

**AGREEMENT TO PROVIDE HOUSING/BED SPACE FOR COUNTY INMATES AT
SANTA RITA JAIL**

This AGREEMENT is made and entered into by and between, the County of San Mateo, Sheriff's Office, a political subdivision of the State of California, hereinafter referred to as "Contractor", and Alameda County, Sheriff's Office, also a political subdivision of the State of California, hereinafter referred to as "County" and collectively referred to as, "the Parties".

RECITALS

WHEREAS, Contractor has a need for County to provide Contractor with Inmate Housing Services; and

WHEREAS, County has the expertise and capabilities necessary to provide housing and associated services for inmates sentenced to Contractor's facility; and

WHEREAS, County agrees to house those inmates at County's Santa Rita Jail Facility, hereinafter referred to as "SRJ" or "the facility."

NOW THEREFORE, Contractor and County, for the consideration hereinafter named, agree as follows:

I. TERM OF AGREEMENT

The initial term shall commence with the signing of the Agreement through and including June 1, 2014-June 1, 2016

In the event the Parties to this Agreement exercise the option to extend this Agreement, the Parties must commence negotiations for any desired rate changes and/or changes to the terms and conditions of this Agreement a minimum of ninety (90) days prior to the expiration of this Agreement. Further, the Parties to this Agreement must mutually agree to any extension(s) of this Agreement, including any changes in rate and/or any changes to the terms and conditions of the Agreement in writing, prior to renewal or extension of this Agreement.

**II. DESCRIPTION OF SERVICES PROVIDED BY THE ALAMEDA COUNTY
SHERIFF'S OFFICE**

A. General Scope of Services: County shall provide for the care, confinement and security of sentenced inmates previously in the care of Contractor (herein referred to as Contractor inmates) in accordance with all state laws, standards, regulations, policies, procedures and court orders applicable to the SRJ facility.

1. Contractor inmates housed at SRJ shall remain under the legal custody of Contractor, and physical custody of County.
2. County agrees to staff the SRJ facility to ensure Contractor inmates are supervised and provided program services, but only to the extent and in the same manner concurrently provided to Alameda County inmates.
3. Contractor will select and assign inmates to SRJ. Contractor will, prior to assignment to SRJ, disclose complete inmate classification history, in-custody disciplinary history, proper detainer, and medical records to County. County retains the right to exclude specific individual inmates for security reasons, medical issues requiring excessive inpatient health care, excessive out-patient health care as determined by County and its health services contractor, or for any other reason County deems appropriate based upon the inmates history and records. County retains the right to refuse to accept or continue to house such inmates at the time of assignment or at any point during their incarceration at SRJ.
4. Contractor inmates whose behavior proves to be unmanageable, as determined by County in its sole discretion will be removed by Contractor upon the telephonic and/or e-mail request of the SRJ Facility Commander when such request is accompanied by an Alameda County Sheriff's Office Disciplinary Report or Criminal Report. Contractor agrees to remove the subject inmate within three (3) working days of notification, and shall bear all costs associated with that inmate's return to Contractor's detention facility.

III. TERMINATION OF AGREEMENT

County or Contractor may terminate this Agreement at any time for their respective convenience upon thirty (30) days written notice, or earlier upon written mutual agreement. Contractor shall pay for all costs up to and until the time of termination of agreement and transfer of all inmates back to Contractor.

IV. COMPENSATION

A. Contractor agrees to pay County *no more* than **\$125.00** per day or partial day and *no less* than **\$85.00** per day or partial day for each Contractor inmate held in custody at SRJ, in accordance with the policies and procedures established by the Alameda County Board of Supervisors or the Alameda County Sheriff. Furthermore, the daily rate shall be determined by the daily number of Contractor inmates County houses.

This daily rate will be determined as follows:

<u>Contracted Inmates Housed</u>	<u>Rate:</u>
1-15	\$125.00
16-21	\$115.00
22-35	\$105.00
36-45	\$ 95.00
46 and above	\$ 85.00

B. County retains the right to establish a rate increase if County decides it is necessary to ensure full reimbursement for County expenses associated with Contractor inmates. In such case, Contractor shall be informed in writing thirty (30) days prior to implementation of the proposed increase and effective date of the implemented increase. Contractor retains the right to agree to the increase in rate(s) or remove Contractor inmates within thirty (30) days of the written notification of the rate increase if the rate increase is not acceptable to Contractor.

