



# **Public Defense Pilot Program**

## **Application Instructions Packet**

**Release Date:** October 4, 2021

**Applications Due:** January 14, 2022

**Grant Period:** March 1, 2022 to March 1, 2025



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This document contains the necessary information for completing the Public Defense Pilot Program Application Packet. The Application Packet is provided as a stand-alone document on the BSCC website at [www.bscc.ca.gov](http://www.bscc.ca.gov).

## PART I: GRANT INFORMATION

### Contact Information

This Application Instructions Packet provides the information necessary to prepare an application to the Board of State and Community Corrections (BSCC) for grant funds available through the Public Defense Pilot Program. Any questions concerning this program must be submitted by email to: [publicdefensegrant@bscc.ca.gov](mailto:publicdefensegrant@bscc.ca.gov).

### Background Information

The Budget Act of 2021 (Senate Bill 129) established the Public Defense Pilot Program. Public Defense Pilot Program funds must be utilized for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code.

For Fiscal Year (FY) 2021-22, the Budget Act appropriated \$50,000,000 for the Public Defense Pilot Program of which \$49,500,000 is available for California counties and \$500,000 is available for administrative costs and for an independent evaluation. In addition to the FY 2021-22 allocation, the BSCC anticipates similar appropriations in FY 2022-23 and 2023-24<sup>1</sup>. While the BSCC anticipates \$500,000 for administrative and evaluation costs in FY 2022-23 and 2023-24, there may be a reduction in this allocation amount and the funding will not be known until each budget is passed. Subject to future appropriations, it is anticipated that a total of \$148,500,000 will be available to counties and \$1,500,000 will be available for administrative costs **and** for an independent evaluation. A display of the three-year projected allocation is provided below:

Fiscal Year (FY)	Appropriation	Administration/Evaluation	Total
FY 2021-22	\$49,500,000	\$500,000	\$50,000,000
FY 2022-23	\$49,500,000	Unknown amount up to \$500,000*	\$50,000,000
FY 2023-24	\$49,500,000	Unknown amount up to \$500,000*	\$50,000,000
<b>Total</b>	<b>\$148,500,000</b>	<b>\$500,000 - \$1,500,000*</b>	<b>\$150,000,000</b>

\*BSCC received \$500,000 in FY 2020-21 for administration and evaluation expenses. Future appropriations and the amount are not guaranteed.

Pursuant to the Budget Act, county funding allocations are determined by the total adult population. The BSCC calculated the amount of funding each county is eligible to receive for FY 2021-22 by dividing \$49,500,000 by the county's share of the total adult population using the 2021 projected population figures from the Department of Finance. FY 2021-22 funding will be allocated to counties as shown in Table I (next page).

<sup>1</sup> Assumes funding will be appropriated in the FY 2022-23 and 2023-24 State Budget Acts.

## Proposal Due Date and Submission Instructions

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Applications must be received by 5:00 P.M. on Friday, January 14, 2022. Applicants must ensure the application packet is signed with a digital signature **OR** a wet blue ink signature that is then scanned with the completed proposal package. Submit one (1) completed proposal packet via email to: [publicdefensegrant@bscc.ca.gov](mailto:publicdefensegrant@bscc.ca.gov).

## Description of the Grant

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### Grant Period

The grant project period is from March 1, 2022 to Jan 1, 2025. Grantees will be required to submit final progress reports and any final data required for the statewide evaluation by March 1, 2025.

### Eligibility to Apply

All California counties are eligible to participate in the Public Defense Pilot Program. Only **one** (1) application may be submitted on behalf of the County. Applications must be submitted by the Board of Supervisors or the County Administrative Officer. The Board of Supervisors or County Administrative Officer may also delegate the County Public Defender's Office or an Alternate Defender's Office as the applicant entity.

### Eligible Activities

Public Defense Pilot Program funds must be utilized for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code (Appendix A). In support of these efforts, each applicant will develop a Project Work Plan that identifies measurable project goals, objectives, and commensurate timelines (Appendix B).

## Funding Information

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The Budget Act of 2021 made \$49,500,000 available in FY 2021-22 for indigent defense services. Subject to future appropriations, a total of \$148,500,000 is available to counties through FY 2023-24 for the Public Defense Pilot Program.

### Funding Allocation

Pursuant to the Budget Act, county funding allocations are determined by the total adult population. The BSCC calculated the amount of funding each county is eligible to receive by dividing \$49,500,000 by the county's share of the total adult population using the 2021 projected population figures from the Department of Finance. Funding will be allocated to counties as shown in Table I. A detailed funding chart is also provided as Appendix C.

