

STATE OF TEXAS                   §  
  §  
COUNTY OF HIDALGO           §

**CONTRACT FOR HOUSING AND CONFINEMENT OF INMATES**

This Agreement for Services (the "Agreement") is made and entered into by and between *Hidalgo County, Texas* (the "County"), a Texas political subdivision, and (the "Contractor"), a Texas corporation, effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**WHEREAS**, the County advertised a request for proposals for the housing, management, supervision and care of inmates as it deems necessary on "an as needed basis" incarcerated or to be incarcerated by the County

**WHEREAS**, the Contractor's proposal was found by the Commissioners Court of Hidalgo County to be beneficial and in the best interests of the public safety and welfare of the citizens of the County, and the best proposal received by the County;

**WHEREAS**, contracting for the housing of inmates at a facility within \_\_\_\_\_, will produce material benefits, efficiencies and savings for the County;

**WHEREAS**, the Sheriff of Hidalgo County, Texas (the "Sheriff") recommended the County advertise for proposals for the housing and confinement of inmates as it deems necessary on "an as needed basis", and has recommended and requested the Commissioners Court to approve this Agreement; and

**WHEREAS**, the County and the Contractor desire to enter into the Agreement for the Contractor to provide housing and care for certain inmates incarcerated or to be incarcerated by the County;

**NOW, THEREFORE**, for and in consideration of the promises and the mutual covenants hereinafter contained, and subject to the conditions herein set forth, the parties hereto contract, covenant and agree as follows:

**ARTICLE ONE  
TERM AND TERMINATION OF AGREEMENT**

**Section 1.01. Term of Agreement.** This Agreement shall be and become effective upon the execution by the County and the Contractor, and subject to all the terms and provisions hereof, the initial term of this Agreement shall begin on \_\_\_\_\_ and shall continue for two (2) years until \_\_\_\_\_ (the "Term"). Thereafter,

the County shall have the option to extend this Agreement annually as provided in Section 1.02.

**Section 1.02. Renewal and Extension.** For a period of up to ten (10) years after the expiration of the Term, the County may, in its sole discretion, extend this Agreement for successive one-year terms, if permitted by then-applicable purchasing laws and regulations. In the event County elects to extend this Agreement beyond the initial Term under Section 1.01, County shall notify Contractor, in writing, of its desire to so extend this Agreement on the same terms and conditions no later than sixty (60) days prior to the expiration of the respective Term, or the renewal term under this Section 1.02.

**Section 1.03. Termination.** Notwithstanding anything to the contrary herein, County may terminate this Agreement without cause on thirty (30) days written notice.

## **ARTICLE TWO SPECIFICATION OF FACILITY AND LOCATION**

The housing, confinement and detention services described in this Agreement will be provided at the \_\_\_\_\_, Texas (the "Facility").

## **ARTICLE THREE OPERATION OF THE FACILITY**

**Section 3.01. Minimum Conditions of Confinement.** The Contractor shall operate, manage, supervise and maintain the Facility, and provide for the secure custody, care and safekeeping of inmates of the County at the Facility, in accordance with state and local law, but not limited to the minimum regulations and standards promulgated by the *Texas Commission on Jail Standards* (the "TCJS") In addition to such regulations and standards, the minimum conditions of confinement during the entire period of this Agreement are:

- (a) Staffing shall be provided twenty-four (24) hours a day to supervise inmates.
- (b) Three (3) meals (including two hot meals) shall be provided per day for County inmates. The meals must meet the nationally recommended dietary allowances published by the *National Academy of Sciences*.
- (c) Emergency medical care will be provided for the inmates twenty-four (24) hours per day.

(d) The Contractor will maintain an automatic smoke and fire detection and alarm systems, and shall maintain written policies, procedures and practices regarding fire and other safety emergency standards.

(e) The Contractor will maintain a water supply that is certified to be in compliance with applicable laws and regulations, and the Contractor will maintain a waste disposal program.