C. County shall submit to Contractor an itemized invoice that details the number of Contractor inmates held in custody during the prior calendar month, based on the monthly average population of Contractor inmates, within thirty (30) days after the close of each month. Contractor shall pay County within forty-five (45) days of receipt of said invoice.

D. If such payment is not received by County, at the office described on the invoice, within forty-five (45) days after the date of receipt of the invoice, County is entitled to recover interest on the amount unpaid. Interest shall be at the rate of two (2) percent per calendar month or any portion thereof calculated from the last day of the month in which services covered by the invoice were performed.

E. If payment is in arrears more than 60 days, County retains the right to terminate any contractual agreement with Contractor and any and all Contractor inmates housed at SRJ will be returned to Contractor's jail facility. All costs associated with the removal and transportation of Contractor inmates is the responsibility of Contractor.

F. In no event shall total payment for services under this Agreement exceed \$3,000,000. If total payment for services under this Agreement exceeds \$2,500,000, Contractor shall immediately notify County.

V. MEDICAL CARE

A. County shall provide Contractor inmates with the full range of medical care available **inside** the facility. The level of care inside the facility will be the same as that provided to Alameda County inmates and all other contract inmates residing within the SRJ facility. County is financially responsible for all medical care provided **inside** the facility to Contractor inmates. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over the counter prescriptions and, any prescription medications routinely stocked by the facility, which are provided to Contractor inmates. The cost of all of the above-referenced medical care is covered by the charged Contractor's per diem rate. However, if dialysis or any other non-routine medical equipment or life-saving medical procedure is provided within the facility, as determined by County and its health services contractor, Contractor will be required to

pay for the cost of that service, which shall be included in the monthly invoice described in Section IV.C. above:

1. County is responsible for all associated medical record keeping.
2. County shall conduct Tuberculosis (TB) testing in accordance with the latest Centers for Disease Control (CDC) Guidelines and document the result in Contractor inmate's medical record. Purified Protein Derivative (PPD) skin tests will be utilized at SRJ and will be conducted during Contractor inmate's medical pre-screening upon arrival at SRJ. These test results will be read between 48 and 72 hours after the test is initialized.
3. County will notify Contractor of any cases of suspected or active TB or any other highly communicable disease such as Severe Acute Respiratory Syndrome (SARS), Avian Flu, Methicillin-Resistant Staphylococcus Aureus (MRSA), Chicken Pox, etc., which might affect prior transports or future scheduled transports so that protective measures may be taken by Contractor.
4. Contractor inmates residing at SRJ may be charged a medical co-payment by County. Contractor is not responsible for medical co-payments and will not be billed for these costs. Contractor inmates are responsible for all co-payments unless found to be indigent.

B. Contractor is financially responsible for all medical care provided **outside** of the facility to Contractor inmates. Contractor, not County, will be billed directly by the medical care provider.

1. "Outside medical care" is defined as the hospitalization or referral of an inmate to a hospital or medical provider for services not provided by County inside SRJ.
2. While a Contractor inmate is in the physical custody of County, County shall be deemed to be the receiver of medical information pursuant to the Health Insurance Portability and Accountability Act of 1996.

3. When necessary, County will provide transport and security for Contractor inmates to and from medical care facilities within Alameda County. County will provide security for Contractor inmates for outpatient medical services. If Contractor inmates are admitted to the medical facility Contractor will be responsible for security for the inmates during their medical stay outside of SRJ.
5. All **outside** medical care provided to Contractor inmates must be timely and pre-approved by Contractor, except in the event of an emergency. In the event of an emergency, County and its contract health provider will proceed immediately with necessary medical treatment. In such an event, County will notify Contractor no later than 5 p.m. on the next business day regarding the nature of Contractor inmate's illness or injury as well as the types of treatment provided.
6. Inmates under the custody and control of County who receive medical treatment, and the associated bill for such treatment, from an outside medical provider will be charged equally whether a contract inmate or inmate of County. Contractor will be responsible for the outside medical payment and shall not be subject to additional fees based on the contract status of the inmate. Contractor shall be responsible for any costs of hospitalizations pursuant to court orders under California Penal Code sections 4011 and 4011.5 regarding inmate hospitalizations.

