thereto, in order to provide the Project and for such other purposes as may be ancillary and related thereto for state and local criminal justice agencies. The Participating County shall be required to obtain the concurrence from the Department and the Board for the change in use of the Facility, or any part thereof, or expansion of the Facility.

SECTION 6. Obligations of Participating County.

(a) Maintenance, Repair, Replacement and Utilities. The Participating County shall, at its own cost and expense, pay for all maintenance and repair, both ordinary and extraordinary, of the Facility. The Participating County shall at all times maintain, or otherwise arrange for the maintenance of, the Facility in good condition, and the Participating County shall pay for, or otherwise arrange for, the payment of all utility services supplied to the Facility, and shall pay for, or otherwise arrange for, the payment of the costs of the repair and replacement of the Facility resulting from ordinary or extraordinary wear and tear or want of care on the part of the Participating County or any other cause (except for a catastrophic uninsured loss), and shall pay for, or otherwise arrange for, the payment of any insurance policies, except those provided by the Department pursuant to the Facility Lease.

(b) Rent. The Department shall pay all Base Rental and Additional Rental as required under the Facility Lease. The Participating County shall pay upon the order of the Department or the Board as rent hereunder such amounts, if any, in each year as shall be required by the Department or Board for the payment of all applicable taxes and assessments of any type or nature assessed or levied by any governmental agency or entity having power to levy taxes or assessments charged to the Department, the Board or the State Treasurer affecting or relating to the Facility or their respective interests or estates therein. Except for the Base Rental and Additional Rental obligations and insurance obligations as specified in the Facility Lease, the Department shall have no duty under this Facility Sublease to pay for any other costs to maintain and operate the Facility. The rent required under this section 6(b) shall be abated proportionately during any period in which the Department's obligation to pay rent under the Facility Lease shall be abated.

The Participating County shall submit to the Department within 15 Business Days of the adoption of the Participating County's Budget each year, a copy of its approved and authorized budget that details the amounts allocated to maintain and operate the Facility, including any reserves. The Participating County shall further submit to the Department by the above referenced date, a copy of the relevant portion of the approved and authorized budgets of each sublessee with respect to the Facility, if any, evidencing the respective sublessee's allocation of funds to maintain and operate its portion of the Facility. On September 1 of each year during the term of this Facility Sublease, the Department shall submit a report to the Board including a summary of the information provided by the Participating County as set forth in this paragraph. This report shall be in a form approved by the Board and shall incorporate any other summary to be provided by the Department pursuant to the terms of any facility sublease entered into by the Department in connection with facilities constructed pursuant to the Law, as applicable.

SECTION 7. Insurance.

(a) Insurance Obligations of the Department. The Department will pay or cause to be paid the cost of all insurance required to be maintained under the Facility Lease. The Participating County will not be required to pay or reimburse the Department or any other State of California agency for these insurance costs or any deductible paid by the State. The

Department will provide, or cause to be provided, proof of insurance coverage to the Participating County.

In the event of (i) damage or destruction of the Facility caused by the perils covered by the insurance required under the Facility Lease and (ii) if the Board elects, under the terms of the Facility Lease and the Indenture, to redeem the outstanding Bonds, and (iii) if any insurance proceeds remain after the Bonds have been redeemed and such remaining proceeds are not needed under the terms of the Indenture, and (iv) such funds are distributed to the Department, then the Department agrees to distribute such funds to the Participating County.

The Department will not insure the Participating County's equipment, stored goods, other personal property, fixtures, or tenant improvements, nor such personal property owned by Participating County's, subtenants or assigns, if any, or invitees. The Department shall not be required to repair any injury or damage to any personal property or trade fixtures installed in the Facility by the Participating County caused by fire or other casualty, or to replace any such personal property or trade fixtures. The Participating County may, at its sole option and expense, obtain physical damage insurance covering their equipment, stored goods, other personal property, fixtures or tenant improvement or obtain business interruption insurance.

The Participating County and its boards, officers, agents and employees shall be named as additional insureds on the above insurance. To the extent permitted by law, the Department and the Participating County agree to release the other and waive their rights of recovery against the other for damage to the Facility or their respective property at the Facility arising from perils insured under any commercial property insurance listed in this Facility Sublease or the Facility Lease. The property insurance policies of the Department and the Participating County shall contain a waiver of subrogation endorsement in favor of the other.