**Section 3.02. Applicable Standards.** The Contractor shall operate and maintain the Facility in accordance with all applicable regulations and standards of the TCJS and this Agreement, and/or variances granted by the TCJS. The physical facility, and the combined services and programs, will meet or exceed the requirements of the TCJS.

**Section 3.03. Physical Plant.** The Facility will meet or exceed the requirements of the TCJS and the Contractor shall maintain the Facility in compliance with all applicable codes, including, but not limited to, the *National Electric Code*, *Uniform Plumbing Code*, *Uniform Mechanical Code*, *National Fire Protection Association Life Safety Code 101*, and local zoning ordinances applicable to the Facility. The Contractor shall provide written documentation of compliance with these codes upon request of County.

**Section 3.04. Food Services.** The Contractor will provide food and beverage services in compliance with all the applicable regulations and standards, sanitation and health codes, with menus (planned and reviewed in advance by a registered dietitian or physician) that meet the nationally recommended dietary allowances published by the *National Academy of Sciences*. The Contractor will provide two (2) hot meals daily, and one (1) other meal that need not be hot, with no more than 14 hours elapsed between meals. Special diets shall be available to inmates as prescribed by appropriate medical or dental personnel, and where inmates' religious beliefs require the adherence to universally recognized religious dietary laws.

**Section 3.05. Laundry Services.** The Contractor shall provide laundry facilities and services to inmates, and be responsible for the issuance of clean clothing, linen, bath and had towels, when each inmate arrives at the Facility. Laundering of linens and clothing shall be in accordance with the Contractor's policies and procedures. Pillows and mattresses shall be sanitized with chemicals approved by *the Texas Department of Health (the "TDH")*, for sanitizing bedding, before being reissued to a newly received inmate.

**Section 3.06. Transportation.** The Contractor agrees to provide transportation of inmates of County to and from County's Jail and courthouse and the Contractor's facility and if required from the Contractor's facility to *Texas Department of Criminal Justice-ID (the "TDCJ-ID")*, at no additional cost to the County. The Contractor also agrees to provide transportation of County inmates from other sites in the State (where County inmates are currently located) to the Contractors facility at no additional cost to County.

In the event the County requires the Contractor to provide transportation to sites other than specified above, the County will reimburse the Contractor for transportation costs at a mutually agreeable rate per mile or per trip. Such services shall be performed and provided in compliance with the following:

(a) Transportation and escort guard services will be performed, pursuant to policies, procedures and practices established by the Contractor, by armed qualified officers employed by the Contractor, and the Contractor will implement such practices as may be requested by the Sheriff (as used in this Agreement the term Sheriff shall include his authorized deputies, representatives and agents) to enhance specific requirements for security, monitoring, and contraband control;

(b) Upon arrival at the Courthouse, jail facility or TDCJ-ID, transportation and escort guards will turn inmates over to a Deputy Sheriff or authorized agent, only upon presentation by such Deputy or authorized agent of proper law enforcement credentials;

(c) The Contractor will transport inmates to any Courthouse or designated jail facility upon a specific request from the Sheriff who will designate the inmate, the Courthouse or jail facility, and the date the inmate is to be transported;

(d) Each inmate will be restrained in hand cuffs, waist chains and leg irons during transportation.

(e) The Contractor will continue to be liable for the actions of its employees while they are transporting inmates on behalf of the Sheriff. Workers' compensation shall be provided for the Contractor's employees while on duty, including while they are providing transport services.

(f) The Contractor agrees to and shall hold harmless and indemnify the County its elected officials and employees, in their official and individual capacities, from any liability, including third party liability or workers' compensation, arising from the conduct of the Contractor's employees during the course of the transportation of inmates on behalf of the County pursuant to the terms of this Agreement.

(g) The Contractor will provide other transportation for inmates as determined necessary and as agreed upon with the Sheriff.

