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COUNTY OF FORT BEND

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INTERLOCAL COOPERATION AGREEMENT FOR JAIL SERVICES

This agreement is entered into by and between the County of Fort Bend, Texas, hereinafter called "County" and the County of Polk, Texas, hereinafter called "Contractor".

WITNESSETH

WHEREAS, Texas Government Code, Chapter 791, authorized local governments of the state to enter into contracts for governmental functions and services to increase their efficiency and effectiveness; and

WHEREAS, such a consolidated effort for the housing and care of certain incarcerated inmates are in each party's best interest and that of the public and this agreement will increase the effective and efficient functioning of each party; and

WHEREAS, the County and the Contractor are local governments as defined in the Texas Government Code, Section 791.003(4), have the authority to enter into this agreement, and have each entered into this agreement by the action of its governing body in the appropriate manner prescribed by law; and

WHEREAS, the County and the Contractor specify that each party paying for the performance of said functions of government shall make those payments from current revenues available to the paying party;

NOW THEREFORE, in consideration of the premises, and of the terms, provisions, and mutual promises herein contained which fairly compensate the performing party, it is mutually agreed as follows:

AGREEMENT

ARTICLE I

TERM AND EFFECTIVE DATE

- 1.01 **TERM**: This Agreement shall be effective beginning **October 1, 2008** and shall be effective through **September 30, 2009**.
- 1.02 **RENEWAL**: This Agreement may be renewed annually by mutual agreement of the parties. In the event the parties seek to renew this Agreement at the end of any term, the per diem rate for detention services shall be negotiated by the parties. The terms, conditions and rates with regard to any renewal period shall be as mutually agreed between the parties and subject to the approval of the governing body of each party.
- 1.03 **TERMINATION**: This Agreement shall terminate on September 30, 2009. Additionally, this Agreement may be terminated without cause prior to the expiration of the term herein at the option of either County or Contractor upon the giving of sixty (60) days written notice to the other party in the manner and form provided for herein. The termination of the Agreement will be effective upon the last day of the month in which the expiration of the sixty (60) day period occurs.
- 1.04 This Agreement is also subject to termination upon the occurrence of an event that renders performance hereunder by the Contractor impracticable or impossible, such as

severe damage or destruction of the Contractor's facility or actions by governmental or judicial entities which create a legal barrier to the acceptance of any County's inmates.

ARTICLE II
DETENTION SERVICES

For the purposes and consideration herein stated and contemplated, Contractor shall provide the following necessary and appropriate services for County to the maximum extent authorized by this Agreement, without regard to race, religion, color, age, sex, and national origin; to-wit:

- 2.01 **PURPOSE:** Contractor warrants that the services and the facilities provided for detention of inmates meets the requirement of the Texas Commission on Jail Standards and other applicable Texas State and Federal Law as applicable to prison facilities.
- 2.02 **HOUSING AND CARE OF INMATES:** Contractor will confine inmates and give them reasonable and humane care and treatment, consistent with the Texas Commission on Jail Standards and other express provisions in this Agreement. Contractor will provide, as set out herein, for their physical needs, make available programs, treatment and training consistent with their individual needs and requirements herein, retain them in safe custody, supervise them, maintain proper discipline and control, make certain they receive no privileges except those generally afforded other inmates and that the judgments and orders of the committing court and Board of Parole and Post Prison Supervision are faithfully executed.
- 2.03 **MEDICAL SERVICES:** The per-day rate under this Agreement covers only routine medical services such as on-site sick call (when provided by on-site staff) and non-prescription, over-the-counter/non-legend and routine drugs and medical supplies. The per-day rate does not cover medical/health care services provided outside of the Contractor's facility or by other than facility staff, prescription drugs and treatment, or surgical, optic and dental care, and does not include the costs associated with the hospitalization of any inmate. The County shall reimburse Contractor the amount spent for medical services, other than routine medical services included in the per-day rate.
- 2.04 **OFF-SITE SERVICES:** The County Sheriff or designee shall be informed of any inmates receiving emergency medical care, including but not limited to hospitalizations, that results in off-site services as soon as practicable after the service occurs (not more than 1 working day). Contractor will assist County to monitor utilization of off-site services by providing information about the course of an inmate's care and treatment. County may elect to retake and return to County's physical custody of an inmate to manage costs and utilization of services.
- 2.05 Contractor has the authority to arrange for the off-site provider to bill County for the costs of hospitalization and/or medical care. In the event direct billing is unavailable, County shall reimburse Contractor in accordance with the terms of this Agreement.
- 2.06 **MEDICAL RECORDS:** County agrees to provide Contractor with a copy of each inmate's medical, dental and mental health record for the purposes of continuity of care. Contractor agrees to maintain a confidential record of the health care of each inmate. A copy of each inmate's record shall be returned to County at the time each inmate is returned.
- 2.07 **MEDICAL INVOICES:** County will reimburse Contractor monthly for health care services and associated expenses for which County is responsible under this section. Contractor