(b) Insurance Obligations of the Participating County. The Participating County, at its own cost and expense, shall secure and maintain or cause to be secured and maintained from an insurance company or companies approved to do business in the State of California and maintain during the entire term of this Facility Sublease, the following insurance coverage for the Facility:

(1) General liability insurance in an amount not less than one million Dollars (\$1,000,000) per occurrence. Evidence of such insurance shall be on a General Liability Special Endorsement form and should provide coverage for premises and operations, contractual, personal injury and fire legal liability;

(2) By signing this Facility Sublease, the Participating County hereby certifies that it is aware of the provisions of Section 3700, *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply, and it will cause its subtenants and assignees to comply, with such provisions at all such times as they may apply during the term of this Facility Sublease.

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

(d) Insurance Certificate. The Participating County shall submit or cause to be submitted to the Department, by no later than June 30th of each year, a certificate of insurance or other evidence of insurance in a form satisfactory to the Department.

(e) Self-Insurance. Notwithstanding any other provision of this Section, the Participating County may satisfy the insurance obligations hereunder by a combination of commercial insurance, formal risk pooling under California statutory provisions, and/or a self-funded loss reserve in whatever proportions are deemed appropriate by the Participating County. The Participating County shall furnish the Department and the Board with a certificate or other written evidence of the Participating County's election to provide or cause to be provided all or part of its coverage under a risk pooling, risk retention, or self-insurance program or any combination thereof.

SECTION 8. Assignment or Subletting of Facility.

(a) The Participating County and the Department hereby covenant and agree that neither this Facility Sublease nor any interest of either party in this Facility Sublease shall be sold, mortgaged, pledged, assigned, or transferred by either party by voluntary act or by operation of law or otherwise; provided, however, under certain circumstances, the Facility may be subleased in whole or in part by the Participating County. The Participating County shall not sublet or assign any portion of the Facility, or permit its subtenants to sublet or assign portions of the Facility, without obtaining the prior written consent and approval of the Department and the Board to the form and substance of such sublease, the sublessee and, provided further that, any such sublease shall be subject to the following conditions:

(1) Any sublease of the Facility by the Participating County shall explicitly provide that such sublease is subject to all rights of the Department and the Board under the Facility Sublease, including, the right to re-enter and re-let the Facility or terminate such lease upon a default by the Participating County; and

(2) At the request of the Department or the Board, the Participating County shall furnish the Department, the Board and the State Treasurer with an opinion of nationally recognized bond counsel acceptable to the Board to the effect that such sublease will not, in and of itself, cause the interest on the Bonds to be included in gross income for federal income tax purposes.

(b) The Participating County acknowledges that if the Department breaches the terms of the Facility Lease a remedy for such breach available to the Board under the Facility Lease is to enter and re-let the Facility to an entity other than the Department. If the Board, at its discretion, chooses to exercise this remedy, the Board agrees its first offer to relet the Facility, the terms of such offer to be at the sole reasonable discretion of the Board, shall be made to the Participating County.

(c) This CDCR Facility Sublease shall not be subordinated.

SECTION 9. Hazardous Materials. The Participating County shall fully disclose in writing to the Department and the Board the existence, extent and nature of any Hazardous Materials, substances, wastes or other environmentally regulated substances, of which the Participating County has actual knowledge relative to the Project. The Participating County further warrants, covenants and represents that it will promptly notify the Department and the Board in writing of any change in the nature or extent of any Hazardous Materials, substances or wastes maintained on, in, around or under the Project or used in connection therewith, of which the Participating County gains actual knowledge, and will transmit to the Agencies and the Trustee copies of any citations, orders, notices or other material governmental or other communication received by the Participating County with respect to any other Hazardous Materials, substances, wastes or other environmentally regulated substances affecting the Project. The Participating County shall ensure (as to itself), and shall use its best efforts to ensure (as to its contractors, consultants and other agents), that all activities of the Participating County or any officers, employees, contractors, consultants, or any other agents of the Participating County performed at the Facility will be in full compliance with all federal, state and local environmental laws, regulations, and ordinances, and further agrees that neither the Participating County nor its contractors, consultants, agents, officers or employees will engage in any management of solid or hazardous wastes at the Project in violation of any Environmental Law. If the presence of Hazardous Materials on the Project results in the contamination or deterioration of the Project or any water or soil beneath the Project, the Participating County shall promptly take all action necessary to investigate and remedy that contamination.