**Section 3.07. Medical Guidelines and Reporting.** The Contractor will comply with *Tex. Health and Safety Code*, Sections 85.112, 85.113 and 85.114 including but limited to:

(a) \_\_\_\_\_, developing workplace guidelines that address HIV policies, confidentially, and employee/inmates education programs. The guidelines shall, at a

minimum, incorporate the *model workplace guidelines* published by the TDH consistent with state and federal laws and regulations. The Contractor shall maintain the written policies and guidelines at the Facility; and

(b) The Contractor will, prior to accepting any of County's inmates, develop confidentiality guidelines regarding AIDS and HIV medical information for employees and inmates. These policies shall be consistent with state and federal laws and regulations.

**Section 3.08. Health Services.** The Contractor shall provide access to basic health care needs by the inmates, who will not be charged and shall not be required by the Contractor to pay their own medical expenses. Medical and basic health care services shall comply with the following provisions:

(a) The per diem rate as set forth in section 4.03 below, covers only routine medical services such as : on-site sick call (when provided by on-site staff), nonprescription program (over the counter/non-legend) and routine drugs and medical supplies. The per diem rate does not cover medical/health care services provided outside of the Facility or by other than Facility staff, prescription or treatments, or surgical, optical, dental care, and does not include the costs associated with any hospitalization of an inmate. The County shall pay the Contractor an amount equal to the amount the Contractor is required to expend for medical services other than those routine medical services provided for under the per diem rate. When it becomes necessary for an inmate to be hospitalized, the Contractor shall contact the County, through its Sheriff or designated representative, as soon as possible (and prior to admission unless the inmate is suffering from a life-threatening condition) to inform the County of the fact that the inmate has been, or is to be, hospitalized and of the nature of the illness or injury that has required the hospitalization.

(b) State certification and licensing requirements shall apply to all health care personnel responsible for dispensing medical services to inmates. The Contractor shall provide and certify all direct care employees in standard first aid procedures and cardiopulmonary resuscitation (CPR).

(c) The Contractor shall have sufficient first aid supplies and equipment adequately maintained at all times to support the overall medical treatment requirements of the assigned inmate population. Medical first aid supplies shall be maintained in accordance with prescribed standards recognized or approved by a licensed, recognized health authority which possess the expertise to evaluate, assess, and determine the potential need or conditions of the required first aid supplies and equipment. The Contractor shall implement a system of inventory management to ensure that first aid equipment and supplies are adequately replaced and replenished.

(d) All costs associated with hospital or health care services provided outside the Facility will be paid directly by the County, or promptly reimbursed to the Contractor. In the event that a contract with a medical facility/physician exists which allows the Contractor to receive discounted rates, the County shall be charged at that rate for such inmates.

(e) The Contractor shall notify the Sheriff as soon as possible of all emergency medical cases requiring removal of an inmate from the Facility and to obtain prior authorization for removal for all other medical services required.

(f) When an inmate is being transferred to another facility, the inmate will (as applicable) be provided with all of the inmate's remaining prescription medications (if any) that is being held at the facility.

(g) Medical records will be transferred with the inmate so transferred to another facility. It shall be The Contractor's responsibility to obtain and maintain such records for each inmate.

(h) Subject to the following paragraph 3.08 (i), the Contractor will submit invoices for such medical services along with its regular monthly billings for detention services, and such invoices shall be paid on the same terms as the regular monthly billings.

(i) If the hospitalization of an inmate is to be for a duration of more than twenty-four (24) hours, or the cost of any medical care or hospitalization is to exceed \$2,000.00, the Contractor has the right to arrange for the hospital or health care provider to bill the County directly for the costs of the hospitalization and/or medical care, rather than the Contractor paying the costs and billing the same to the County. If the hospital or health care provider refuses to bill the County directly, the County shall reimburse the Contractor for such costs within thirty (30) business days of receipt of an invoice from the Contractor which invoice may be delivered personally, by facsimile, by mail or by other reliable courier.

(j) The County will provide the Contractor with medical information for all inmates sought to be transferred to the Contractor's Facility under this Agreement, including information regarding any special medication, diet or exercise regimen applicable to each inmate.