**Table 1: Funding Allocation Chart**

<b>County</b>	<b>2021 Adult Population Projection<sup>1</sup></b>	<b>Percent of State's Adult Population</b>	<b>Funding Allocation</b>
Alameda County	1,310,463	4.26%	\$2,107,280.30
Alpine County	950	0.00%	\$1,527.64
Amador County	32,097	0.10%	\$51,613.34
Butte County	178,559	0.58%	\$287,130.47
Calaveras County	37,331	0.12%	\$60,029.84
Colusa County	16,466	0.05%	\$26,478.03
Contra Costa County	913,324	2.97%	\$1,468,663.88
Del Norte County	21,061	0.07%	\$33,866.98
El Dorado County	156,085	0.51%	\$250,991.33
Fresno County	748,839	2.43%	\$1,204,165.00
Glenn County	22,104	0.07%	\$35,544.17
Humboldt County	106,276	0.35%	\$170,896.33
Imperial County	139,633	0.45%	\$224,535.81
Inyo County	14,393	0.05%	\$23,144.56
Kern County	668,405	2.17%	\$1,074,823.70
Kings County	113,142	0.37%	\$181,937.15
Lake County	50,623	0.16%	\$81,403.94
Lassen County	25,584	0.08%	\$41,140.16
Los Angeles County	7,910,391	25.70%	\$12,720,245.54
Madera County	119,430	0.39%	\$192,048.53
Marin County	211,320	0.69%	\$339,811.56
Mariposa County	14,277	0.05%	\$22,958.02
Mendocino County	68,911	0.22%	\$110,811.82
Merced County	208,364	0.68%	\$335,058.18
Modoc County	7,555	0.02%	\$12,148.76
Mono County	10,891	0.04%	\$17,513.19
Monterey County	326,955	1.06%	\$525,757.56
Napa County	112,201	0.36%	\$180,423.99
Nevada County	82,255	0.27%	\$132,269.54
Orange County	2,490,391	8.09%	\$4,004,654.76
Placer County	318,725	1.04%	\$512,523.37
Plumas County	16,362	0.05%	\$26,310.79
Riverside County	1,892,294	6.15%	\$3,042,889.32
Sacramento County	1,188,728	3.86%	\$1,911,525.24
San Benito County	47,881	0.16%	\$76,994.69
San Bernardino County	1,637,398	5.32%	\$2,633,005.70
San Diego County	2,542,693	8.26%	\$4,088,758.61
San Francisco County	743,109	2.41%	\$1,194,950.91
San Joaquin County	580,077	1.88%	\$932,788.51
San Luis Obispo County	231,049	0.75%	\$371,536.63

County	2021 Adult Population Projection <sup>1</sup>	Percent of State's Adult Population	Funding Allocation
San Mateo County	606,435	1.97%	\$975,173.30
Santa Barbara County	350,503	1.14%	\$563,623.75
Santa Clara County	1,520,817	4.94%	\$2,445,538.49
Santa Cruz County	220,402	0.72%	\$354,415.80
Shasta County	139,023	0.45%	\$223,554.90
Sierra County	2,665	0.01%	\$4,285.43
Siskiyou County	35,470	0.12%	\$57,037.27
Solano County	346,196	1.12%	\$556,697.91
Sonoma County	406,287	1.32%	\$653,326.79
Stanislaus County	419,536	1.36%	\$674,631.75
Sutter County	75,397	0.24%	\$121,241.59
Tehama County	49,445	0.16%	\$79,509.67
Trinity County	11,188	0.04%	\$17,990.78
Tulare County	344,299	1.12%	\$553,647.45
Tuolumne County	43,726	0.14%	\$70,313.27
Ventura County	657,705	2.14%	\$1,057,617.64
Yolo County	179,802	0.58%	\$289,129.27
Yuba County	57,279	0.19%	\$92,107.07
<b>Grand Total</b>	<b>30,782,767</b>	<b>100.00%</b>	<b>\$49,500,000.00</b>

Note: <sup>1</sup>2021 county adult population is based on projections obtained from the Department of Finance's Report P- 2B: Population Projections by Individual Year of Age, 2010-2060 California Counties (2019 baseline). Obtained from: <https://www.dof.ca.gov/forecasting/demographics/Projections/>.

### Funding Request

For the purposes of this Request for Applications (RFA), each county may request the maximum amount of funding available in FY 2021-22 (Table I). Subject to future appropriations, a re-application will be made available to counties on the BSCC website. Please note funding will be recalculated each year based on the county's share of the total adult population.

### Match Requirement

The Public Defense Pilot Program does not have a match requirement.

### Supplanting

Supplanting is the deliberate reduction in the amount of federal, state, or local funds being appropriated to an existing program or activity because grant funds have been awarded for the same purposes. Supplanting is strictly prohibited for all BSCC grants. Public Defense Pilot Program shall be used to support new program activities or to augment or expand existing program activities but shall not be used to replace existing funds. When using outside funds as match, applicants must be careful not to supplant. It is the responsibility of the grantee to ensure that supplanting does not occur. The grantee must keep clear and detailed financial records to show that grant funds are used only for allowable costs and activities.

## **General Grant Requirements**

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### **Grant Agreement**

Applicants approved for funding by the BSCC Board are required to enter into a grant agreement with the BSCC. Grantees must agree to comply with all terms and conditions of the Grant Agreement. See Appendix D for a sample grant agreement (State of California: Contract and General Terms and Conditions). The terms and conditions of the grant agreement may change before execution.

The grant agreement start date is expected to be March 1, 2022. Grant agreements are considered fully executed only after they are signed by both the Grantee and the BSCC. Work, services and encumbrances cannot begin prior to the grant agreement start date. Work, services and encumbrances that occur after the start date but prior to grant agreement execution may not be reimbursed. Grantees are responsible for maintaining their grant agreement, all invoices, records and relevant documentation for at least three years after the final payment under the contract.

### **Governing Board Resolution**

Local governmental applicants must submit a resolution from their governing board addressing specified requirements as included in the sample Governing Board Resolution, which can be found in Appendix E. A signed resolution is not required at the time of proposal submission; however, grant recipients must have a resolution on file for the Public Defense Pilot Program before a fully executed grant agreement can be completed.

### **Invoices**

Disbursement of grant funds occurs in one lump sum upon execution of the Grant Agreement. The State Controller's Office (SCO) will issue the warrant (check) to the County Applicant as listed on the Applicant Information Form. Grantees must submit statements of expenditures to the BSCC through an online process no later than 45 days following the end of the invoicing period. Grantees must maintain adequate supporting documentation for all costs claimed on invoices. BSCC staff may conduct a desk review process which requires grantees to submit electronic documentation to support all grant funds claimed during the invoicing period and on-site monitoring visits that will include a review of documentation maintained as substantiation for project expenditures.