The Participating County shall defend, indemnify and hold the Department and the Board harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean up costs), judgments and expenses (including attorneys', consultants', or experts' fees and expenses of every kind and nature) suffered by or asserted against the Department or the Board as a direct or indirect result of any warranty or representation made by the Participating County in the preceding paragraph being false or untrue in any material respect or the breach of any obligation of the Participating County in the preceding paragraph. The indemnification obligations set forth in this paragraph shall survive any termination of this Facility Sublease.

"Hazardous Materials" means any substance, material, or waste which is or becomes, prior to the date of execution and delivery hereof, regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous substance", "hazardous material", "toxic substance", "solid waste", "pollutant or contaminant", "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") [42 U.S.C.A §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 ("RCRA") [42 U.S.C.A §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act ("FWPCA") [33 U.S.C.A §§ 1251 et seq.]; the Toxic Substances Control Act ("TSCA") [15 U.S.C.A §§ 2601 et seq.]; the Federal Insecticide, Fungicide, Rodenticide Act [7 U.S.C.A §§ 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 U.S.C.A §§ 9601 et seq.]; the Clean Air

Act [42 U.S.C.A §§ 7401 et seq.]; the Safe Drinking Water Act [42 U.S.C.A §§ 300f et seq.]; the Solid Waste Disposal Act [42 U.S.C.A §§ 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 U.S.C.A §§ 1201 et seq.]; the Emergency Planning and Community Right-to-Know Act [42 U.S.C.A §§ 11001 et seq.]; the Occupational Safety and Health Act [29 U.S.C.A §§ 655 and 657]; the California Underground Storage of Hazardous Substances Act [Health & Saf. Code §§ 25280 et seq.]; the California Hazardous Substances Account Act [Health & Saf. Code §§ 25300 et seq.]; the California Hazardous Waste Control Act [Health & Saf. Code §§ 25100 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [Health & Saf. Code §§ 25249.5 et seq.]; the Porter-Cologne Water Quality Act [Wat. Code §§ 13000 et seq.], including without limitation, Sections 25115, 25117 or 25122.7 of the California Health and Safety Code, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Talmer Hazardous Substance Account Act), (iii) defined as a "hazardous material", "hazardous substance", or "hazardous waste" under Section 25501 of the California Health and Safety Code.

“Environmental Laws” means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to Hazardous Materials to which the Participating County or the Facility is subject, including all those laws referenced above in the definition of Hazardous Materials.

SECTION 10. Termination, Breach, Default and Damages.

(a) This Facility Sublease shall terminate upon the occurrence of the expiration of the lease term as set forth in Section 3.

(b) If the Participating County shall fail to keep, observe or perform any term, covenant or condition contained herein to be kept or performed by the Participating County for a period of sixty (60) days after notice of the same has been given to the Participating County by the Department or the Board or for such additional time as is reasonably required, in the sole discretion of the Department, with the consent of the Board, to correct any of the same, the Participating County shall be deemed to be in default hereunder and it shall be lawful for the Department to exercise any and all remedies available pursuant to law or granted pursuant to this Facility Sublease. Upon any such default, the Department, in addition to all other rights and remedies it may have at law, shall, with the consent of the Board, have the option to do any of the following:

(1) To terminate this Facility Sublease in the manner hereinafter provided on account of default by the Participating County, notwithstanding any re-entry or re-letting of the Facility as hereinafter provided for in subparagraph (2) hereof, and to re-enter the Facility and remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and place such personal property in storage in any warehouse or other suitable place. In the event of such termination, the Participating County agrees to immediately surrender possession of the Facility, without let or hindrance, and to pay the Department and the Board all damages recoverable at law that the

Department may incur by reason of default by the Participating County, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Facility and removal and storage of such property by the Department or its duly authorized agents in accordance with the provisions herein contained. Neither notice to deliver up possession of the Facility given pursuant to law nor any entry or re-entry by the Department nor any proceeding in unlawful detainer, or otherwise, brought by the Department for the purpose of effecting such re-entry or obtaining possession of the Facility, nor the appointment of a receiver upon initiative of the Department to protect the Board's interest under the Facility Lease shall of itself operate to terminate this Facility Sublease, and no termination of this Facility Sublease on account of default by the Participating County shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Department shall have given written notice to the Participating County of the election on the part of the Department to terminate this Facility Sublease. The Participating County covenants and agrees that no surrender of the Facility or of the remainder of the term hereof or any termination of this Facility Sublease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Department by such written notice.