(k) The Contractor is not required to accept or to retain any inmate who is suffering from a chronic or terminal disease or condition, and the County agrees to accept the return of any such inmate upon delivery to its jail or other agreed upon detention or health care facility by the Contractor.

**Section 3.09. Recreation and Exercise.** The Contractor shall provide adequate physical facilities, equipment, and supplies for a recreation program that meets all applicable regulations and standards of the TCJS.

**Section 3.10. Visitation.** The Contractor shall provide adequate space for family visitation which area shall include furniture, equipment, and supervision necessary to implement a visitation program that meets all applicable regulations and standards of the TCJS.

**Section 3.11. Safety Requirements.** The Contractor shall operate and maintain the Facility in compliance with all applicable codes. Such operation and maintenance shall comply with the terms and provisions of this Agreement and the applicable regulations and standards of the TCJS. The Contractor shall further maintain the Facility, adopt and establish safety plans and provide safety reports as follows.

(a) The Facility shall be maintained in compliance with all applicable codes, including, but not limited to, the *National Fire Protection Life Safety Code 101*, the *National Electric Code*, *Uniform Plumbing Code*, *Uniform Mechanical Code*, local ordinances, and the Texas Commission on Jail Standards, relative to safety;

(b) The Contractor will establish an emergency fire plan and written procedures for the safe evacuation of inmates and staff. Each new inmate shall be briefed on evacuation procedures during admission. Written emergency fire exit plans shall be posted in all major meeting rooms, dining rooms, hallways, and living areas; and

(c) The Contractor shall complete an injury report as provided in the event that any injury to an inmate results in one (1) full day's loss of work or programmatic activity, and/or that results in medical treatment, provided that first aid treatment shall not be deemed medical treatment. The Contractor shall complete an injury report and shall forward it to the Sheriff's designated representative within twenty-four (24) hours following said injury.

**Section 3.12. Inmate Correspondence.** The Contractor shall handle inmate correspondence in accordance with all applicable regulations and standards of the TCJS.

**Section 3.13. Inmate Funds.** The Contractor shall have written policies and procedures governing the operations of any fund established for the inmates. These funds shall be held by the Contractor and shall be controlled consistent with generally accepted accounting principles.

**Section 3.14. Religious Services.** The Contractor shall cause religious services to be conducted for inmates in accordance with the standards set by the TCJS. Participation in religious services shall be voluntary for all inmates.

**Section 3.15. Security.** The Contractor shall provide adequate security with respect to the inmates in accordance with all requirements of this Agreement and the applicable regulations and standards by TCJS. As part of such security program, the Contractor will comply with the following census and reporting requirements:

(a) The Contractor will develop, implement and document a daily system for physically counting all inmates assigned to the Facility, assuring strict accountability for inmates and that at least one (1) inmate count occurs per shift; and

(b) The Contractor will notify the Sheriff immediately whenever an inmate is involved in an escape, attempted escape, or conspiracy to escape from the facility.

**Section 3.16. Programs.** The Contractor shall provide programming to meet the needs of the inmate population as requested by the Sheriff. Programs may include but not be limited to educational, counseling, substance abuse education, and case management. The per diem rate set forth in Section 4.03 below, only covers basic custodial care and supervision and does not include any special educational, vocational or other programs. The parties may agree by a written amendment to this Agreement, or by separate agreement, for the provision of special programs on terms mutually agreed to by the parties. The Contractor may, at no cost to the County and not inconsistent with the applicable regulations and standards of the TCJS and the purposes of this Agreement, provide special programs for the inmates, and permit or require selected inmates to participate in selected programs provided in other segments of the Facility.

