

**AMENDMENT NO. 1
TO
OFFICE OF DETENTION SERVICES INTERGOVERNMENTAL AGREEMENT
NO. 97-02-0015**

This Amendment No. 1 to Office of Detention Services Intergovernmental Agreement No. 97-02-0015 (“Amendment No. 1 to 2024 Agreement”), dated as of the effective date of the Original 2024 Agreement, as defined herein, is by and between the United States Marshals Service (“Federal Government”) and the County of Fresno (“Local Government”) and amends, in part, Office of Detention Services Intergovernmental Agreement No. 97-02-0015, dated as of _____, which is the effective date thereof, as provided in block #2, page one (1), thereof (the “Original 2024 Agreement”), between the parties hereto. Collectively, the Original 2024 Agreement and this Amendment No. 1 to 2024 Agreement are the “2024 Agreement.” “Federal prisoners” (as defined in Section 2 of the Original 2024 Agreement) are housed under the Original 2024 Agreement or the 2024 Agreement, as applicable.

1. The Federal Government and the Local Government entered into the Detention Services Intergovernmental Agreement No. 97-02-0015, dated as of July 1, 2017 (the “Original 2017 Agreement”), as amended by the Amendment No. 1 to Detention Services Intergovernmental Agreement No. 97-02-0015, dated as of July 1, 2017, with respect to the “West Annex” (the “Amendment No. 1 to 2017 Agreement;” collectively, the Original 2017 Agreement and the Amendment No. 1 to 2017 Agreement are the “2017 Agreement”). “Federal detainees” (as defined in page 1 of the Original 2017 Agreement) are housed under the 2017 Agreement.
2. Capitalized terms not defined herein shall have the meaning set forth in the 2017 Agreement.
3. The Local Government represents to the Federal Government that the State Public Works Board of the State of California (“Board”) and/or the Board of State and Community Corrections of the State of California (“BSCC”) entered into certain currently-existing agreements with the Local Government with respect to the West Annex (collectively, the “Current State Agreements”), which include, but are not limited to:
 - a. The “Ground Lease,” dated as of August 25, 2017, between the BSCC and the Local Government, under which the Local Government is leasing to the BSCC the land upon which the West Annex is located, as anticipated under the Amendment No. 1 to 2017 Agreement;
 - b. The Cooperation Agreement, dated as of August 4, 2017 (the “Cooperation Agreement”), between the Board and the Local Government with respect to Board’s then-anticipated financing of the West Annex to be accomplished through the Board’s future issuance of Bonds; under the Cooperation Agreement, including Section 5 thereof, entitled “Private Business Use Compliance,” the Local Government represents, among other things, to the Board that the Local Government will enter into the Original 2017 Agreement and the Amendment No. 1 to 2017 Agreement in their respective forms attached to the Cooperation Agreement (which forms are the fully-executed final forms thereof) and understands that execution of the Amendment No. 1 to 2017

Agreement is a condition to receipt of proceeds of the “Board Bonds” (as defined in the Cooperation Agreement); and