(2) Without terminating this lease, (i) to enforce any term or provision to be kept or performed by the Participating County or (ii) to exercise any and all rights of entry and re-entry upon the Facility. In the event the Department does not elect to terminate this Facility Sublease in the manner provided for in subparagraph (1) hereof, the Participating County shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the Participating County, and notwithstanding any entry or re-entry by the Department or suit in unlawful detainer, or otherwise, brought by the Department for the purpose of effecting a re-entry or obtaining possession of the Facility. Should the Department elect to re-enter as herein provided, the Participating County hereby irrevocably appoints the Department as the agent and attorney-in-fact of the Participating County to re-let the Facility, or any part thereof, from time to time, either in the Department's name or otherwise, upon such terms and conditions and for such use and period as the Department may deem advisable and to remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and to place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the Participating County, and the Participating County hereby exempts and agrees to save harmless the Department from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Facility and removal and storage of such property by the Department or its duly authorized agents in accordance with the provisions herein contained except for any such costs, loss or damage resulting from the intentional or negligent actions of the Department or its agents. The Participating County agrees that the terms of this Facility Sublease constitute full and sufficient notice of the right of the Department to re-let the Facility in the

event of such re-entry without effecting a surrender of this Facility Sublease. The Participating County further agrees that no acts of the Department in effecting such re-letting shall constitute a surrender or termination of this Facility Sublease irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the Participating County the right to terminate this Facility Sublease shall vest in the Department to be effected in the sole and exclusive manner provided for in subparagraph (1) hereof. The Participating County further agrees to pay the Department the cost of any alterations or additions to the Facility necessary to place the Facility in condition for re-letting immediately upon notice to the Participating County of the completion and installation of such additions or alterations.

(c) This Facility Sublease may be terminated at the option of the Board if the Board determines to exercise its right to enter and re-let the Facility under the Facility Lease pursuant to a default by the Department thereunder.

(d) In addition to any default resulting from breach by the Participating County of any term or covenant of this Facility Sublease, if (1) the Participating County's interest in this Facility Sublease or any part thereof be assigned, sublet or transferred without the prior written consent to the Department and the Board, either voluntarily or by operation of law, or (2) the Participating County or any assignee shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the Participating County asks or seeks or prays to be adjudicated as bankrupt, or is to be discharged from any or all of the Participating County's debts or obligations, or offers to the Participating County's creditors to effect a composition or extension of time to pay the Participating County's debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of the Participating County's debts or for any other similar relief, or if any such petition or if any such proceedings of the same or similar kind or character be filed or be instituted or taken against the Participating County, or if a receiver of the business or of the property or assets of the Participating County shall be appointed by any court, except a receiver appointed at the insistence or request of the Department or the Board, or if the Participating County shall make a general or any assignment for the benefit of the Participating County's creditors, or (3) the Participating County shall abandon the Facility, then the Participating County shall be deemed to be in default hereunder.

(e) The Department shall in no event be in default in the performance of any of its obligations hereunder unless and until the Department shall have failed to perform such obligations within sixty (60) days or such additional time as is reasonably required to correct any such default after notice by the Participating County to the Department that the Department has failed to perform any such obligation.

(f) The Participating County hereby waives any and all claims for damages caused or which may be caused by the Department in re-entering and taking possession of the Facility as herein provided and all claims for damages that may result from the destruction of or

injury to the Facility and all claims for damages to or loss of any property belonging to the Department, or any other person, that may be in or upon the Facility, except for such claims resulting from the intentional or negligent actions of the Department or its agents.

Each and all of the remedies given to the Department hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Department to other or further exercise thereof or the exercise of any or all other rights, powers or privileges. The term “re-let” or “re-letting” as used in this Section shall include, but not be limited to, re-letting by means of the operation or other utilization by the Department of the Facility. If any statute or rule of law validly shall limit the remedies given to the Department hereunder, the Department nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

In the event the Department shall prevail in any action brought to enforce any of the terms and provisions of this Facility Sublease, the Participating County agrees to pay reasonable attorney’s fees incurred by the Department in attempting to enforce any of the remedies available to the Department hereunder; whether or not a lawsuit has been filed and whether or not any lawsuit culminates in a judgment.

