County of Solano, California

FINAL AUDIT OF THE

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
For the Solano County SB 1022 Rourk Vocational Training Center Project

Administered by:
Solano County Division of Capital Projects Management
A Division of the General Services Department of Solano County

Independent Auditor's Report
For the period November 30, 2016 through June 30, 2019

Prepared by: Office of the Auditor-Controller
Auditor-Controller: Phyllis S. Taynton, CPA
Auditor: Melinda S. Ingram, CPA

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center Project
For the period November 30, 2016 through June 30, 2019

Table of Contents

Page

Solano County Project Officials 1

Independent Auditor's Report 3

Program Statement

Statement of Program Revenues and Expenditures 6

Notes to the Statement of Program Revenues and Expenditures 7

Supplemental Information

Schedule of Matching Fund Requirements 11

Schedule of Eligible Costs - Budget to Actual 12

Schedule of Eligible Project Costs 13

Schedule of Ineligible Project Costs 14

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed In Accordance with *Government Auditing Standards* 15

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center Project
For the period November 30, 2016 through June 30, 2019

Solano County Project Officials

County Construction Administrator
Mark A. Hummel, AIA, Capital Projects Manager - General Services Department

County Project Financial Officer
Jimmy Kamel, Accountant - General Services Department

County Project Contact Person
Daniel T. Castillo, Custody Lieutenant – Sheriff's Office

(This page intentionally left blank)

OFFICE OF THE AUDITOR-CONTROLLER

PHYLLIS S. TAYNTON, CPA
Auditor-Controller

SHEILA O. TURGO
Assistant Auditor-Controller

SOLANO COUNTY

675 Texas Street, Suite 2800
Fairfield, CA 94533-6338
(707) 784-6280
Fax (707) 784-3420

www.solanocounty.com

Independent Auditor's Report

Board of Supervisors
Solano County
Fairfield, California

Report on the Program Financial Statement

We have audited the accompanying Statement of Program Revenues and Expenditures of the Solano County SB 1022 Rourk Vocational Training Center Project, including supplemental statements, for the period November 30, 2016 through June 30 2019, in accordance with the *California Board of State and Community Corrections' Jail Construction Agreement No. A26-13.*

Management's Responsibility for the Program Financial Statement

Management is responsible for the preparation and fair presentation of this statement in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the program financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on this program financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States, the *California Board of State and Community Corrections' Jail Construction Agreement No. A26-13,* and *Audit Guide,* dated November 25, 2013, issued by the California Board of State and Community Corrections. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the program financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the program financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the program financial statement, whether due to error or fraud. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the program financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.

Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the program financial statement.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the program financial statement referred to above presents fairly, in all material respects, the program revenues and expenditures of Solano County SB 1022 Classroom and Training Center Project in accordance with accounting principles generally accepted in the United States of America, as well as requirements contained in the *California Board of State and Community Corrections' Jail Construction Agreement No. A26-13.*

Additional Information

Our audit was conducted for the purpose of forming an opinion on the program financial statement. The supplemental information section, as listed in the table of contents, is presented for purposes of additional analysis and is not a required part of the program financial statements.

In connection with the audit contained herein, there are certain disclosures that are necessary pursuant to *Government Auditing Standards Statement No. 3,* more specifically, the general standard related to independence. As required by various statutes within the California Government Code, County Auditor-Controllers are mandated to perform certain accounting, auditing, and financial reporting functions. These activities could impair an audit organization's independence. Specifically, "auditors should not audit their own work or provide non-audit services in situations where the amounts or services involved are significant/material to the subject matter of the audit."

Although the Auditor-Controller is statutorily obligated to maintain the accounts of departments, districts, or funds that reside within the county treasury, we believe the following safeguards and division of responsibility exists:

- The Internal Audit Division has the responsibility to perform audits and as such has no other responsibility for the accounts and records being audited including the approval or posting of financial transactions that would therefore preclude the reader of this report from relying on the information contained therein.
- In addition, the Auditor-Controller is an independent elected official and does not engage in management decisions on behalf of the audited entity.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued a report dated July 24, 2019 on our consideration of the Solano County General Services Department's Capital Projects Management Division's (CPM) internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of CPM's internal control over financial reporting or on compliance. That

report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the CPM's internal control over financial reporting and compliance.