- shall provide County with invoices for such costs and agrees not to add additional administrative charges for reimbursed costs.
- 2.08 **INMATE MEDICAL REPORT:** Upon request from County, Contractor will provide an inmate report of health care provided.
- 2.09 **FACILITY INSPECTION:** Contractor agrees to allow periodic inspections of the facilities by County law enforcement personnel. The reports of state or federal inspections of the facilities will be provided to County upon request.
- 2.10 **TRANSPORTATION AND OFF-SITE SECURITY:** Contractor is solely responsible for the transportation of inmates between the County Jail and Contractor Facility. Contractor agrees to provide ambulance and other transportation for inmates to and from local off-site medical facilities and will invoice County in accordance with Section 2.07 above.
- 2.11 **COURT APPEARANCES:** Contractor shall be responsible for the transportation of County inmates to/from County Jail. County will be responsible for the transportation of inmates for all court proceedings and hearings and during court appearances.
- 2.12 **TRANSPORTATION TO TDCJ:** Contractor is responsible for the transport of County inmates to the Texas Department of Criminal Justice, Institutional Division, as part of the services covered by the per day rate.
- 2.13 **GUARD SERVICE:** Contractor will provide guard services as requested or required by the circumstances or the law for inmates admitted or committed to an off-site medical facility at the rate of \$15 per hour/per guard.
- 2.14 **SPECIAL PROGRAMS:** The per day rate set out in this Agreement covers basic custodial care and supervision and does not include special educational, vocational or other programs provided to inmates in Contractor's facilities. The parties may contract by written agreement to the provision of special programs.
- 2.15 **LOCATION AND OPERATION OF FACILITY:** Contractor shall provide the detention services described herein at the Polk County IAH Secure Detention Facility, Livingston, Texas, operated by CiviGenics Texas, Inc.
- 2.16 **ADMITTING AND RELEASING:** Contractor shall be responsible for the admitting and releasing of inmates placed in Contractor's facility. Contractor will maintain records of all such transactions in a manner agreed upon by County and Contractor and provide such records to County upon request.
- 2.17 **RETURN OF INMATES TO COUNTY:** Upon demand by County, Contractor will relinquish to County physical custody of any inmate. Upon request by Contractor, County will resume custody of any inmate so requested within 30 calendar days, or unless a different time is agreed upon by both parties.
- 2.18 **RECOURSE:** County's recourse for failure of Contractor to furnish services under this Agreement will be the right to make proportionate reduction in the fee to be paid. The proportionate reduction will be determined by mutual agreement of the County and Contractor Sheriff, or their designees.

ARTICLE III FINANCIAL PROVISIONS

- 3.01 **PER DIEM RATE:** The per diem rate for detention services under this Agreement is forty nine dollars (\$49.00) per man-day. This rate covers one inmate per day. A portion of any day will count as a man-day under this agreement, except that County may not be billed for two calendar days when an inmate is admitted one evening and removed the

following morning. In that situation, Contractor will bill for the day of arrival, but not for the day of departure.