SECTION 11. Additions, Betterments, Extensions or Improvements; Liens. If any proposed additions, betterments, extensions or improvements of the Facility require approval by the Corrections Standards Authority, the Participating County shall concurrently with the request for such approval(s) request the approval to such additions, betterments, extensions or improvements of the Board. The Participating County acknowledges the commencement of such additions, betterments, extensions or improvements shall be subject to receipt by the Participating County of the Board’s approval thereto. In the event the Participating County shall at any time during the term of this Facility Sublease cause any additions, betterments, extensions or improvements to the Facility to be acquired or constructed or materials to be supplied in or upon the Facility, the Participating County shall pay or cause to be paid when due all sums of money that may become due, or purporting to be due for any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the Participating County in, upon or about the Facility and shall keep the Facility free of any and all mechanics’ or materialmen’s liens or other liens against the Facility or the Department’s or the Board’s interest therein. In the event any such lien attaches to or is filed against the Facility or the Department’s or the Board’s interest therein, the Participating County shall cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that if the Participating County desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the Participating County shall forthwith pay or cause to be paid and discharged such judgment. In accordance with Section 20, the Participating County agrees to and shall, to the maximum extent permitted by law, defend, indemnify and hold the Department, the Board, the State Treasurer and their members, directors, agents, successors and assigns harmless from and against and defend each of them against any claim, demand, loss, damage, liability or expense (including attorneys’ fees) as a result of any such lien or claim of lien against the Facility or the Department’s or the Board’s interest therein. The Participating County hereby

acknowledges and agrees that it shall not cause any additions, betterments, extensions or improvements to the Facility to occur in such a manner that Rental under the Facility Lease would be abated.

The Department covenants that the Project is not and will not be mortgaged, pledged, or hypothecated by the Department in any manner or for any purpose and that the Project has not been and will not be the subject of a security interest by the Department. In addition, the Department covenants that the Project is not and will not be mortgaged, pledged, or hypothecated for the benefit of the Participating County or its creditors in any manner or for any purpose and that the Project has not been and will not be the subject of a grant of a security interest in favor of the Participating County or its creditors. The Department shall not in any manner impair, impede, or challenge the security, rights and benefits of the owners of the Bonds or the trustee for the Bonds.

SECTION 12. Continuing Disclosure. The Participating County hereby covenants and agrees that it will fully cooperate with the Department, the Board and the State Treasurer so that they can comply with and carry out all of the provisions of the Continuing Disclosure Agreement and will provide all information reasonably requested by the Department, the Board or the State Treasurer regarding the Facility, in connection with continuing disclosure obligations.

SECTION 13. Status of Private Activity Use of the Facility. The Participating County hereby covenants and agrees to provide information to the Department, the Board and the State Treasurer annually regarding the private activity use, if any, of the Facility. Any such private use must be consistent with the Participating County's covenants pursuant to Section 14 hereof. The information that must be updated annually is set forth in the Tax Certificate that was executed and delivered by the Board upon the initial issuance of the Bonds.

SECTION 14. Tax Covenants. The Participating County covenants that it will not use or permit any use of the Facility, and shall not take or permit to be taken any other action or actions, which would cause any Bond to be a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended; and any applicable regulations promulgated from time to time thereunder. The Participating County further covenants that it will not take any action or fail to take any action, if such action or the failure to take such action would adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

The Participating County does not expect to and shall not perform any act, enter into any agreement, or use or permit more than 10% of the Bond proceeds or the Project to be used in any trade or business unrelated to the exempt purposes of the Participating County (as defined in Section 513(a) of the Code), or enter into any contract or arrangement with any person or organization (other than a state or local governmental unit, or a 501(c)(3) organization acting within the scope of its exempt purposes), including the federal government (a "Disqualified Person"), which provides for use of more than 10% of the Project in any trade or business of such Disqualified Person ("Private Use"), including a lease or sale of any part of the Project excluding general public use and other uses disregarded under Treasury Regulation §1.141-3, unless the Participating County provides prior written notice to the Board of the proposed act,

agreement or use and the Participating County and the Issuer receive an opinion of nationally recognized bond counsel acceptable to the Board with respect to such act, agreement or use.