Additional information about invoicing can be found in the BSCC Grant Administration Guide, located on the BSCC [website](#).

### **Progress Reports**

Grant award recipients are required to submit progress reports; the frequency of the reports (e.g., annual, bi-annual, quarterly) will be determined by the outside evaluator (see below). Progress reports are a critical element in the monitoring and oversight process and likely the evaluation. Grantees that are unable to demonstrate that they are making sufficient progress toward project goals and objectives and that funds are being spent down in accordance with the Grant Award Agreement could be subject to the



withholding of funds. Applicable forms and instructions will be available to grantees on the BSCC's website.

### **Working with an Outside Evaluator**

The BSCC plans to contract with an outside evaluator. The contractor is expected to: develop the research methodology for the statewide evaluation; design and develop instruments for collecting evaluation data from grantees, including the progress reports; provide ongoing technical assistance to grantees for data collection and evaluation activities; compile, screen, and analyze data obtained from grantees; and develop a final evaluation report. As a condition of award, all grantees agree to collect data requested by the outside evaluator.

### **Grantee Orientation Process**

Following the start of the grant period, BSCC staff will conduct a virtual Grantee Orientation on March 10-11, 2022. The purpose of this mandatory session is to review the program requirements, invoicing and budget modification processes, data collection and reporting requirements, as well as other grant management and monitoring activities. Typically, the Project Director, Financial Officer, Day-to-Day Contact, and service providers attend.

### **Travel**

Travel is usually warranted when personal contact by project-related personnel is the most appropriate method of completing project-related business. The most economical method of transportation, in terms of direct expenses to the project and the project-related personnel's time away from the project, must be used. Grantees are required to include sufficient per diem and travel allocations for project-related personnel to attend any required BSCC training conferences or workshops as described in the Request for Applications and Grant Agreement.

#### **Units of Government**

Grantees that are units of government using BSCC funds may follow either their own written travel and per diem policy or the California State travel and per diem policy. Units of government that plan to use cars from a state, county, city, district carpool, or garage may budget either the mileage rate established by the carpool or garage, or the state mileage rate, not to exceed the loaning agency.

#### **Out-of-State Travel**

Out-of-state travel is generally restricted and only allowed in exceptional situations. Grantees must receive written BSCC approval prior to incurring expenses for out-of-state travel. Even if previously authorized in the Grant Agreement, Grantees must submit a separate written request on Grantee letterhead for approval to the assigned BSCC Field Representative. Out-of-state travel requests must include a detailed justification and budget information.

In addition, California prohibits travel, except under specified circumstances, to states that have been found by the California Attorney General to have discriminatory laws. The BSCC will not reimburse for travel to these states unless

the travel meets a specific exception under Government Code section 11139.8, subdivision (c). For additional information, please see: <https://oag.ca.gov/ab1887>.

### **Compliance Monitoring Visits**

The BSCC staff will monitor each project to assess whether the project is in compliance with grant requirements and making progress toward grant objectives. As needed, monitoring visits may also occur to provide technical assistance on fiscal, programmatic, evaluative, and administrative requirements.

## **Overview of the Request for Applications (RFA) Process**

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### **Confirmation of Receipt of Application**

Upon submission of an application, applicants will receive a confirmation email from the BSCC stating that the application package has been received. The email will be sent to the individual that signed the application and the person listed as the Project Director.

### **Review Process**

BSCC staff will review each application for completeness and compliance with the criteria in this RFA. Failure to submit an application in compliance with all RFA criteria will not result in immediate disqualification for eligible applicants. However, please ensure all criteria is met and all information provided is correct and complete to avoid unnecessary delays.

### **Summary of Key Dates**

The following table shows a timeline of key dates related to the RFA

<b>Activity</b>	<b>Date</b>
Release Request for Applications	October 4, 2021
<b>Applications Due to the BSCC</b>	<b>January 14, 2022</b>
New Grants Begin	March 1, 2022
Mandatory New Grantee Orientation	March 10-11, 2022
Mandatory New Grantee Data & Evaluation Orientation	April - TBD

## PART II: APPLICATION INSTRUCTIONS

This section contains pertinent information for completing the Public Defense Pilot Program Application Packet. The Application Packet is provided as a stand-alone document on the BSCC website at [www.bscc.ca.gov](http://www.bscc.ca.gov).

### Project Narrative and Budget Instructions

#### Project Narrative

Public Defense Pilot Program funds must be utilized for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code.

Provide a project narrative that addresses each of the following items:

- Identify the specific section(s) of the Penal Code the proposal will address.
  - Note: It is the applicant's discretion to determine the specific section that will be addressed and if one or more sections will be addressed in the proposal.
- Description of the need(s) to be addressed by the Public Defense Pilot Program.
- Description of how the need(s) to be addressed Public Defense Pilot Program were identified.
- Describe why the need(s) described above is not met with existing resources.
- Provide relevant qualitative and/or quantitative data with citations in support of the need(s).

The project narrative must be submitted in Arial 12-point font with one-inch margins on all four sides and at 1.5-line spacing. The project narrative may not exceed **three (3) numbered** pages in length.

#### Budget Section

Applicants must provide a 12-month budget covering March 1, 2022 to March 1, 2023.

Applicants should be aware that budgets will be subject to review and approval by the BSCC staff to ensure all proposed costs listed within the budget narrative are allowable and eligible for reimbursement. Regardless of any ineligible costs that may need to be addressed post award, the starting budget for the statements of expenditures and the total amount requested will be the figures used for the Standard Grant Agreement.