Our audit was conducted for the purpose of forming an opinion on the program financial statement based on the audit requirements of the *California Board of State and Community Corrections' Jail Construction Agreement No. A26-13,* as described in Note 1, and is not intended to be a complete presentation of Solano County's revenues and expenditures.

Phyllis S. Taynton, CPA
Auditor-Controller

Fairfield, California

July 24, 2019

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center
Statement of Program Revenues and Expenditures
For the period November 30, 2016 through June 30, 2019

Program Revenues:			
State financing	$	23,037,000	
County funds (Cash hard match)		490,990	
County funds (In-kind soft match)		2,069,010	
Total program revenues			$ 25,597,000
Program Expenditures:			
Construction	$	20,140,438	
Project/construction management		1,271,515	
Architectural		1,126,665	
Site acquisition		1,076,000	
Additional eligible costs		928,734	
Transition planning		533,010	
County administration		420,000	
State agency fees		50,694	
Audit of grant		40,000	
CEQA		9,750	
Total program expenditures			$ 25,596,806
Excess of revenues over expenditures			$ 194

The accompanying notes are an integral part of this program statement.

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center Project
Notes to the Statement of Program Revenues and Expenditures
For the period November 30, 2016 through June 30, 2019

1. Project Description

The Rourk Vocational Training Center Facility (Project) is constructed on a 3.81-acre County-owned site located at 2456/2458 Claybank Road in the City of Fairfield, adjacent to the existing developed site of the Stanton Correctional Facility and the Claybank Detention Facility. Funds provided for the project were used to construct an approximately 9,940 square foot Classroom Training Center building and an approximately 36,680 square foot Vocational Training Center building. The new buildings are constructed primarily of steel, masonry, and concrete for long-term durability, and included cost-effective "green building" principles designed as Leadership in Energy and Environmental Design (LEED) Silver certified.

The Classroom Training Center includes classrooms, a computer training center, a lobby/reception area, and administrative and support space. The Vocational Training Center building includes vehicle repair bays with vehicle lifts for bus and automobile repair and maintenance programs, an area for building trade programs and office and support space.

The project cost was funded by the *SB 1022 Adult Local Criminal Justice Facilities Construction Financing Program (*State Financing*)* in addition to cash hard match and in-kind soft match (Participating County Funding).

2. County Reporting Structure

Solano County (County) is a political subdivision of the State of California. An elected, five-member Board of Supervisors (Board) governs the County. The County's Division of Capital Projects Management (Division), a Division of the Department of General Services, is responsible for administration of the *Board of State and Community Corrections Jail Construction Agreement No. A26-13.*

The County appointed a County Construction Administrator and a Project Financial Officer from the Division. The County Construction Administrator is the County's representative for administration of the agreement and has full authority to act on behalf of the County. The Project Financial Officer is responsible for establishing and maintaining an official project file and ensuring the project accounting procedures and practices are in accordance with generally accepted government accounting principles and practices. Additionally, a County Project Contact Person is appointed from the Sheriff's Office who is responsible for coordinating and transmitting information to the Board of State and Community Corrections (BSCC), and receiving and disseminating information from the BSCC.

3. Description of Construction Program Funding

On June 27, 2012, Senate Bill (SB) 1022 Chapter 42, Statutes of 2012, became law authorizing state lease-revenue bond financing, (up to $500,000,000 in financing authority), for the acquisition, design and construction of adult local criminal justice facilities. The Board of State and Community Corrections administered awarding of the funding to individual counties.

In February 2013 the Solano County Board of Supervisors authorized the submission of a proposal for SB 1022 funding to construct Program Space for Adult Local Criminal Justice Facilities. The County developed a Program Space Proposal based on identifying a need to build new facilities that provide adequate space for the provision of treatment and rehabilitation services, including mental health treatment.