The Participating County will not enter into any arrangement with any Disqualified Person which provides for such person to manage, operate, or provide services with respect to the Project (or any portion thereof) (a "Service Contract"), unless the guidelines set forth in Revenue Procedure 97-13, as modified by Revenue Procedure 2001-39 (the "Guidelines"), are satisfied, except to the extent the Participating County obtains a private letter ruling from the Internal Revenue Service or an opinion of nationally recognized bond counsel acceptable to the Board which allows for a variation from the Guidelines.

The Participating County will not enter into any contract or arrangement with any Disqualified Person which provides for use of the Project (or any portion thereof) for "research," within the meaning of Treasury Regulations Section 1.141-3(b)(6), for the benefit of such Disqualified Person unless such contract or arrangement meets the requirements of Rev. Proc. 2007-47. For this purpose, "research" includes activities that represent research in the experimental or laboratory sense. The term generally includes all activities incident to the development or improvement of a product, including obtaining a patent. "Research" for this purpose does not include management studies. However, contracts or arrangements with a Disqualified Person for management studies may result in private trade or business use if the Disqualified Person has possessory or priority rights in specific portions of the Project.

SECTION 15. No Merger. The parties hereto intend that there shall be no merger of any estate or interest created by this Facility Lease with any other estate or interest in the Facility, or any part thereof, by reason of the fact that the same party may acquire or hold all or any part of the estate or interest in the Facility created by this Facility Lease as well as another estate or interest in the Facility.

SECTION 16. Waste. The Participating County shall not commit, suffer, or permit any waste or nuisance on or within the Facility or any acts to be done thereon in violation of any laws or ordinances.

SECTION 17. Amendments. This Facility Sublease may not be amended, changed, modified or altered without the prior written consent of the parties hereto and the Board.

SECTION 18. Waiver.

The waiver by the Department, any such waiver subject to the consent thereto of the Board, of any breach by the Participating County of any agreement, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other agreement, covenant or condition hereof.

The waiver by the Participating County, any such waiver subject to the consent thereto of the Board, of any breach by the Department of any agreement, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other agreement, covenant or condition hereof.

SECTION 19. Non-Liability of the Department and other State Entities. Any obligation of the Department created by or arising out of this Facility Sublease shall not impose a debt or pecuniary liability upon the Department, the Board or the State of California, or a charge upon the general credit or taxing powers thereof, but shall be payable solely out of funds duly authorized and appropriated by the State.

The delivery of this Facility Sublease shall not, directly or indirectly or contingently, obligate the Board, the Department, the State Treasurer or the State of California to levy any form of taxation therefor or to make any appropriation. Nothing herein or in the proceedings of the Participating County, the Board or the Department shall be construed to authorize the creation of a debt of the Board, the Department, the State Treasurer or the State of California, within the meaning of any constitutional or statutory provision of the State of California. No breach of any pledge, obligation or agreement made or incurred in connection herewith may impose any pecuniary liability upon, or any charge upon the general credit of the Board, the Department or the State of California.

SECTION 20. Indemnification.

As required by California Government Code Section 15820.905, the Participating County agrees to indemnify, defend, and hold harmless the State of California, including but not limited to the Department and the Board and their officers, agents and employees, for any and all claims and losses accruing and resulting from or arising out of the Participating County's use and occupancy of the Facility. The Participating County's obligation to indemnify, defend and hold harmless under this Section shall extend to all such claims and losses arising, occurring, alleged, or made at any time, including prior to, during, or after the period that this Facility Sublease is in full force and effect. Notwithstanding the preceding sentence, the Participating County will not be required to indemnify, defend or hold harmless the Department, the Board, or any other State agency, or their respective officers, agents, employees, contractors and/or invitees from any claim which arises, in whole or in part, from the gross negligence or willful misconduct or omission of the Department, the Board, or any other State agency, or their respective officers, agents, employees, contractors and/or invitees. The indemnification obligations of the Participating County set forth in this Section shall survive any termination of this Facility Sublease.

SECTION 21. Law Governing. This Facility Sublease shall be governed exclusively by the provisions hereof and by the laws of the State of California as the same from time to time exist. Any action or proceeding to enforce or interpret any provision of this lease shall, to the extent permitted by law, be brought, commenced or prosecuted in the courts of the State located in the County of Sacramento, California.

SECTION 22. Headings. All section headings contained in this Facility Sublease are for convenience of reference only and are not intended to define or limit the scope of any provision of this Facility Sublease.