Applicants are solely responsible for the accuracy and completeness of the information entered in the Budget Section. Detailed instructions for completing the Budget Attachment are listed on the Instructions tab of the Excel workbook. All project costs must be directly related to the objectives and activities of the project. For additional guidance related to grant budgets, refer to the [BSCC Grant Administration Guide](#).

To access the Public Defense Pilot Program Budget Template, click [here](#).

## **PART III: APPENDIXES**

### **Appendixes**

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This section includes the following appendixes:

- Appendix A: Senate Bill 129
- Appendix B: Project Work Plan
- Appendix C: Funding Allocation Chart
- Appendix D: Sample Grant Agreement
- Appendix E: Governing Board Resolution

## Appendix A: Senate Bill 129

Of the amount appropriated in Schedule (1), \$49,500,000 shall be provided for the Public Defense Pilot to each county based on the county's share of the total adult population in the state for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code. This pilot shall end January 1, 2025. Prior to distribution of these resources for each county, the Board of State and Community Corrections shall work in consultation with the Office of the State Public Defender to identify those entities who provide public defender services on behalf of each county. No later than March 1, 2025, each of those entities who provide public defender services on behalf of a county and receive these resources shall report to the Board of State and Community Corrections on how much funding was received and how the funding was used to address the workload pursuant to this provision. The Board of State and Community Corrections shall contract with a university or research institution to complete an independent evaluation to assess how these resources provided to public defender service providers impact outcomes for the workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code. The Board of State and Community Corrections will submit this evaluation to the Joint Legislative Budget Committee by August 1, 2025. This funding is intended to supplement, and not supplant, existing funding levels for public defender offices.

Of the amount appropriated in Schedule (1), \$500,000 shall be available for the Board of State and Community Corrections for administrative costs and to contract with a university or research institution to complete the independent evaluation. These funds shall be available for encumbrance or expenditure until June 30, 2026.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB129](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB129)

## Appendix B: Project Work Plan

This Project Work Plan identifies measurable goals and objectives, activities and services, the responsible parties and a timeline. Completed plans should (1) identify the project’s **top goals and objectives** (minimum of two); (2) identify how the top goals will be achieved in terms of the activities, responsible staff/partners, and start and end dates; and (3) provide goals and objectives with a clear relationship to the need and intent of the grant. Please provide a project workplan in the below fields.

<b>(1) Goal:</b>			
Objectives (A., B., etc.)	A. B. C.		
Project activities that support the identified goal and objectives:	Responsible staff/partners	Timeline	
		Start Date	End Date
1. 2. 3.			

<b>(2) Goal:</b>			
Objectives (A., B., etc.)	A. B. C.		
Project activities that support the identified goal and objectives:	Responsible staff/partners	Timeline	
		Start Date	End Date
1. 2. 3.			

<b>(3) Goal:</b>			
Objectives (A., B., etc.)	A. B. C.		
Project activities that support the identified goal and objectives:	Responsible staff/partners	Timeline	
		Start Date	End Date
1.			
2.			
3.			

<b>(4) Goal:</b>			
Objectives (A., B., etc.)	A. B. C.		
Project activities that support the identified goal and objectives:	Responsible staff/partners	Timeline	
		Start Date	End Date
1.			
2.			
3.			



## Appendix C: Funding Allocation

County	2021 Adult Population Projection <sup>1</sup>	Percent of State's Adult Population	Funding Allocation
Alameda County	1,310,463	4.26%	\$2,107,280.30
Alpine County	950	0.00%	\$1,527.64
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San Francisco County	743,109	2.41%	\$1,194,950.91
San Joaquin County	580,077	1.88%	\$932,788.51
San Luis Obispo County	231,049	0.75%	\$371,536.63

<b>County</b>	<b>2021 Adult Population Projection<sup>1</sup></b>	<b>Percent of State's Adult Population</b>	<b>Funding Allocation</b>
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Santa Barbara County	350,503	1.14%	\$563,623.75
Santa Clara County	1,520,817	4.94%	\$2,445,538.49
Santa Cruz County	220,402	0.72%	\$354,415.80
Shasta County	139,023	0.45%	\$223,554.90
Sierra County	2,665	0.01%	\$4,285.43
Siskiyou County	35,470	0.12%	\$57,037.27
Solano County	346,196	1.12%	\$556,697.91
Sonoma County	406,287	1.32%	\$653,326.79
Stanislaus County	419,536	1.36%	\$674,631.75
Sutter County	75,397	0.24%	\$121,241.59
Tehama County	49,445	0.16%	\$79,509.67
Trinity County	11,188	0.04%	\$17,990.78
Tulare County	344,299	1.12%	\$553,647.45
Tuolumne County	43,726	0.14%	\$70,313.27
Ventura County	657,705	2.14%	\$1,057,617.64
Yolo County	179,802	0.58%	\$289,129.27
Yuba County	57,279	0.19%	\$92,107.07
<b>Grand Total</b>	<b>30,782,767</b>	<b>100.00%</b>	<b>\$49,500,000.00</b>

Note: <sup>1</sup>2021 county adult population is based on projections obtained from the Department of Finance's Report P- 2B: Population Projections by Individual Year of Age, 2010-2060 California Counties (2019 baseline). Obtained from: <https://www.dof.ca.gov/forecasting/demographics/Projections/>.