**Section 3.17. Receiving and Discharging.** The Contractor agrees to accept and release inmates only to authorized persons, in compliance with the following:

(a) The Contractor shall accept inmates presented by the Sheriff, only upon presentation by the officer of proper law enforcement credentials;

(b) The Contractor agrees to release inmates only to law enforcement officers of agencies authorized by the Sheriff or to a Deputy Sheriff. Those inmates who are remanded to custody by the Sheriff may only be released to Sheriff, or an agent specified by the Sheriff; and

(c) Inmates may not be released from the facility or placed in the custody of any federal, state or local official other than the Sheriff for any reason except for medical emergency situations, a court order, or authorization by the Sheriff.

**Section 3.18. Disciplinary Procedures.** The Contractor shall establish written "Disciplinary Procedures", to include the processing of violations and graduated sanctions that may be imposed. Each inmate shall be informed of the disciplinary procedures and provided with a copy of the same upon admission. The Contractor shall

maintain a master file of all discipline reports and actions taken, and shall provide the Sheriff with a copy of each report in the event an inmate commits a violation.

**Section 3.19. Grievance Procedures.** The Contractor shall establish written grievance procedures, which procedure shall be provided to all inmates upon admission. At a minimum, the procedure shall utilize a two-step process and shall conform to the applicable regulations and standards of the TCJS. The Contractor shall maintain a master file of all grievances filed and the actions taken.

**Section 3.20. Use of Force.** The Contractor shall establish written procedures governing the use of force against inmates. This procedure shall conform to all applicable regulations and standards of the TCJS. The Contractor shall maintain a master file of all incidents that occur.

**Section 3.21. Inspection and Technical Assistance.** The Contractor agrees that periodic inspections of the Facility by the Sheriff. Findings of the inspection will be shared with the Contractor in order to promote improvements to facility operations, conditions of confinement and services levels.

**Section 3.22. Access to Books and Records.** The Contractor agrees to maintain and make available for inspection, audit or reproduction by County, the TCJS and/or their employees, attorneys, agents and/or independent auditors, all books, documents and other records pertaining to the services provided hereunder, and/or to the sums billed by the Contractor. Such records shall be maintained by the Contractor for at least three (3) years following termination of this Agreement, and thereafter until any pending audit or litigation and all questions arising there from and involving this Agreement or such records has been finally resolved.

#### **ARTICLE IV CONTRACTOR'S RESERVATION OF BEDS AND PAYMENT**

**Section 4.01. Contractor's Right to House Inmates.** The Contractor hereby reserves up to four hundred fifty-six (456) inmate beds in the Facility for County to utilize at any time during the Term of this Agreement on a space available basis, and County agrees to pay the per diem rate specified in Section 4.03 below for the housing and care of such inmates, and the detention services to be provided by the Contractor pursuant to this Agreement. The foregoing notwithstanding, the County shall only be required to pay for inmates actually housed at the Facility. The term "County Inmates" as used herein include only inmates being held by the County, or sentenced by courts of the County, or being held in the County by reason of their residence in the County; it does not, however, include inmates coming from other counties, states or federal jurisdictions or agencies.

**Section 4.02. Scheduling of Usage.** The Contractor and the Sheriff shall develop a mutually agreeable schedule for the assignment of inmates to the Facility during the Term of this Agreement, and any renewals or extensions thereof. The Sheriff may, at his discretion and subject to section 4.01 above, assign as many inmates to the Facility "on an as needed basis", as he shall determine without special arrangement or notice, and the Contractor shall accept, house and provide services to such inmates pursuant to this Agreement.

**Section 4.03. Per Diem Rate.** The per diem rate for the actual housing and care of County inmates on "an as needed basis" and related detention and transportation services specified in this Agreement is \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per inmate per day. This rate covers one inmate/bed per day. A portion of any day shall count as an inmate day under this Agreement, except that the County shall not be billed for two days when an inmate is admitted one evening and removed the following morning. In that situation, the Contractor will bill for the day of arrival, but not for the day of departure.