SECTION 23. Notices. All approvals, authorizations, consents, demands, designations, notices, offers, requests, statements or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

To the Department: Department of Corrections and
Rehabilitation of the State of California
Attention: _____
[Address]

To the Board: State Public Works Board

Attn: Administrative Secretary
915 "L" Street, 9th floor
Sacramento, CA 95814

To the State Treasurer: Treasurer of the State of California
Public Finance Division
915 Capitol Mall, Room 280
Sacramento, CA 95814

To the Participating County: [COUNTY] Sheriff
[Address]

Attention: _____

With a copy to:

[Title of Appropriate County Officer],
[Address]

Attention: _____

The address to which notices shall be mailed as aforesaid to any party may be changed by written notice given by such party to the others as hereinabove provided.

SECTION 24. Successors and Assigns. The terms and provisions hereof shall extend to and be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

SECTION 25. Validity and Severability. If for any reason this Facility Sublease or any part thereof shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Department or by the Participating County, all of the remaining terms of this Facility Sublease shall nonetheless continue in full force and effect. If for any reason it is held by such a court that any of the covenants and conditions of the Participating County hereunder, including the covenant to pay rentals hereunder, is unenforceable for the full term hereof, then and in such event this Facility Sublease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the Participating County annually in consideration of the right of the Participating County to possess, occupy and use the Facility, and all the other terms, provisions and conditions of this Facility Sublease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect, to the extent permitted by law.

SECTION 26. Execution. This Facility Sublease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Facility Sublease. It is also agreed that separate counterparts of this Facility Sublease may separately be executed by the Department, the Participating County and any other signatory hereto, all with the same force and effect as though the same counterpart had been executed by the Department, the Participating County and such other signatory.

SECTION 27. Multiple Originals. This Facility Sublease may be executed in any number of originals, each of which shall be deemed to be an original.

SECTION 28. Net Lease. This Facility Sublease shall be deemed and construed to be a "net lease" and the Participating County hereby agrees that the rentals provided for herein shall be an absolute net return to the Department, free and clear of any expenses, charges or set-offs whatsoever.

IN WITNESS WHEREOF, this Facility Sublease has been executed by the parties hereto as of the ____ day of _____, 20__.

DEPARTMENT OF CORRECTIONS AND REHABILITATION OF THE STATE OF CALIFORNIA

By _____
[Name]
[Title]

COUNTY OF [COUNTY]

By _____
[Name]
[Title]

APPROVED AS TO FORM:

[NAME]
County Counsel

By _____
[Name]
[Title]

CONSENT AND ACKNOWLEDGEMENT OF THE BOARD PURSUANT TO SECTION 8(b) OF THE FACILITY LEASE:

STATE PUBLIC WORKS BOARD OF THE STATE OF CALIFORNIA

By _____
[Name]
[Title]

APPROVED (Pursuant to Government Code section 11005.2):

DEPARTMENT OF GENERAL SERVICES OF THE STATE OF CALIFORNIA

By _____
[Name]
[Title]

EXHIBIT A
LEGAL DESCRIPTION OF SITE

STATE OF CALIFORNIA)
)
COUNTY OF SACRAMENTO) ss.

On _____, before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")

a Notary Public, personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

EXHIBIT E-1

DESCRIPTION OF PARTICIPATING COUNTY FUNDING

Cash Contribution

**CERTIFICATE OF THE COUNTY OF MONTEREY REGARDING ITS CASH (HARD)
MATCH FOR THE MONTEREY COUNTY JAIL PROJECT**

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

WHEREAS, pursuant to Chapter 3.12 of Part 10b of Division 3 of Title 2 of the California Government Code (commencing at Section 15820.91) (the "Law"), the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a jail facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section 15820.916 of the California Government Code (the "AB 900 Jail Financing Program"); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter 6, only the cost of certain design and construction activities are potentially eligible for reimbursement under the AB 900 Financing Program – acquisition, pre-design and other specified design and construction costs are not eligible; and

WHEREAS, the County of Monterey County (the "Participating County") has proposed to build a jail facility, the Monterey County Jail project, (the "Project"), to be located at 1410 Natividad Road, Salinas, CA 93906, real property controlled by the Participating County through fee-simple ownership (the "Site"); and

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

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

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

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

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

(B) Cash (hard) Match Is Legal and Authorized. The payment of the Cash (hard) Match for the Project (i) is within the power, legal right, and authority of the Participating County; (ii) is legal and will not conflict with or constitute on the part of the Participating County a material