VI. RECEIVING AND DISCHARGING CONTRACT COUNTY INMATES

- A. Except as otherwise provided for in this Agreement, Contractor is responsible for any and all transportation of prisoners subject to this Agreement at Contractor's sole expense, including but not limited to transportation occurring prior to County receiving Contractor inmates and after County discharges Contractor inmates, as well as for any and all required court appearances or other legally mandated transportation.
- B. County agrees to accept inmates only upon presentation by an authorized member of Contractor's Sheriff's Department with proper credentials and proper documentation

from a court committing the inmate to serve time in San Mateo County jail, and upon receipt of inmate classification history, in-custody disciplinary history, proper detainer, and medical records, subject to County's right to refuse to accept any inmate. Absent extraordinary circumstances, County shall not relocate a Contractor inmate from one facility to another under County's control not named in this Agreement without permission of Contractor.

C. County agrees to only release Contractor inmates to authorized representatives of Contractor, via valid removal order, or to a federal law enforcement designee (e.g., Drug Enforcement Administration, Immigration and Customs Enforcement), and only in accordance with applicable laws, regulations, and County policies.

VII. CAPACITY RELEASE

County shall not be restricted in releasing Contractor inmates pursuant to the capacity release policies set by County. County will give reasonable notice to Contractor of impending capacity limits that would cause the early release of Contractor inmates. Contractor shall transport all inmates scheduled for capacity release from County to Contractor's county jail or to another appropriate facility to serve the remainder of their sentence.

VIII. TRANSPORT AND RELEASE

Contractor agrees to be responsible for the transportation of all inmates to and from Contractor. Contractor agrees to transport Contractor inmates from Alameda County to San Mateo County prior to their release from custody.

IX. INMATE DISCIPLINE

Contractor inmates assigned to SRJ will be required to follow all applicable Inmate Rules and Regulations established by County. The administration of discipline to Contractor inmates and any resultant appeals by Contractor inmates will be handled by County staff in accordance with the provisions in place for County inmates.

X. SPECIAL NOTIFICATIONS

County shall notify Contractor of any activity by a Contractor inmate which would likely

result in litigation or alleged criminal activity. County will notify Contractor of any criminal proceedings in which an- Contractor inmate is named as a suspect in Alameda County which could adversely affect pending release or calculated release time keeping issues related to the inmate's release.

XI. MODIFICATIONS TO AGREEMENT

Any modifications to this Agreement shall be in writing and signed by the authorized representative of each party.

XII. INTEGRATION OF CLAUSE

This Agreement contains the entire agreement between the parties with respect to the matters addressed herein and supersedes all prior agreements, written or oral, between the parties on such matters.

XIII. SEVERABILITY CLAUSE

Should any provision of this Agreement be unenforceable, those provisions shall be considered severable, and the remaining provisions shall remain in effect.

XIV SPECIAL TERMS AND CONDITIONS FOR PUBLIC ENTITY AGREEMENTS

A. Contract Disputes with Public Entities

1. As a condition precedent to County's or Contractor's right to institute and pursue litigation or other legally available dispute resolution process, if any, County and Contractor agree that all disputes and/or claims of County or Contractor arising under or related to the Agreement shall be resolved pursuant to the following processes. County's or Contractor's failure to comply with said dispute resolution procedures shall constitute a failure to exhaust administrative remedies.
2. Pending the final resolution of any such disputes and/or claims, County and Contractor agree to diligently proceed with the performance of the Agreement, including the delivering of goods or providing of services. County's or Contractor's failure to diligently proceed shall constitute a

material breach of the Agreement.

3. The Agreement shall be interpreted, administered, and enforced according to the laws of the State of California. The parties agree that any suit brought hereunder shall have venue in Alameda County, California, the parties hereby waiving any claim or defense that such venue is not convenient or proper.

The Agreement shall be interpreted, administered, and enforced according to the laws of the State of California.

The parties agree that any suit brought hereunder shall have venue in Alameda County, California, the parties hereby waiving any claim or defense that such venue is not convenient or proper **as to such suits**.

4. A County, city, district or other local public body, state board or state commission, another state or federal agency, or joint-powers authority shall resolve a dispute with Contractor, if any, through a meeting of representatives from the entities affected. If the dispute cannot be resolved to the satisfaction of the parties, each entity may thereafter pursue its right to institute litigation or other dispute resolution process, if any, available under the laws of the State of California.

B. Confidentiality of Data

1. All financial, statistical, personal, technical and other data and information relating to Contractor's or County's operation, which are designated confidential by Contractor or County and made available to carry out this Agreement, or which become available to County or Contractor in order to carry out this Agreement, shall be protected by County and Contractor from unauthorized use and disclosure except as otherwise required by law. If the methods and procedures employed by County and Contractor for the

protection of County's and Contractor's data and information are deemed by the other party to be adequate for the protection of Contractor's or County's confidential information, such methods and procedures may be used with the written consent of that party. County and Contractor shall not be required under the provisions of this paragraph to keep confidential any data already rightfully in County's or Contractor's possession that is independently developed by County or Contractor outside the scope of the Agreement or is rightfully obtained from third parties.