On November 30, 2016 the County of Solano and the California Board of State and Community Corrections entered into *Agreement No. A26-13* under the *SB 1022 Adult Local Criminal Justice Facilities Construction Financing Program* which provided for state funds in the amount of $23,037,000 or 90% of total eligible project costs. Solano County was required to contribute the remaining 10% of total eligible project costs in the form of cash hard match and/or in-kind soft match funds (Participating County Funding).

4. Matching Fund Requirements (Cash Hard Match and In-Kind Soft Match)

The County is mandated under the provisions and terms of the *Board of State and Community Corrections Jail Construction Agreement No. A26-13* to appropriate and contribute both cash hard match funds and in-kind soft match funds. The percentage of required county match funding can be any combination of cash or in-kind project costs. Solano County was categorized as a medium size county and as such is required to contribute a minimum of 10% in any combination of cash hard match funds and in-kind soft match funds.

The County contributed cash hard match funds in the amount of $490,990, or 1.92% of the total eligible project cost of $25,597,000. The source of the cash hard match funds was the County's Public Facilities Fees and the Countywide Public Protection Fund (AB 109 Funds). The in-kind soft match funds in the amount of $2,069,010 or 8.08% of total eligible project costs included Site Acquisition (appraised at fair market value) and costs attributable to activities directly related to the project that are performed by county staff (Transition Planning, County Administration and Final Audit fees).

5. Basis of Accounting and Program Financial Statement Presentation

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered measurable if the amount of the transaction can be determined and available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 90 days of the end of the current fiscal period. Expenditures are generally recorded when a liability is incurred, as under full accrual accounting.

The Statement of Program Revenues and Expenditures and Supplemental Schedules are prepared in accordance with the generally accepted government accounting principles and practices as described in the *Accounting Standards and Procedures for Counties* issued by the California State Controller, Division of Local Government Fiscal Affairs. They present the project revenues and expenditures, matching fund requirements, eligible contract budget to actual costs (by budget category), eligible project costs (by budget category and funding source), and disallowed/questioned costs by budget category.

The Division established a separate budget unit within the County's financial reporting system to account for all revenues and expenditures associated with the project.

6. County Policies and Procedures

The Capital Projects Management Division of the General Services Department of Solano County used County policies and procedures as the standard for compiling and maintaining adequate supporting documentation to substantiate all receipts and disbursements related to the SB 1022 Rourk Vocational Training Center construction project.

7. Summary of Budget Line Items

a. Construction - Costs of facility construction, including on-site preparation, labor, materials, fixed furnishings and equipment, on-site landscaping, utilities and parking.

b. Additional Eligible Costs – Appraisal fees, building permit, sewer discharge fee, city connection fee, PG&E connection fee, moveable equipment and furnishings.

c. Architectural - Architectural and engineering schematic, design development and construction document work, including construction administration.

d. Project/Construction Management - Management of the project and construction contract, including plan review, inspection, testing, surveying, and reporting.

e. CEQA (California Environmental Quality Act) - Preparation of an Addendum to the Solano County Environmental Impact Report (EIR), for the project pursuant to the provisions of CEQA (originally certified on July 24, 2007). Additional pre-construction survey costs are included.

f. State Agency Fees – Real estate due diligence and State Fire Marshall fees.

g. Audit of Grant - Audit services provided by the County Auditor to perform a Final Audit pursuant to the BSCC Agreement, Section 4(c) and Title 15, Section 1770, Audits for Local Adult Detention Facilities.

h. Transition Planning - Salaries and benefits cost of Solano County Sheriff's Office Transition Team, whose responsibilities include participation in facility design, plan check, system development, operational planning, development of policy and procedures, training, and staffing.

i. County Administration - Salaries and benefits cost of the Solano County Project Management Team from the Division of Capital Projects Management.

j. Land Value (Fair Market Value - As Approved) - The cost of the 3.81-acre site as determined by an independent appraisal that was prepared in accordance with the reporting requirements of the *Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institutes*.