## Appendix D: Sample Grant Agreement

STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES

SCO ID:5227-BSCCXXXXXX

**STANDARD AGREEMENT**

STD 213 (Rev 03/2019)

AGREEMENT NUMBER

**BSCC XXX- 21**

PURCHASING AUTHORITY NUMBER (If Applicable)

BSCC-5227

**1.** This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

CONTRACTOR NAME

**XXX**

**2.** The term of this Agreement is:

START DATE

**March 1, 2022**

THROUGH END DATE

**March 1, 2025**

**3.** The maximum amount of this Agreement is:

**\$000,000.00**

**4.** The parties agree to comply with the terms and conditions of the following exhibits, attachments, and appendices which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Scope of Work	3
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit C	General Terms and Conditions (04/2017)	4
Exhibit D	Special Terms and Conditions	4
Attachment 1	Public Defense Pilot Program Application Instructions	x
Attachment 2	Public Defense Pilot Program Application Package	x

### CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

**GRANTEE NAME**

CONTRACTOR BUSINESS ADDRESS

xxx

CITY

xxx

STATE

xx

ZIP

xxx

PRINTED NAME OF PERSON SIGNING

xxx

TITLE

xxx

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

### STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

**BOARD OF STATE AND COMMUNITY CORRECTIONS**

CONTRACTING AGENCY ADDRESS

2590 Venture Oaks Way, Suite 200

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

RICARDO GOODRIDGE

TITLE

Deputy Director

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL: EXEMPT PER SCM, VOLUME 1, CH. 4.06

## EXHIBIT A: SCOPE OF WORK

### 1. GRANT AGREEMENT – Public Defense Pilot Program

This Grant Agreement is between the State of California, Board of State and Community Corrections (hereafter referred to as BSCC) and Grantee Name (hereafter referred to as the Grantee or Contractor).

### 2. PROJECT SUMMARY AND ADMINISTRATION

A. The State Budget Act of 2021 (Senate Bill 129) appropriated funding for the Public Defense Pilot to each county for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code.

B. Grantee agrees to administer the project in accordance with Attachment 2: Public Defense Pilot Program Application Package, which is attached and hereto and made part of this agreement.

### 3. PROJECT OFFICIALS

A. The BSCC's Executive Director or designee shall be the BSCC's representative for administration of the Grant Agreement and shall have authority to make determinations relating to any controversies that may arise under or regarding the interpretation, performance, or payment for work performed under this Grant Agreement.

B. The Grantee's project officials shall be those identified as follows:

**Authorized Officer** with legal authority to sign:

Name: xxx  
Title: xxx  
Address: xxx  
Phone: xxx

**Designated Financial Officer** authorized to receive warrants:

Name: xxx  
Title: xxx  
Address: xxx  
Phone: xxx  
Email: xxx

**Project Director** authorized to administer the project:

Name: xxx  
Title: xxx  
Address: xxx  
Phone: xxx  
Email: xxx

C. Either party may change its project representatives upon written notice to the other party.

D. By signing this Grant Agreement, the Authorized Officer listed above warrants that he or she has full legal authority to bind the entity for which he or she signs.

### 4. DATA COLLECTION AND EVALUATION REQUIREMENTS

Grantees will be required to comply with all data collection, evaluation, and reporting requirements of the Public Defense Pilot Program. This includes the timely submission of progress reports to the BSCC.

## EXHIBIT A: SCOPE OF WORK

The BSCC plans to contract with an outside evaluator for a statewide evaluation of the impact of the projects funded by the Public Defense Pilot Program in consultation with the State Public Defender's Office. The contractor is expected to: develop the research methodology for the statewide evaluation; design and develop instruments for collecting evaluation data from grantees, including the progress reports; provide ongoing technical assistance to grantees for data collection and evaluation activities; compile, screen, and analyze data obtained from grantees; and develop a final evaluation report. As a condition of award, all grantees agree to collect data requested by the outside evaluator.

### 5. REPORTING REQUIREMENTS

#### A. Quarterly Progress Reports

Grantees will submit progress reports to the BSCC in a format prescribed by the outside evaluator in consultation with the BSCC and the OSPD. Questions about the Quarterly Progress Reports shall be directed to the outside evaluator and the BSCC. These reports, which will describe progress made on program objectives and include required data, shall be submitted according to the following schedule:

#### Progress Report Periods

Progress Report Periods	Due no later than:
1. March 1, 2022 to June 30, 2022	August 15, 2022
2. July 1, 2022 to September 30, 2022	November 15, 2022
3. October 1, 2022 to December 31, 2022	February 15, 2023
4. January 1, 2023 to March 30, 2023	May 15, 2023
5. April 1, 2023 to June 30, 2023	August 15, 2023
6. July 1, 2023 to September 30, 2023	November 15, 2023
7. October 1, 2023 to December 31, 2023	February 15, 2024
8. January 1, 2024 to March 30, 2024	May 15, 2024
9. April 1, 2024 to June 30, 2024	August 15, 2024
10. July 1, 2024 to September 30, 2024	November 15, 2024
11. October 1, 2024 to January 1, 2025	March 1, 2025

### 6. PROJECT RECORDS

- A. The Grantee shall establish an official file for the project. The file shall contain adequate documentation of all actions taken with respect to the project, including copies of this Grant Agreement, approved program/budget modifications, financial records and required reports.
- B. The Grantee shall establish separate accounting records and maintain documents and other evidence sufficient to properly reflect the amount, receipt, and disposition of all project funds, including grant funds and any matching funds by the Grantee and the total cost of the project. Source documentation includes copies of all awards, applications, approved modifications, financial records and narrative reports.
- C. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the grant, whether they are employed full-time or part-time. Time and effort reports are also required for all subcontractors and consultants.
- D. The grantee shall maintain documentation of donated goods and/or services, including the basis for valuation.
- E. Grantee agrees to protect records adequately from fire or other damage. When records are stored away from the Grantee's principal office, a written index of the location of records stored must be on hand and ready access must be assured.