**Section 4.04. Billing Procedure.** The Contractor shall submit an itemized invoice for the services provided hereunder (together with an invoice for any reimbursable medical expenses as set forth in Section 3.08(h) above) each month to the County, in arrears. Invoices will be submitted to the Sheriff of the County designated to receive the same on behalf of the County. The County shall make payments to the Contractor within thirty (30) days after receipt of the invoice. Payment shall be made payable to: (Name of the Contractor), and shall be delivered as the address set forth in section 6.04 below.

**Section 4.05. Regulation of Maximum Occupancy.** Nothing herein shall create any obligation upon the Contractor to house the County's inmates where the housing of said inmates will raise the population of the Facility above the permissible number of inmates allowed by law, or will create a condition of overcrowding or create conditions which endanger the life and/or welfare of personnel and inmates at the Contractor's Facility, or result in possible violation of the constitutional rights of the inmates housed at the Facility. At any time that the Contractor determines that a condition exists at the Contractor's Facility necessitating the removal of any of the inmates, or any specified number thereof, the Contractor shall following at least eight (8) hours prior notice to the Sheriff (unless a different deadline is agreed to by the parties) return said inmate to the County.

**Section 4.06. Inmate Eligibility.** The only inmates eligible for incarceration in the Facility pursuant to this Agreement are male inmates that are classified in accordance with the custody level of the assigned Facility in accordance with the custody level of the Facility in accordance with the applicable regulations and standards of the TCJS and

meeting the classification requirements for the facility beds as described in the TCJS Manual, Chapter 271, "Objective Jail Classification Manual".

All inmates proposed by the County to be transferred to the Contractor's Facility under this Agreement must meet the eligibility requirements set forth above. Inmates shall not (1) have a history of escape or attempted escape from custody; (2) be in need of psychiatric care or have a history of mental illness; and (3) shall not require chronic health care needs (to include but not limited to those inmates known by the County to have an unstable cardiac condition, those requiring renal dialysis, those known to have an infectious disease, those known to be HIV positive or diagnosed as having Acquired Immune Deficiency Syndrome (AIDS), or those known to have unresolved orthopedic problems and those known to be unstable diabetics).

Prior to the Contractor receiving inmates for transportation by the Facility, the County shall furnish the following: (1) complete information and documentation relating to the inmate's case history; (2) all the inmate's records concerning classification, including conduct records; (3) medical and clinical records, including certification of tuberculosis screening or treatment; and (4) any information necessary to advise the Contractor in regard to any special medication, diet or special exercise regimen requirements applicable to each prospective inmate.

**Section 4.07. Continuing Reservation Regarding Inmates.** The Contractor reserves the right for its designated representative to review the background of all inmates sought to be transferred to the Facility, and the County shall cooperate with and provide information requested regarding any inmate by the Contractor. The Contractor reserves the right to refuse, for good cause, acceptance of any inmate. Likewise, if any inmate's behavior, medical or psychological condition, or other circumstance of reasonable concern to the Contractor makes the inmate unacceptable for continued incarceration in the Facility in the opinion of the Contractor, the Contractor shall provide at least eight (8) hours prior notice to the Sheriff (unless a different deadline is agreed to by the parties) return said inmate, to the County. Inmates may also be removed from the Facility when their classification changes for any purpose, including long-term medical segregation.

**Section 4.08. Inmate Sentences.** The Contractor shall not be in charge of, or responsible for, the computation or processing of inmates' time of confinement, including, but not limited to, computation of good time awards/credits and discharge dates. All such computations and record keeping shall continue to be the responsibility of the County. It shall be the responsibility of the County to notify the Contractor of any discharge date for an inmate at least ten (10) days before such date. The Contractor will release inmates of the County only when such release is specifically requested in writing by the Sheriff. However, it is agreed that the preferred and usual course of dealing between the parties shall be for the Contractor to transport and return inmates to the County shortly before their discharge date, and for the County to

discharge the inmate from its own facility. The County accepts the responsibility for the calculations and determinations set forth above and for giving the Contractor notice of the same. The County is responsible for all paperwork and arrangements for inmates to be transferred to the TDCJ-ID.