8. Ineligible Project Cost

Travel costs in the amount of $194 were determined to be ineligible under the County hard cash match costs. However, since the amount did not impact the total County hard cash match requirement, per terms of the agreement, the State did not require additional expenses of that amount be submitted to replace the ineligible costs.

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center
Schedule of Matching Fund Requirements
For the period November 30, 2016 through June 30, 2019

	Costs Claimed	Percent Claimed	Costs Accepted	Percent Accepted	Ineligible Costs	Percent of Total Funds
State financing:						
Construction	$ 19,836,892	100 %	$ 19,836,892	100 %	$ -	
Project/construction management	1,231,709	100 %	1,231,709	100 %	-	
Architectural	1,039,665	100 %	1,039,665	100 %	-	
Additional eligible costs	928,734	100 %	928,734	100 %	-	
Total State funds	$ 23,037,000	100 %	$ 23,037,000	100 %	$ -	90.00%
County matching funds:						
Cash (hard) match						
Construction	$ 303,546	100 %	$ 303,546	100 %	$ -	
Project/construction management	40,000	100 %	39,806	99.5% %	194	
Architectural	87,000	100 %	87,000	100 %	-	
CEQA	9,750	100 %	9,750	100 %	-	
State agency fees	50,694	100 %	50,694	100 %	-	
Total cash (hard) match	$ 490,990	100 %	$ 490,796	0.99961 %	$ 194	1.92%
In-kind (soft) match						
Land value	$ 1,076,000	100 %	$ 1,076,000	100 %	$ -	
Transition planning	533,010	100 %	533,010	100 %	-	
County administration	420,000	100 %	420,000	100 %	-	
Audit of grant	40,000	100 %	40,000	100 %	-	
Total in-kind (soft) match	$ 2,069,010	100 %	$ 2,069,010	100 %	$ -	8.08%
Total matching funds	$ 2,560,000	100 %	$ 2,559,806	100 %	$ -	10.00%
Total costs	$ 25,597,000	100 %	$ 25,596,806	100 %	$ -	100.00%

Solano County SB 1022 Rourk Vocational Training Center
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center
Schedule of Eligible Costs - Budget to Actual
For the period November 30, 2016 through June 30, 2019

	State Agreement Budget	Costs Accepted (Actual)	Actual Budget Over/(Under)
Category/Classification			
Construction	$ 20,140,438	$ 20,140,438	$ -
Project/construction management	1,271,709	1,271,515	(194)
Architectural	1,126,665	1,126,665	-
Site acquisition	1,076,000	1,076,000	-
Transition planning	533,010	533,010	-
County administration	420,000	420,000	-
State agency fees	50,694	50,694	-
Additional eligible costs	928,734	928,734	-
CEQA	9,750	9,750	-
Audit of grant	40,000	40,000	-
Total Costs	$ 25,597,000	$ 25,596,806	$ (194)

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center
Schedule of Eligible Project Costs
For the period November 30, 2016 through June 30, 2019

	State Funds	Cash (Hard) Match	In-Kind (Soft) Match	Total
Category/Classification				
Construction	$ 19,836,892	$ 303,546	$ -	$ 20,140,438
Project/construction management	1,231,709	39,806	-	1,271,515
Architectural	1,039,665	87,000	-	1,126,665
Land value	-	-	1,076,000	1,076,000
Transition planning	-	-	533,010	533,010
State agency fees	-	50,694	-	50,694
County administration	-	-	420,000	420,000
CEQA	-	9,750	-	9,750
Additional eligible costs	928,734	-	-	928,734
Audit of grant	-	-	40,000	40,000
Total costs	$ 23,037,000	$ 490,796	$ 2,069,010	$ 25,596,806

Board of State and Community Corrections
Jail Construction Agreement No. A26-13
Solano County SB 1022 Rourk Vocational Training Center
Schedule of Ineligible Costs
For the period November 30, 2016 through June 30, 2019