## **EXHIBIT A: SCOPE OF WORK**

- F. All Grantee records relevant to the project must be preserved a minimum of three (3) years after closeout of the grant project and shall be subject at all reasonable times to inspection, examination, monitoring, copying, excerpting, transcribing, and auditing by the BSCC or designees. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records must be retained until the completion of the action and resolution of all issues which arise from it or until the end of the regular three-year period, whichever is later.

## EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

### 1. INVOICING AND PAYMENTS

- A. The Grantee shall be paid in one lump sum upon execution of the Grant Agreement. Grantee shall only use grant funds for allowable costs (see Exhibit B, "Project Costs") and shall provide statements of expenditures and supporting documentation to the BSCC upon request and on a quarterly basis as set forth in the schedule below.

**Quarterly Invoicing Periods:**

1. March 1, 2022 to June 30, 2022
2. July 1, 2022 to September 30, 2022
3. October 1, 2022 to December 31, 2022
4. January 1, 2023 to March 31, 2023
5. April 1, 2023 to June 30, 2023
6. July 1, 2023 to September 30, 2023
7. October 1, 2023 to December 31, 2023
8. January 1, 2024 to March 31, 2024
9. April 1, 2024 to June 30, 2024
10. July 1, 2024 to September 30, 2024
11. October 1, 2024 to January 1, 2025

**Due no later than:**

- August 15, 2022  
November 15, 2022  
February 15, 2023  
May 15, 2023  
August 15, 2023  
November 15, 2023  
February 15, 2024  
May 15, 2024  
August 15, 2024  
November 15, 2024  
February 16, 2025

**Final Invoicing Period:**

12. January 2, 2025 to March 1, 2025\*

**Due no later than:**

- April 16, 2025

*\*Note: Only expenditures associated with completion of the final progress report may be included on invoice 12.*

- B. All project expenditures (excluding costs associated with the completion of the final progress report) must be incurred by the end of the grant project period, January 1, 2025, and included on the invoice due February 16, 2025. Project expenditures incurred after January 1, 2025 will not be reimbursed.
- C. The final progress report is due to the BSCC by March 1, 2025. Expenditures incurred for the completion of the final progress report during the period of January 2, 2025 to March 1, 2025 must be submitted no later than April 16, 2025. Supporting fiscal documentation will be required for all expenditures claimed during the Final Invoicing Period and must be submitted with the final invoice.
- D. Grantee shall submit an invoice to the BSCC each invoicing period, even if grant funds are not expended or requested during the invoicing period. If applicable, grantees may submit an invoice with a \$0 claim.
- E. Upon the BSCC's request, supporting documentation must be submitted for project expenditures. Grantees are required to maintain supporting documentation for all expenditures on the project site for the life of the grant and make it readily available for review during BSCC site visits. See Exhibit A. Scope of Work, Item 6. Project Records.
- F. Any unspent funds remaining at the end of the agreement term, including any interest earned, must be returned to the BSCC within 30 days of the submission of the final invoice.

## EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

### 2. GRANT AMOUNT AND LIMITATION

- A. In no event shall the BSCC be obligated to pay any amount in excess of the grant award. Grantee waives any and all claims against the BSCC, and the State of California on account of project costs that may exceed the sum of the grant award.
- B. Under no circumstance will a budget item change be authorized that would cause the project to exceed the amount of the grant award identified in this Grant Agreement.

### 3. BUDGET CONTINGENCY CLAUSE

- A. This grant agreement is valid through Public Defense Pilot Program funding generated from the General Fund. The Grantee agrees that the BSCC's obligation to pay any sum to the grantee under any provision of this agreement is contingent upon the availability of sufficient funding granted through the passage of the Budget Act of 2021 (Senate Bill 129). It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Grant Agreement does not appropriate sufficient funds for the program, this Grant Agreement shall be of no further force and effect. In this event, the BSCC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement.
- B. If Public Defense Pilot Program funding is reduced or falls below estimates contained within the Public Defense Pilot Program Application Package, the BSCC shall have the option to either cancel this Grant Agreement with no liability occurring to the BSCC or offer an amendment to this agreement to the Grantee to reflect a reduced amount.
- C. If BSCC cancels the agreement pursuant to Paragraph 3(B) or Grantee does not agree to an amendment in accordance with the option provided by Paragraph 3(B), it is mutually agreed that the Grant Agreement shall have no further force and effect. In this event, the BSCC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement except that Grantee shall be required to maintain all project records required by Paragraph 6 of Exhibit A for a period of three (3) years following the termination of this agreement.

### 4. PROJECT COSTS

- A. Grantee is responsible for ensuring that actual expenditures are for eligible project costs. "Eligible" and "ineligible" project costs are set forth in the July 2020 BSCC Grant Administration Guide, which can be found under Quick Links here:

[https://www.bscc.ca.gov/s\\_correctionsplanningandprograms/](https://www.bscc.ca.gov/s_correctionsplanningandprograms/)

The provisions of the BSCC Grant Administration Guide are incorporated by reference into this agreement and Grantee shall be responsible for adhering to the requirements set forth therein. To the extent any of the provisions of the BSCC Grant Administration Guide and this agreement conflict, the language in this agreement shall prevail.

- B. Grantee is responsible for ensuring that invoices submitted to the BSCC claim actual expenditures for eligible project costs.
- C. Grantee shall, upon demand, remit to the BSCC any grant funds not expended for eligible project costs or an amount equal to any grant funds expended by the Grantee in violation of the terms, provisions, conditions or commitments of this Grant Agreement.
- D. Grant funds must be used to support new program activities or to augment existing funds that expand current program activities. Grant funds shall not replace (supplant) any federal, state and/or local funds that have been appropriated for the same purpose. Violations can result in



**EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS**

recoupment of monies provided under this grantor suspension of future program funding through BSCC grants.