- 3.02 **BILLING PROCEDURE:** Contractor shall submit an itemized invoice for the services provided each month to County, in arrears. Such invoice will include a list of each of the inmates housed and the number of calendar days per inmate. Invoices will be submitted to the officer designated to receive the same on behalf of County. County will make payment to Contractor within thirty (30) calendar days after receipt of the invoice. Payment will be in the name of Polk County, Texas and will be remitted to:

Polk County Auditor
602 East Church, Suite 108
Livingston, Texas 77351

Amounts which are not timely paid in accordance with the above procedure will bear interest at the lesser of the annual percentage rate of ten percent (10%) per annum, or the maximum legal rate applicable thereto, which will be a contractual obligation of County under this Agreement. County further agrees that Contractor will be entitled to recover its reasonable and necessary attorneys fees and costs incurred in collection of amounts due under this agreement.

ARTICLE IV ACCEPTANCE OF INMATES

- 4.01 **COMPLIANCE WITH LAW:** Nothing herein will create any obligation upon Contractor to house County inmates where the housing of said inmates will, in the opinion of Contractor's Sheriff, raise the population of the facility above the permissible number of inmates allowed by law, or will, in the Sheriff's opinion, create a condition of overcrowding or create conditions which endanger the life and/or welfare of personnel and inmates at the facility, or result in possible violation of the constitutional rights of inmates housed at the facility. At any time that Contractor's Sheriff determines that a condition exists at Contractor's facility necessitating the removal of County inmates, or any specified number thereof, County shall, upon notice by Contractor's Sheriff to County Sheriff, immediately remove said inmates from the facility. County will make every effort to remove any inmate within eight (8) hours of notice from Contractor.
- 4.02 **ELIGIBILITY FOR INCARCERATION AT THE FACILITY:** The only inmates of County eligible for incarceration at the facility under this Agreement are inmates eligible for incarceration in the facility in accordance with the state standards under both the Jail Commission approved custody assessment system in place at the County jail and pursuant to the custody assessment system in place at Contractor's facility.
- 4.03 All inmates proposed by County to be transferred to Contractor's facility under this Agreement must meet the eligibility requirement set forth above. Contractor reserves the right to review the inmates' classification/eligibility, and the right to refuse to accept any inmate that it does not believe to be properly classified as a non-high risk inmate. Furthermore, if an inmate's classification changes while incarcerated at Contractor's facility, Contractor reserves the right to demand that County remove that inmate and replace said inmate an appropriate inmate of County.
- 4.04 **RESERVATION WITH REGARD TO ACCEPTANCE OR CONTINUED INCARCERATION OF INDIVIDUAL INMATES:** Contractor reserves the right for its Sheriff or his designated representative to review the background of all inmates sought to be transferred to

Contractor facility, and County shall cooperate with and provide information requested regarding any inmate by Contractor's Sheriff. Contractor reserves the right to refuse acceptance of any inmate of County. Likewise, if any inmate's behavior, medical or psychological condition, or other circumstance of reasonable concern to Contractor's Sheriff makes the inmate unacceptable for continued incarceration in Contractor's facility in the opinion of Contractor's Sheriff, County will be requested to remove said inmate from Contractor's facility, and will do so within eight (8) hours upon the request of Contractor's Sheriff. Inmates may also be required to be removed from Contractor's facility when their classification changes for any purpose, including long-term medical segregation.

4.05 **INMATE SENTENCES:** Contractor will not be in charge 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. Contractor will provide information that may be required regarding the inmates' behavior and performance; however, all such computations and record keeping will continue to be the responsibility of County. It will be the responsibility of County to notify Contractor of any discharge date for an inmate at least ten (10) calendar days before such date. Contractor will release inmates of County only when such release is specifically requested in writing by County Sheriff. However, it is agreed that the preferred and usual course of dealing between the parties shall be for Contractor to return inmates to the County jail shortly before the discharge date and for County to discharge the inmate from the County jail. County accepts all responsibility for the calculations and determinations set forth above and for giving Contractor notice of the same, and to the extent allowed by law, shall indemnify and hold harmless Contractor from all liability or expenses of any kind arising there from. County is responsible for all paperwork and arrangements for inmates to be transferred to the Texas Department of Criminal Justice, Institutional Division.