	Total Costs Claimed	Costs Accepted	Ineligible Costs
Category/Classification			
Construction	$ 20,140,438	$ 20,140,438	$ -
Project/construction management	1,271,709	1,271,515	194
Architectural	1,126,665	1,126,665	-
Land value	1,076,000	1,076,000	-
Transition planning	533,010	533,010	-
County administration	420,000	420,000	-
State agency fees	50,694	50,694	-
CEQA	9,750	9,750	-
Additional eligible costs	928,734	928,734	-
Audit of grant	40,000	40,000	-
Total Costs	$ 25,597,000	$ 25,596,806	$ 194

OFFICE OF THE AUDITOR-CONTROLLER

PHYLLIS S. TAYNTON, CPA
Auditor-Controller

SHEILA O. TURGO
Assistant Auditor-Controller

SOLANO COUNTY

675 Texas Street, Suite 2800
Fairfield, CA 94533-6338
(707) 784-6280
Fax (707) 784-3420

www.solanocounty.com

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITINGS STANDARDS*

Independent Auditor's Report

Board of Supervisors
Solano County
Fairfield, California

We have audited, in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the *California Board of State and Community Corrections Jail Construction Agreement No. A26-13,* the Statement of Program Revenues and Expenditures of the Solano County SB 1022 Rourk Vocational Training Center Project, for the period of November 30, 2016 through June 30 2019, and the related notes to the program financial statement, and have issued our report thereon dated July 24, 2019.

Internal Control Over Financial Reporting

In planning and performing our audit of the program financial statement, we considered Solano County General Services Department Division of Capital Projects Management's (CPM) internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the program financial statement, but not for the purpose of expressing an opinion on the effectiveness of CPM's internal control. Accordingly, we do not express an opinion on the effectiveness of CPM's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's program financial statement will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether CPM's program financial statement is free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of program financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion. The results of our tests disclosed two instances of noncompliance that is required to be reported under *Government Auditing Standards* and which is described in the accompanying Schedule of Findings and Responses.

CPM's response to the finding identified in our audit is described in the accompanying Schedule of Findings and Responses. The CPM response was not subject to the auditing procedures applied in the audit of the program financial statement and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

This report is intended solely for the information and use of the Solano County Board of Supervisors, the management of Solano County, the California Board of State and Community Corrections, and the State Public Works Board of the State of California and is not intended to be, and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Phyllis S. Taynton, CPA
Auditor-Controller

Fairfield, California

July 24, 2019

Schedule of Findings and Responses

Compliance Deficiency:

1. **Fiscal Invoices and Progress Reports Not Submitted Timely to the BSCC**

   The County did not timely submit monthly Fiscal Invoices and Progress Reports at the mutually agreed upon invoicing/progress reporting interval to the Board of State and Community Corrections. Our review disclosed 6 of the 10 (or 60%) fiscal invoices/progress reports were received by the BSCC an average of 44 days beyond the required submission due date.

   Exhibit A, Article 7 of the *California Board of State and Community Corrections Jail Construction Agreement No. A01-09/11*, requires the County to submit fiscal invoices and progress reports in a format specified by the BSCC, and at mutually agreed upon intervals during the period of the agreement. The agreed upon monthly interval requires submission of fiscal invoices and progress reports within forty-five (45) calendar days after the end of each month or billing period.

   The late submission of the fiscal invoices and progress reports was due to extenuating circumstances beyond the control of the County. Two amendments to the original agreement were required during the course of the project. The County was delayed in submitting fiscal invoices and progress reports due to pending approval of the two separate amendments. However, fiscal invoices and progress reports should be prepared and submitted timely in order to meet the required deadline established by the State.

   The late submission of monthly fiscal invoices and progress reports causes the County to be out of compliance with the State's fiscal invoicing and progress reporting requirement. In addition, not submitting invoices and progress reports in a timely manner may result in disbursements being withheld. This could result in potential cash flow issues for the County since contractor(s) are paid in advance of State reimbursement.

   Recommendations:

   - Request a submittal deadline extension from the State when extenuating circumstances of any nature occur. If the State is aware of and approves an extension of the submittal, the County may not be considered out of compliance with the State's fiscal invoicing and progress reporting requirement.