## **ARTICLE V. INSURANCE AND INDEMNIFICATION**

**Section 5.01. Indemnification.** The Contractor hereby agrees to indemnify and hold the County and its agents, elected officials officers and employees harmless from all costs, claims, expenses, and liabilities (including attorney's fees) whatsoever that may be incurred by the County, its agents, elected officials officers or employees, arising from any and all acts done or omitted to be done by the Contractor, or Contractor's employees, agents, subcontractors or assigns in connection with the operation of the Facility or the provision of service by the Contractor pursuant to this Agreement and from any and all claims or causes of action that may be brought by any third party by reason of or pursuant to this Agreement; provided that this section shall not be construed as creating any right, cause of action, claim, of waiver or estoppels for or on behalf of any third party nor shall it be construed as a waiver or modification of the availability of the defense of governmental immunity or any other legal defense available to either the Contractor or County.

**Section 5.02. Contractor to Provide Defense.** In case any action or proceeding is brought against County regarding any claim or matter referenced in the foregoing section, County shall provide immediate notice to the Contractor and the Contractor shall defend against such action by counsel reasonably satisfactory to the County, unless such action or proceeding is defended against by counsel for any carrier of liability insurance provided for herein. The aforementioned indemnification shall not be affected by a claim that negligence of County or its respective agents, employees, or licensees contributed in part to the loss or damage indemnified against. The County shall have the right to utilize separate counsel, to participate in the investigation and defense of any such claims, the fees and expenses of such counsel shall be paid by the County unless the employment of such counsel has been previously authorized in writing by the Contractor.

**Section 5.03. Waiver and Releases.** Neither the Contractor nor the County shall waive, release, or otherwise forfeit any possible defense that the Contractor or the County may have regarding any claim arising from or made in connection with the operation of the Facility by Contractor, without the written consent of the other party to this Agreement; provided that the Contractor shall have authority to compromise and settle any claim for monetary consideration only, for which the Contractor is indemnifying the County. The County and the Contractor shall preserve all such available defenses and cooperate with each other to make such defenses available for each other's benefit to the maximum extent allowed by law, including any defenses

County may have regarding litigation, losses, and costs resulting from claims or litigation pending at the time this Agreement becomes effective or arising thereafter from occurrences prior to the effective date of this Agreement.

**Section 5.04. Insurance.** The Contractor shall secure and maintain in effect, or shall cause to be secured and maintained, an insurance policy or policies providing (i) coverage against all claims arising from the services performed under the Agreement; and (ii) coverage to protect the County from actions by third parties against the Contractor as a result of this Agreement. The insurance policy, or policies, required by this section shall be for not less than any limits of liability specified herein, or required by law, whichever is greater, and shall include coverage for the Contractor hereunder. The County shall be named as an additional insured on each such insurance policy.

**Section 5.05. Additional Insurance.** The Contractor shall continuously maintain such accident, general liability, worker's compensation, and automobile insurance, as required by law, to include protecting the Contractor, its officers, employees, and agents from and against any and all liability caused by or arising out of any aspect of the operation of the Facility and the furnishing of services pursuant to this Agreement, including the payment of damages and attorney's fees. The Contractor shall provide proof of insurance coverage to County upon request.

**Section 5.06. Coverage Amounts.** The general liability and automotive insurance and coverage shall be maintained in an amount that is not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. The Contractor shall further maintain statutory worker's compensation insurance in the statutory amounts.

## **ARTICLE VI. GENERAL PROVISIONS**

**Section 6.01. County Liability.** To the extent permitted by applicable law, the County shall be fully responsible and liable for all suits, claims, damages, losses, or expenses, including reasonable attorney's fees, arising out of County performance or nonperformance of the services and duties herein stated in regard to duties herein assigned to the County, and specifically excluding the actual transportation or incarceration of inmates by the Contractor. County retains full liability for each inmate until that inmate has been received by the Contractor at the County's facility for transportation, holding and incarceration of inmates by the Contractor, and again after the Contractor has returned and delivered the inmate back to the County.