- c. The Board of State and Community Corrections Jail Construction Agreement for Fresno County, Adult Local Criminal Justice Facility, dated as of August 16, 2017, as amended by the First Amendment to Board of State and Community Corrections SB 1022 Construction Agreement for Fresno County, dated as of December 29, 2017 (collectively, the “Amended BSCC Construction Agreement”), between the BSCC and the Local Government with respect to the Local Government’s construction of the West Annex under the authority of the BSCC and the procedures for reimbursement to the Local Government by the State of California for costs eligible for reimbursement as provided for under SB 1022, Adult Local Criminal Justice Facilities Construction Financing Program.
4. The Local Government represents to the Federal Government that the Board, the BSCC, and the Local Government originally anticipated entering into certain future agreements with respect to the Board’s then-anticipated Bonds, which future agreements are referred to as the “State Leases” and sublease in the 2017 Amendment No. 1 (collectively, the “Future State Leases”), that have not been entered into by the parties thereto.
5. The Local Government represents to the Federal Government that, subsequent to the Local Government entering into the Current State Agreements, the Board’s representatives informed the Local Government that the Board will not issue any Bonds for the West Annex, that the Board repaid certain interim loans in their entirety through the 2022 Budget Act to finance the reimbursements to the Local Government by the State of California for costs eligible for reimbursement as provided for under SB 1022. Based on such representations by the Board’s representatives, the Local Government has determined that the purpose of the Cooperation Agreement has been frustrated. In reliance on such representations by the Board’s representatives, the Local Government represents to the Federal Government that the Local Government reasonably believes that there is no purpose or need, or benefit to the Board, for the Cooperation Agreement in particular, and that Local Government is seeking to obtain the Board’s agreement to terminate the Cooperation Agreement as well as the Board’s and BSCC’s respective agreements to terminate the Current State Agreements that they entered into (except for the Amended BSCC Construction Agreement as to the BSCC). This Amendment No. 1 to 2024 Agreement is premised upon such facts and circumstances stated in this Section 5.
6. The parties hereto desire to enter into this Amendment No. 1 to 2024 Agreement so that they may operate under the 2024 Agreement without the 2024 Agreement affecting, or being subject to or otherwise affected by, the Cooperation Agreement with respect to the West Annex, and so that they may seamlessly operate under the Original 2024 Agreement with respect to the Local Government’s “Facility Including the West Annex” (as defined in Section 7 hereof) once the Cooperation Agreement is terminated, and this Amendment No. 1 to 2024 Agreement is thereafter terminated, as further provided herein.

7. The Local Government and the Federal Government (including any other authorized agency user as noted in block #19, page one (1) of the Original 2024 Agreement (collectively, “Authorized Federal Agency Users”) are allowed under the 2024 Agreement to house “federal prisoners” with the Local Government at the Fresno County Main Detention Facility, also referred to as the “Facility” (as defined in Section 2 of the Original 2024 Agreement), **excluding** the West Annex (collectively, the “Facility Excluding the West Annex”). Upon and after the Local Government’s or the Federal Government’s termination of this Amendment No. 1 to 2024 Agreement, pursuant to Section 9 hereof, the Local Government and the Federal Government (including any Authorized Federal Agency Users) are allowed under the Original 2024 Agreement to house such “federal prisoners” with the Local Government at the Fresno County Main Detention Facility, also referred to as the “Facility,” **including** the West Annex (collectively, the “Facility Including the West Annex”). The Federal Government does not have the right to terminate this Amendment No. 1 to 2024 Agreement or any part hereof, except as provided in Section 9 hereof.
8. The 2024 Agreement (a) supersedes the 2017 Agreement only with respect to the “federal detainees” housed under the 2017 Agreement in the “Facility Excluding the West Annex,” and (b) does not terminate the 2017 Agreement while the Cooperation Agreement is in effect, or otherwise amend or modify the 2017 Agreement, with respect to the West Annex or such “federal detainees” housed under the 2017 Agreement in the West Annex. The Local Government represents to the Federal Government that the 2024 Agreement does not affect the Cooperation Agreement, and that the 2024 Agreement is not subject to or otherwise affected by the Cooperation Agreement. The 2017 Agreement shall continue in full force and effect according to its terms and conditions subject to the Cooperation Agreement, only with respect such “federal detainees” housed under the 2017 Agreement in the West Annex unless and until this Amendment No. 1 to 2024 Agreement is terminated under Section 9 hereof, and the provisions of Section 9 hereof apply.
9. Upon the termination of the Cooperation Agreement, the Local Government may, at any time thereafter, provide written notice thereof to the Federal Government. Once such written notice is provided by the Local Government to the Federal Government, either party hereto may provide the other party hereto at least thirty (30) calendar days written notice of the termination of this Amendment No. 1 to 2024 Agreement (the date of termination of this Amendment No. 1 to 2024 Agreement under such notice is referred to herein as the “Amendment No. 1 to 2024 Agreement Termination Date”), which notice so provided shall result in the following:
 - a. Upon the Amendment No. 1 to 2024 Agreement Termination Date:
 - (i) This Amendment No. 1 to 2024 Agreement shall terminate (except for Sections 9 and 11 hereof, both of which shall survive such termination) without in any way terminating or otherwise affecting the Original 2024 Agreement; and
 - (ii) The 2017 Agreement shall terminate, provided that the Federal Government shall pay all amounts payable for the per-diem rate to the Local Government for such “federal detainees” housed under the 2017 Agreement in the West