**5. PROMPT PAYMENT CLAUSE**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

**6. WITHHOLDING OF GRANT DISBURSEMENTS**

- A. The BSCC may withhold all or any portion of the grant funds provided by this Grant Agreement in the event the Grantee has materially and substantially breached the terms and conditions of this Grant Agreement.
- B. At such time as the balance of state funds allocated to the Grantee reaches five percent (5%), the BSCC may withhold that amount as security, to be released to the Grantee upon compliance with all grant provisions, including:
  - 1) submittal and approval of the final invoice; and
  - 2) submittal and approval of the final progress report or any additional required reports.

The BSCC will not reimburse Grantee for costs identified as ineligible for grant funding. If grant funds have been provided for costs subsequently deemed ineligible, the BSCC may either withhold an equal amount from future payments to the Grantee or require repayment of an equal amount to the State by the Grantee.

- C. In the event that grant funds are withheld from the Grantee, the BSCC’s Executive Director or designee shall notify the Grantee of the reasons for withholding and advise the Grantee of the time within which the Grantee may remedy the failure or violation leading to the withholding.

**7. PROJECT BUDGET**

<b>Budget Line Items</b>	<b>Grant Funds</b>
1. Salaries and Benefits	\$0
2. Services and Supplies	\$0
3. Professional Services or Public Agency Subcontracts	\$0
4. Non-Governmental Organization (NGO) Subcontracts	\$0
5. Equipment/Fixed Assets	\$0
6. Other (Travel, Training, etc.)	\$0
7. Indirect Costs	\$0
<b>TOTALS</b>	<b>\$0</b>

## EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)

1. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT:** Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic

## EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)

information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. **TIMELINESS:** Time is of the essence in this Agreement.
13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
  - A. The Government Code Chapter on Antitrust claims contains the following definitions:
    - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
    - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
  - B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective

## EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)

at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

- C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

**16. CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- A. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**17. UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

**18. PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

**19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**

- A. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- B. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual

## **EXHIBIT C: GENERAL TERMS AND CONDITIONS (04/2017)**

percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

- 20. LOSS LEADER:** If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

## **EXHIBIT D: SPECIAL TERMS AND CONDITIONS**

### **1. GRANTEE'S GENERAL RESPONSIBILITY**

- A. Grantee agrees to comply with all terms and conditions of this Grant Agreement. Review and approval by the BSCC are solely for the purpose of proper administration of grant funds and shall not be deemed to relieve or restrict the Grantee's responsibility.
- B. Grantee is responsible for the performance of all project activities identified in Attachment 2: Public Defense Pilot Program Application Package.
- C. Grantee shall immediately advise the BSCC of any significant problems or changes that arise during the course of the project.

### **2. GRANTEE ASSURANCES AND COMMITMENTS**

- A. Compliance with Laws and Regulations  
This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Grantee shall at all times comply with all applicable State laws, rules and regulations, and all applicable local ordinances.
- B. Fulfillment of Assurances and Declarations  
Grantee shall fulfill all assurances, declarations, representations, and statements made by the Grantee in Attachment 2: Public Defense Pilot Program Application Package, documents, amendments, approved modifications, and communications filed in support of its request for grant funds.
- C. Permits and Licenses  
Grantee agrees to procure all permits and licenses necessary to complete the project, pay all charges and fees, and give all notices necessary or incidental to the due and lawful proceeding of the project work.

### **3. POTENTIAL SUBCONTRACTORS**

- A. In accordance with the provisions of this Grant Agreement, the Grantee may subcontract for services needed to implement and/or support program activities. Grantee agrees that in the event of any inconsistency between this Grant Agreement and Grantee's agreement with a subcontractor, the language of this Grant Agreement will prevail.
- B. Nothing contained in this Grant Agreement or otherwise, shall create any contractual relation between the BSCC and any subcontractors, and no subcontract shall relieve the Grantee of his responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the BSCC for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its subcontractors is an independent obligation from the BSCC's obligation to make payments to the Grantee. As a result, the BSCC shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
- C. Grantee assures that for any subcontract awarded by the Grantee, such insurance and fidelity bonds, as is customary and appropriate, will be obtained.
- D. Grantee agrees to place appropriate language in all subcontracts for work on the project requiring the Grantee's subcontractors to:
  - 1) Books and Records  
Maintain adequate fiscal and project books, records, documents, and other evidence pertinent to the subcontractor's work on the project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the accounting records, to the supporting documentation. These records shall be maintained for a minimum of three

## **EXHIBIT D: SPECIAL TERMS AND CONDITIONS**

(3) years after the acceptance of the final grant project audit under the Grant Agreement and shall be subject to examination and/or audit by the BSCC or designees, state government auditors or designees, or by federal government auditors or designees.

### **2) Access to Books and Records**

Make such books, records, supporting documentations, and other evidence available to the BSCC or designee, the State Controller's Office, the Department of General Services, the Department of Finance, California State Auditor, and their designated representatives during the course of the project and for a minimum of three (3) years after acceptance of the final grant project audit. The Subcontractor shall provide suitable facilities for access, monitoring, inspection, and copying of books and records related to the grant-funded project.

## **4. PROJECT ACCESS**

Grantee shall ensure that the BSCC, or any authorized representative, will have suitable access to project activities, sites, staff and documents at all reasonable times during the grant period including those maintained by subcontractors. Access to program records will be made available by both the grantee and the subcontractors for a period of three (3) years following the end of the grant period.