   Department's Response: See Attachment A

2. Non-Compliance with Performance Bond Requirement

The construction contractor Hensel Phelps did not name the State as an obligee when it initially procured the performance bond for the Solano County SB 1022 Rourk Vocational Training Center Project. The omission was not identified during the course of the construction project, as a Dual Obligee Rider was not completed.

Article 8 of the *Board of State and Community Corrections Jail Construction Agreement No. A26-13* requires the contractor to procure and maintain both a payment and performance bond each of which shall be in an amount not less than one hundred percent (100%) of the Contractor's total contract price as set forth in the agreement between the Participating County and Contractor. Furthermore, the performance bond shall name the State as an additional beneficiary under the bond.

When an obligee is included under a performance bond, they are protected under the bond agreement. The recipient of the obligation (which in this case is the contract to complete construction of the SB 1022 project) is protected by the bond. If the actions of the bond principal (i.e., Hensel Phelps, the project construction contractor) are in violation of the bond agreement, the obligee (in this case, the State), is protected and can seek action against the bond and obtain compensation for itself.

The County did not ensure the State was included as an obligee under the performance bond resulting in non-compliance of the performance bond requirement. By not being listed as an obligee under the performance bond, the State has no ability to seek damages for non-performance by the principal (contractor).

Recommendation:

- Ensure all entities required to be named as an additional beneficiary under the performance bond(s) are sufficiently included for future projects.

Department's Response: See Attachment A

MEGAN M. GREVE
Director
mmgreve@solanocounty.com
(707) 784-7900

DEPARTMENT OF GENERAL SERVICES
Capital Projects Management Division

SOLANO COUNTY

MARK A. HUMMEL, AIA
Capital Projects Manager
MAHummel@SolanoCounty.com
(707) 784-7908

July 25, 2019

Ms. Phyllis Taynton, CPA
Solano County Auditor-Controller
675 Texas Street, Suite 2800
Fairfield, CA 94533

Re.: Response to Audit Compliance Deficiency for the Final Audit of Board of State and Community Corrections (BSCC) Jail Construction Agreement No. A26-13 for the Rourk Vocational Training Center (RVTC) in Fairfield, CA

Finding 1

Fiscal Invoices and Progress Reports Not Submitted Timely to the BSCC

Office of the Auditor-Controller Recommendation:

Request a submittal deadline extension from the State when extenuating circumstances of any nature occur. If the State is aware of and approves an extension of the submittal, the County may not be considered out of compliance with the State's fiscal invoicing and progress reporting requirement.

Department Response

Department agrees with Finding 1

The Rourk Vocational Training Center is now complete, with all invoices submitted except for final State retention upon completion of this audit. Project staff at the Board of State and Community Corrections was kept notified of prior delay in each instance. County staff will continue to maintain regular communication with BSCC staff during the remaining project close out period.

In the course of active construction, necessary changes to scope, schedule and corresponding budget line-items made necessary by design errors and extended approval times by the State Fire Marshal required that corresponding project budget modification requests be submitted to the Board of State and Community Corrections (BSCC) and State Department of Finance (DOF) for approval before progress invoices could be submitted. This approval process delayed invoice submittals. As a suggestion for process improvement, the State could include a paragraph in the Construction Agreement clarifying the procedure for project budget modifications and include a simple form and allow the County to move amounts between line-items, under the condition that total approved State Funds amount, County Match amount and In-kind Match amount remain unaltered. With approval authority delegated to BSCC

staff for line-item adjustments within the approved budget, the process could be expedited to e.g. within one week of the County's request for line-item modifications.

Finding 2

Non-compliance with Performance Bond Requirement

Department Response

Department agrees with Finding 2

The County acknowledges that the State was not named by the Contractor as an obligee on a Dual Obligee Rider. In the future, County staff will create and utilize project-specific checklists to help ensure full compliance with the requirements of the State's construction agreement.

Respectfully submitted,

Mark A. Hummel, AIA, LEED AP
Capital Projects Manager, SB1022 RVTC Construction Administrator

Cc: Phyllis Taynton, Solano County Auditor-Controller
Megan M. Greve, Solano County General Services Director
Sheriff Thomas Ferrara, Solano County Sheriff