**Section 6.02. Contractor Liability.** The Contractor shall be fully responsible and liable for all suits, claims, damages, losses, and expenses, including reasonable attorney's fees, arising out of the Contractor's performance or nonperformance of the

services and duties herein stated, in regard to the actual transportation, holding and incarceration of inmates by the Contractor.

**Section 6.03. Binding Agreement.** This Agreement is contractual and is binding upon the parties hereto and their successors, assigns and representatives in accordance with and subject to all the terms and conditions hereof.

**Section 6.04. Notices.** All notices, demands, and other writings may be delivered by either party hereto to the other by United States Mail or other reliable courier at the following addresses:

To The Contractor: \_\_\_\_\_

To County: Hidalgo County, Texas  
Attention: Judge Ramon Garcia  
Hidalgo County Judge's Office  
302 W. University Drive  
Edinburg, Texas 78539

With copy to: Hidalgo County Sheriff's Office  
711 El Cibolo Road  
P. O. Box 1228  
Edinburg, Texas 78540

The address to which any notice, demand or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

**Section 6.05. Amendment.** This Agreement shall not be modified or amended except by a written instrument executed by the duty authorized representatives of both parties and approved by Commissioners Court of the County.

**Section 6.06. Prior Agreements.** Except as expressly provided in this Section, this Agreement contains all of the agreements and undertakings, either oral or written, of the parties with respect to any matter mentioned herein, and no prior agreement or understanding pertaining to any such matter shall be effective. The preceding sentence to the contrary notwithstanding, the provisions of County's Request for Proposals issued \_\_\_\_\_, 2013, (Proposal No. 2013-284-00-00) (the "Proposal"), consisting of \_\_\_\_\_ consecutively numbered pages (save and except pages \_\_\_\_\_, inclusive) and

Contractor's response dated \_\_\_\_\_2013 (the "Response") are incorporated herein by reference. Unless expressly indicated to the contrary in this Agreement, and in the event of a conflict between or among this Agreement and the Proposal and Response, the terms and conditions of the Proposal shall govern. The representations and warranties of the Contractor as contained in the Response are hereby reaffirmed by the Contractor as of the date of this Agreement.

**Section 6.07. Funding Sources.** The County represents that it has current funds available sufficient to meet its obligations pursuant to this Agreement through the remainder of this fiscal year.

**Section 6.08. Non-Appropriation of Funds** In the event that during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903.

**Section 6.09. Assignment.** The Contractor may assign the revenues and payments payable by the County pursuant to this Agreement. The Contractor may not assign its rights, title and interest in and to this Agreement and any documents executed with respect to this Agreement and/or grant or assign a security interest in this Agreement. Any such assignees shall have all of the rights of the Contractor under this Agreement. Subject to the foregoing, this Agreement inures to the benefit of and is binding upon the, successors and assigns of the parties hereto. Upon assignment of the Contractor's interests herein, the Contractor will cause written notice of such assignment to be sent to the County which will be sufficient if it discloses the name of the assignee, the interest assigned and the address to which further payments hereunder should be made.

**Section 6.10. Section Headings.** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

**Section 6.11. Governing Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF TEXAS. VENUE SHALL LIE EXCLUSIVELY IN HIDALGO COUNTY, TEXAS. THE PARTIES CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.**

**Section 6.12. Severability.** In the event any one or more of the sections, provisions or clauses contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

**Section 6.13. Counterparts.** This Agreement may be executed in duplicate original counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one in the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement by their respective duly authorized representatives on this the \_\_\_\_ day of \_\_\_\_\_, 2013.

**(NAME OF THE CONTRACTOR)**

**HIDALGO COUNTY, TEXAS**

By: \_\_\_\_\_

By: \_\_\_\_\_

Ramon Garcia, Hidalgo County Judge

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Arturo Guajardo, Jr.  
Hidalgo County Clerk

Approved As to Form:  
Atlas, Hall and Rodriguez, LLP

By: \_\_\_\_\_