2. No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by County or Contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the other party) without prior written approval of both County and Contractor, except as otherwise required by law.

C. Accounting Principles

County and Contractor will adhere to generally accepted accounting principles as outlined by the American Institute of Certified Public Accountants. Dual compensation is not allowed; County cannot receive simultaneous compensation from two or more funding sources for the same services performed even though both funding sources could benefit.

D. Liability for Nonconforming Work

County will be responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to County's deadline, County will be given a reasonable opportunity to cure the nonconformity.

E. Temporary Nonperformance

If mechanical failure due to natural disaster, act of terrorism, or any other reason, causes County to be temporarily unable to perform the work as required, County may require Contractor to reassume custody of Contractor inmates immediately. The options for

Contractor include but are not limited to returning the inmate(s) to the county of criminal conviction and/or seeking additional contract bed space from another provider.

XV. ADDITIONAL PROVISIONS FOR PUBLIC ENTITY AGREEMENTS

A. Workers Compensation

Contractor inmates held in the physical custody of Alameda County will be housed in Alameda County's Santa Rita Jail. If a Contractor inmate is injured while working in any capacity in Santa Rita Jail, the inmate's Worker's Compensation claim will be filed and processed through San Mateo County. The cost of any initial doctor's visits, medical appointments, prescribed medication, physical therapy, and work/physical limitations related to the Workers Compensation claim will be the sole responsibility of San Mateo County. Any medical appointments, procedures, and billing protocols, outside of an emergency, will fall under the section "*V. Medical Care*" of this contractual Agreement.

B. Confidentiality of Medical Information

County and Contractor agree that all inmate/patient medical record information will be identified as confidential, shall be held in trust and confidence, and shall be used only for the purposes contemplated under this Agreement and consistent with applicable health information privacy laws.

County by acceptance of this Agreement agrees that its health services contractor is subject to all of the requirements of the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (Code of Federal Regulations (CFR), Title 45, Sections 164.501 et seq.); California Government Code Section 11019.9; California Civil Code Sections 56 et seq.; and California Civil Code Sections 1798, et seq. regarding the collections, maintenance, and disclosure of personal and confidential information about individuals.

C. Insurance Requirement

County hereby represents and warrants that County currently and shall for the duration of

this Agreement be insured and provide proof of self- insurance or insurance: Commercial General Liability and Auto Liability - \$1,000,000 per occurrence for bodily injury and property damage liability combined.

Contractor hereby represents and warrants that Contractor currently and shall for the duration of this Agreement be insured and provide proof of self- insurance or insurance: Commercial General Liability and Auto Liability - \$1,000,000 per occurrence for bodily injury and property damage liability combined.

D. Indemnification

To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, officers, elected officials, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss there from, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

E. Notices

All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
Sheriff Gregory Ahern
5325 Broder Blvd.
Dublin, CA 94568
Attn: Shawn Peterson, Lt.

To Contractor: COUNTY OF SAN MATEO
Sheriff Greg Munks
400 County Center-
3rd Floor Hall of Justice
Redwood City, Ca. 94063
Attn: Trisha L. Sanchez, Assistant Sheriff

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date

that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

F. Miscellaneous Provisions:

1. Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Contractor and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and County acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

2. Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

3. No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

4. Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

5. Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

6. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

7. Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

G. Signatory:

By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

ALAMEDA COUNTY SHERIFF'S OFFICE

SAN MATEO COUNTY SHERIFF'S OFFICE

Gregory J. Ahern, Sheriff-Coroner

Date: _____

Greg Munks, Sheriff

Date: _____

ALAMEDA COUNTY
BOARD OF SUPERVISORS

SAN MATEO COUNTY
BOARD OF SUPERVISORS

Keith Carson, President


Date: _____

Dave Pine, President

Date: _____

APPROVED AS TO FORM
DONNA R. ZIEGLER,
ALAMEDA COUNTY COUNSEL

APPROVED AS TO FORM
JOHN C. BEIERS,
SAN MATEO COUNTY COUNSEL

By  _____
Gabriella W. Raymond,
Deputy County Counsel

By _____
Adam Ely,
Deputy County Counsel

ATTEST:
ALAMEDA COUNTY CLERK

ATTEST:
SAN MATEO COUNTY CLERK

By _____

Date: _____

By _____

Date: _____