## **5. ACCOUNTING AND AUDIT REQUIREMENTS**

A. Grantee agrees that accounting procedures for grant funds received pursuant to this Grant Agreement shall be in accordance with generally accepted government accounting principles and practices, and adequate supporting documentation shall be maintained in such detail as to provide an audit trail. Supporting documentation shall permit the tracing of transactions from such documents to relevant accounting records, financial reports and invoices.

The BSCC reserves the right to call for a program or financial audit at any time between the execution of this Grant Agreement and three years following the end of the grant period. At any time, the BSCC may disallow all or part of the cost of the activity or action determined to not be in compliance with the terms and conditions of this Grant Agreement or take other remedies legally available.

## **6. MODIFICATIONS**

No change or modification in the project will be permitted without prior written approval from the BSCC. Changes may include modification to project scope, changes to performance measures, compliance with collection of data elements, and other significant changes in the budget or program components contained in Attachment 2: Public Defense Pilot Program Application Package.

## **7. TERMINATION**

A. This Grant Agreement may be terminated by the BSCC at any time after grant award and prior to completion of project upon action or inaction by the Grantee that constitutes a material and substantial breach of this Grant Agreement. Such action or inaction includes but is not limited to:

- 1) substantial alteration of the scope of the grant project without prior written approval of the BSCC;
- 2) refusal or inability to complete the grant project in a manner consistent with Attachment 2: Public Defense Pilot Program Application Package or approved modifications;
- 3) failure to provide the required local match share of the total project costs; and
- 4) failure to meet prescribed assurances, commitments, recording, accounting, auditing, and reporting requirements of the Grant Agreement.

## EXHIBIT D: SPECIAL TERMS AND CONDITIONS

- B. Prior to terminating the Grant Agreement under this provision, the BSCC shall provide the Grantee at least 30 calendar days written notice stating the reasons for termination and effective date thereof. The Grantee may appeal the termination decision in accordance with the instructions listed in Exhibit D: Special Terms and Conditions, Number 8. Settlement of Disputes.

### 8. SETTLEMENT OF DISPUTES

- A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Grantee shall submit to the BSCC Corrections Planning and Grant Programs Division Deputy Director a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Grant Agreement. Grantee's written demand shall be fully supported by factual information. The BSCC Corrections Planning and Grant Programs Division Deputy Director shall have 30 days after receipt of Grantee's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within 30 days after receipt of the Grantee's demand, it shall be deemed a decision adverse to the Grantee's contention. If the Grantee is not satisfied with the decision of the BSCC Corrections Planning and Grant Programs Division Deputy Director, the Grantee may appeal the decision, in writing, within 15 days of its issuance (or the expiration of the 30-day period in the event no decision is rendered), to the BSCC Executive Director, who shall have 45 days to render a final decision. If the Grantee does not appeal the decision of the BSCC Corrections Planning and Grant Programs Division Deputy Director, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Grantee's administrative remedies.
- B. Pending the final resolution of any dispute arising under, related to or involving this Grant Agreement, Grantee agrees to diligently proceed with the performance of this Grant Agreement, including the providing of services in accordance with the Grant Agreement. Grantee's failure to diligently proceed in accordance with the State's instructions regarding this Grant Agreement shall be considered a material breach of this Grant Agreement.
- C. Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Executive Director, if an appeal was made. If the Executive Director fails to render a final decision within 45 days after receipt of the Grantee's appeal for a final decision, it shall be deemed a final decision adverse to the Grantee's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless the Grantee commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- D. The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

### 9. UNION ACTIVITIES

For all agreements, except fixed price contracts of \$50,000 or less, the Grantee acknowledges that applicability of Government Code §§16654 through 16649 to this Grant Agreement and agrees to the following:

- A. No State funds received under the Grant Agreement will be used to assist, promote or deter union organizing.



## EXHIBIT D: SPECIAL TERMS AND CONDITIONS

- B. Grantee will not, for any business conducted under the Grant Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the State property is equally available to the general public for holding meetings.
- C. If Grantee incurs costs or makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs, and that Grantee shall provide those records to the Attorney General upon request.

### 10. WAIVER

The parties hereto may waive any of their rights under this Grant 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.

DRAFT

## Appendix E: Governing Board Resolution

Before grant funds can be reimbursed, a grantee must either (1) submit a resolution from its Governing Board that delegates authority to the individual authorized to execute the grant agreement or (2) provide sufficient documentation indicating that the prospective grantee has been vested with plenary authority to execute grant agreements (e.g. County Board of Supervisors delegating such authority to an Agency head).

Below is assurance language that, at a minimum, must be included in the resolution submitted to the Board of State and Community Corrections.

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WHEREAS the ***(insert name of Local Government)*** desires to participate in the Public Defense Pilot Program funded through the State Budget Act of 2021 (Senate Bill 129) and administered by the Board of State and Community Corrections (hereafter referred to as the BSCC).

NOW, THEREFORE, BE IT RESOLVED that the ***(insert title of designated official)*** be authorized on behalf of the ***(insert name of Governing Board)*** to submit the grant proposal for this funding and sign the Grant Agreement with the BSCC, including any amendments thereof.

BE IT FURTHER RESOLVED that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

BE IT FURTHER RESOLVED that the ***(insert name of Local Government)*** agrees to abide by the terms and conditions of the Grant Agreement as set forth by the BSCC.

Passed, approved, and adopted by the ***(insert name of Governing Board)*** in a meeting thereof held on ***(insert date)*** by the following:

Ayes:

Notes:

Absent:

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

Typed Name and Title: \_\_\_\_\_

ATTEST: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Typed Name and Title: \_\_\_\_\_