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violation of, a material breach of, a material default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of the Participating County under the provisions of any charter instrument, bylaw, indenture, mortgage, deed of trust, pledge, note, lease, loan, installment sale agreement, contract, or other material agreement or instrument to which the Participating County is a party or by which the Participating County or its properties or funds are otherwise subject or bound, decree, or demand of any court or governmental agency or body having jurisdiction over the Participating County or any of its activities, properties or funds; and (iii) have been duly authorized by all necessary and appropriate action on the part of the governing body of the Participating County. The authorized representative of the Participating County executing this Certificate is fully authorized and empowered to take such actions for and on behalf of the Participating County.

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

(D) No Prior Pledge. The Cash (hard) Match and the Project are not and will not be mortgaged, pledged, or hypothecated by the Participating County in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest by the Participating County. In addition, the Cash (hard) Match and the Project are not and will not be mortgaged, pledged, or hypothecated for the benefit of the Participating County or its creditors in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest in favor of the Participating County or its creditors. The Participating County shall not in any manner impair, impede or challenge the security, rights and benefits of the owners of the Bonds or the trustee for the Bonds.

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

Date: October 31, 2014

COUNTY OF MONTEREY

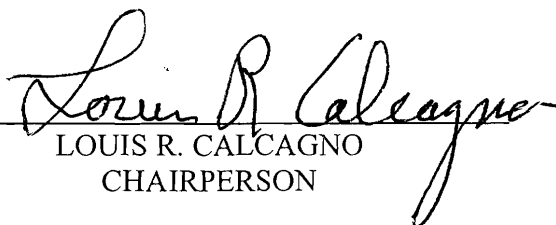
By: 
LOUIS R. CALCAGNO
CHAIRPERSON

Exhibit 1-Description of Cash (hard) Match

Monterey County's Cash (hard) Match for the Project will be funded from one source:
(1) County General Fund.

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CERTIFICATE OF THE COUNTY OF MONTEREY REGARDING ITS OTHER PARTICIPATING COUNTY FUNDING FOR THE MONTEREY COUNTY JAIL PROJECT

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

WHEREAS, pursuant to Chapter 3.12 of Part 10b of Division 3 of Title 2 of the California Government Code (commencing at Section 15820.91) (the "Law"), the State Public Works Board (the "Board") is authorized to finance the acquisition, design and construction of a jail facility approved by the Board of State and Community Corrections (the "BSCC") pursuant to Section 15820.916 of the California Government Code (the "AB 900 Jail Financing Program"); and

WHEREAS, pursuant to California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter 6, only the cost of certain design and construction activities are potentially eligible for reimbursement under the AB 900 Financing Program – acquisition, pre-design and other specified design and construction costs are not eligible; and

WHEREAS, the County of Monterey County (the "Participating County") has proposed to build a jail facility, the Monterey County Jail project, (the "Project"), to be located at 1410 Natividad Road, Salinas, CA 93906, real property controlled by the Participating County through fee-simple ownership (the "Site"); and

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

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

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

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

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

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

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


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

(D) No Prior Pledge. The Other Participating County Funding and the Project are not and will not be mortgaged, pledged, or hypothecated by the Participating County in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest by the Participating County. In addition, the Other Participating County Funding and the Project are not and will not be mortgaged, pledged, or hypothecated for the benefit of the Participating County or its creditors in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest in favor of the Participating County or its creditors. The Participating County shall not in any manner impair, impede or challenge the security, rights and benefits of the owners of the Bonds or the trustee for the Bonds.

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

Date: October 31, 2014

COUNTY OF MONTEREY

By: 
LOUIS R. CALCAGNO
CHAIRPERSON

EXECUTION COPY

Exhibit 1-Description of Other Participating County Funding

Monterey County's Other Participating County Funding for the Project will be funded from one source: 1) County General Fund.

EXHIBIT E-2

DESCRIPTION OF PARTICIPATING COUNTY FUNDING

In-kind (soft) Match

Audit	\$ 35,000
Site Acquisition	\$ 1,306,000
Needs Assessment	\$ 21,770
County Administration	\$ 1,196,000
Transition Planning	\$ 500,000
Due Diligence	<u>\$ 16,000</u>
Total In-Kind Match	\$ 3,074,770