Annex, and the 2017 Agreement shall apply only to such “federal detainees” housed under the 2017 Agreement in the West Annex up to the Amendment No. 1 to 2024 Agreement Termination Date; and

- b. Upon and after the Amendment No. 1 to 2024 Agreement Termination Date:
- (i) The Original 2024 Agreement shall continue in full force and effect according to its terms and conditions;
 - (ii) The Local Government and the Federal Government (including any Authorized Federal Agency Users) shall be allowed under the Original 2024 Agreement to house “federal prisoners” (including individuals who were previously “federal detainees” housed under the 2017 Agreement in the West Annex) with the Local Government at the “Facility Including the West Annex;” and
 - (iii) The Original 2024 Agreement shall extend to the West Annex, and such “federal prisoners” including such individuals who were “federal detainees” housed under the 2017 Agreement in the West Annex.

The Local Government’s notices provided to the Federal Government under this Section 9 may be combined into one notice to include both the notice of the termination of the Cooperation Agreement and the notice of termination of this Amendment No. 1 to 2024 Agreement.

Notice of termination of this Amendment No. 1 to 2024 Agreement by either party hereto to the other party hereto shall be deemed as such noticing party’s notice of termination of the 2017 Agreement under the 2017 Agreement.

In the event of any conflict between the provisions of the Original 2024 Agreement upon and after the termination of this Amendment No. 1 to 2024 Agreement, and the provisions of the 2017 Agreement, the provisions of the Original 2024 Agreement shall prevail.

10. Nothing in this Amendment No. 1 to 2024 Agreement, or the Original 2024 Agreement, or the 2024 Agreement prohibits, limits, or precludes the Local Government or the Federal Government, upon their mutual agreement, from modifying the 2017 Agreement upon approval of the Board, or terminating the 2017 Agreement according to its terms and conditions, in either such case while the Cooperation Agreement is in full force and effect.
11. Notwithstanding any provision to the contrary in this Amendment No. 1 to 2024 Agreement, or the Original 2024 Agreement, or the 2024 Agreement, the Local Government has the right, without penalty or cause, to terminate the 2024 Agreement or the Original 2024 Agreement, in either such case, at any time upon at least thirty (30) but not later than fifty (50), calendar days written notice. The provisions of this Section 11 shall survive the termination of this Amendment No. 1 to 2024 Agreement pursuant to Section 9 hereof, and the provisions of this Section 11 thereupon shall continue to be a part of the 2024 Original Agreement.

- 12. There are no intended third party beneficiaries with respect to this Amendment No. 1 to 2024 Agreement, or the Original 2024 Agreement, or the 2024 Agreement.
- 13. Except as stated herein, all provisions of the Original 2024 Agreement remain in full force and effect.
- 14. This Amendment No. 1 to 2024 Agreement may be executed in one or more counterparts.

UNITED STATES MARSHALS SERVICE

By: _____

Title: _____

Date: _____

COUNTY OF FRESNO

By: _____

Nathan Magsig, Chairman,
Board of Supervisors of the County of Fresno

Date: _____

ATTEST:
Bernice E. Seidel,
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____

Deputy