

(INTERIM AGREEMENT)
SECOND AMENDMENT TO AMENDED AND RESTATED
FACILITY OPERATION AND MANAGEMENT SERVICES AGREEMENT

This Second Amendment to the Amended and Restated Facility Operation and Management Services Agreement (hereinafter "Amendment") is entered into by and between **POLK COUNTY, TEXAS** (hereinafter "County") and **COMMUNITY EDUCATION CENTERS, INC.** ("CEC"), successor in interest to CiviGenics-Texas, Inc., a subsidiary of CiviGenics, Inc. (hereinafter collectively "Operator") effective as of December 21, 2010.

WHEREAS, the County is the owner of that certain Facility known as the "IAH Detention Center" (hereinafter "Facility"). The term "Facility" shall also include any expansion and/or renovation of the existing Facility; and

WHEREAS, the County has undertaken a proposal bid process and has agreed to a temporary extension of the term of the previously existing Facility Operation and Management Agreement from December 21, 2011 (the original renewal date) until February 1, 2012;

WHEREAS, this Amendment is not intended to, and shall not release any person or entity from any obligations established or incurred under prior operation and management agreements for the Facility, except to the extent specifically superseded or released by this Amendment's express terms;

WHEREAS, the entering into this Amendment is found to be in the best interests of the parties, the efficient and safe operation of the Facility, and the public.

NOW, THEREFORE, the parties hereto agree as follows:

1. In accordance with Article II, "Term", Section 2.01, the Agreement is hereby extended in accordance with the agreement of the parties until February 1, 2012 ("Temporary Term").

2. In accordance with Article III, "Operator's Compensation", Section 3.04(b) shall be amended to add the following to the existing language:

"The Operator shall, during the Temporary Term (December 21, 2011 to February 1, 2012) pay County monthly as a first priority from the Operator's fee a County administrative fee of \$2.75 per prisoner per day when the Facility has an inmate population of 526 or less; and \$4.60 per prisoner per day for each prisoner in excess of 526 prisoners and pay an additional \$1.00 per day administrative fee for each and all ICE inmates held at the Facility. These administrative fees will be paid effective as of December 21, 2011 through February 1, 2012.

3. In accordance with the terms of the prevailing wage rate under the guidelines of the U.S. Department of Labor, CEC has implemented a pay increase in accordance with the standards required by existing contracts. CEC has incurred the additional cost of the pay raises effective as of December 1, 2011 for the initial detention staff raises and also implemented executive staff pay raise increases per negotiations with ICE consistent with the requirements of ICE and the U.S. Department of Labor guidelines. As a result, the County will be reimbursed in a lump sum payment for the cost of the pay increases from December 1, 2011 through February 1, 2012 as an additional operating expense reimbursement under the Intergovernmental Services Agreement DROIGSA-07-0029. The parties agree that the amount to be reimbursed for the cost of the increased salaries for employees at the Facility will be paid by ICE for reimbursement to the Operator for the costs of those increases for the time period from December 1 through February 1, 2012. The County shall pay such reimbursement amount to the Operator as a one-time additional operation and management fee. From and after February 1, 2012, the increased salary costs shall be included as a component of Operator's fixed per diem operation and management fee. The cost of the pay increases required for compliance with the Department of Labor Standards will be considered in establishing the per diem rate for each ICE inmate. The purpose of this provision is to provide the mechanism for the reimbursement of those expenses directly to the Operator during the interim period before the establishment of the per diem rate effective February 1, 2012.

4. This Agreement shall serve as a Release and Settlement of per diem operation and management fees from previous operating agreements as amended. The parties hereto agree that all sums due CEC in accordance with the previously existing Operating Agreements have been paid in full with the exception of the accounts receivable due (and the resulting administrative payments due the County) from housing inmates as described on the attached Exhibit A. Other than the receivables to be paid for services through February 1, 2012 as shown on Exhibit A, the parties hereto agree that all payments resulting in Operator Fees earned by the Operator have been paid in full for all prior months. No Operator fees are due to be paid to the Operator other than as may accrue under the new Operating Agreement to take effect on February 1, 2012 and those yet to be received for those receivables shown in the attached Exhibit A.

5. Except as amended hereby, the terms and conditions of the Agreement, as heretofore amended, shall remain unchanged. From and after February 1, 2012, the terms of the Facility Operation and Management Agreement dated effective February 1, 2012 will prevail.

SIGNED this 28 day of February, 2012.