ARTICLE V
MISCELLANEOUS

5.01 **BINDING NATURE OF AGREEMENT:** This Agreement is contractual and is binding upon the parties hereto and their successors, assigns and representatives.

5.02 **NOTICE:** All notices, demands, or other writings may be delivered by either party hereto to the other by United States Mail or other reliable courier at the following address:

To Contractor: Polk County, Texas
John P. Thompson, County Judge
101 West Church, Suite 300
Livingston, Texas 77351

To County: Fort Bend County
Robert E. Hebert, County Judge
301 Jackson, Suite 719
Richmond, Texas 77469

Copy to: Fort Bend County
Attn: Milton Wright, Sheriff
1410 Ransom Road
Richmond, Texas 77469

- 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.
- 5.03 **AMENDMENTS:** This Agreement will not be modified or amended except by a written instrument executed by the duly authorized representatives of both parties and approved by the commissioners courts of the respective parties hereto.
- 5.04 **PRIOR AGREEMENTS:** This Agreement contains all of the agreements and undertakings, either oral or written, of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective.
- 5.05 **REPRESENTATION:** Contractor understands and agrees that Polk County, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, and/or representative of Fort Bend County.
- 5.06 **INDEPENDENT CONTRACTOR RELATIONSHIP:** Nothing herein contained shall be construed as creating the relationship of employer and employee between the parties.
- 5.07 **SEVERABILITY:** If any provision of this agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
- 5.08 **LIABILITY:** This Agreement is made for the express purpose of providing detention services, which both parties recognize to be a governmental function. Except as hereinafter provided neither party assumes any liability beyond that provided by law. This Agreement is not intended to create any cause of action for the benefit of third parties.
- 5.09 **CHOICE OF LAW AND VENUE:** Any legal proceeding against County regarding this Agreement shall be brought in the State of Texas, Fort Bend County. Any legal proceeding against Contractor regarding this Agreement shall be brought in the State of Texas, Polk County.
- 5.10 **APPROVALS:** This Agreement must be approved by the governing bodies of all parties in accordance with the Texas Interlocal Cooperation Act.
- 5.11 **FUNDING SOURCE:** County must pay all amounts due under this Agreement from current revenues available to it in accordance with the Interlocal Cooperation Act. The signature of the County Auditor below certifies that there are sufficient funds from current revenues available to County to meet its obligations under this Agreement.

The remainder of this page was intentionally left blank.

IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed in duplicate originals as follows:

FORT BEND COUNTY, TEXAS:

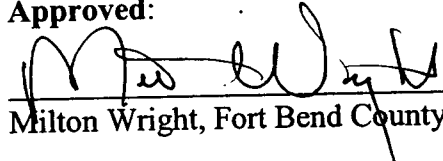
Robert E. Hebert, Fort Bend County Judge

Date: _____

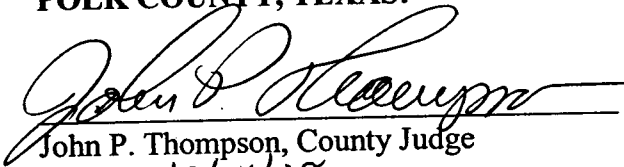
ATTEST:

Dianne Wilson, County Clerk

Approved:


Milton Wright, Fort Bend County Sheriff

POLK COUNTY, TEXAS:


John P. Thompson, County Judge

Date: 10/14/08

ATTEST:

Barbara Middleton
Polk County Clerk

Approved:


Kenneth Hemmick
Polk County Sheriff

AUDITOR'S CERTIFICATE

I hereby certify that funds are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Ed Sturdivant, Fort Bend County Auditor

MER/nh:Polk County Jail.Agr.3357- (09/08/08)