ATTEST:

Shilana Walker
County Clerk

"COUNTY"
POLK COUNTY, TEXAS

By: John P. Thompson
John P. Thompson, County Judge

**“OPERATOR”
COMMUNITY EDUCATION CENTERS, INC.
Successor in Interest to CiviGenics-Texas, Inc.,
A Subsidiary of CiviGenics, Inc.**

ATTEST:

Corporate Secretary

By: _____
Print Name: _____
Title: _____

EXHIBIT "A"

IAH Accounts Receivable billed but not paid:

		<u>Per Diem Invoice Amounts</u>	<u>One Time Salary Adjustments (O&M Fees)</u>
IAH Adult Secure Detention Facility	11/30/2011	\$547,583.41	\$0.00
IAH Adult Secure Detention Facility	12/31/2011	\$1,009,209.62	\$240,275.22
IAH Adult Secure Detention Facility	1/31/2012	\$920,174.63	\$218,603.08

**FACILITY OPERATION
AND MANAGEMENT SERVICES AGREEMENT**

This Facility Operation and Management Services Agreement (hereinafter "Agreement") is entered into by and between **POLK COUNTY, TEXAS** (hereinafter "County") and **COMMUNITY EDUCATION CENTERS, INC. (CEC)** (hereinafter called "Operator") to become effective on **February 1, 2012**.

WHEREAS, the County is the Owner or equitable owner of that certain Facility known as the "IAH Detention Center" (hereinafter "Facility"); and

WHEREAS, the Facility includes at least 1,054 inmate beds for secure detention; and

WHEREAS, the parties hereto desire to enter into an agreement for the operation and management of the Facility;

WHEREAS, the entering into this Agreement is found to be in the best interests of the parties, the efficient and safe operation of the Facility, and the public as it will serve the public purpose of providing space for incarceration of law violators and will provide economic development and economic benefits to the local economy; and

WHEREAS, the Facility is being acquired pursuant to a Lease Agreement between the IAH Facility Corporation and the County (hereinafter "Lease," "Lease Agreement," or "Lease Agreement (with Option to Purchase)").

NOW, THEREFORE, in consideration of the mutual rights, benefits and obligations herein exchanged, the parties do covenant, agree and bind themselves as follows:

I. PURPOSES

1.01 Operator agrees to operate, manage and supervise the Facility for the County, and to receive, detain and care for all properly classified prisoners for which the Facility is approved that may be assigned to the Facility from:

- (a) The County Sheriff of the County (the "Sheriff");
- (b) The County Sheriff of any other Texas county, pursuant to an Interlocal Cooperation Contract with the County;
- (c) The Texas Department of Criminal Justice ("T.D.C.J.") pursuant to an agreement between T.D.C.J. and the County; or

- (d) The United States Government or any agency thereof, pursuant to an agreement between the County and the United States or any agency thereof, subject to any limitations of the Lease Agreement under which the County is Lessee of the Facility, but holds equitable title.

Provided, however, that the Operator shall not house prisoners from sources and under circumstances that would cause income from the Lease to Bondholders to become includable in the Gross Income of the recipient under the Internal Revenue Code. This includes, but is not limited to, complying with the restrictions imposed on the housing of federal prisoners so that the Lease income to the Bondholders is not deemed "federally guaranteed" within the meaning of Section 149(d) of the Internal Revenue Code. Operator agrees not to house prisoners of the United States government, or any department or agency thereof, unless the following conditions are met:

- (i) the housing of prisoners for the Federal Government is on a space-available, first-come, first-served basis,
- (ii) the Federal Government will be charged approximately the same amount for each prisoner as other persons that enter into similar transfer agreements, and
- (iii) the term of use under the agreement is not longer than 100 days and the Federal Government has no right to renew

The Facility is intended by the County to house inmates detained or incarcerated by County or the State of Texas or political subdivisions thereof or Federal inmates arrested in Texas under the control of Federal agencies in Texas who are awaiting transfer to other facilities or other disposition under applicable Federal law and is designed for and intended to be operated to incarcerate only such inmates. Operator represents and warrants that it will not detain or incarcerate or accept for incarceration in the Facility any inmates other than those detained or incarcerated by the County or the State of Texas or political subdivisions thereof and Federal inmates under the control of Federal agencies who are awaiting transfer to other facilities or other disposition under applicable Federal law and such other inmates, if any, to the extent permitted by State law as defined in and supported by an opinion of qualified counsel requested and received by the County. Prior to accepting any inmates from sources outside of the State, Operator will accept inmates, if any, submitted for detention by State agencies and authorities on reasonable terms and costs to be negotiated between County and such State agencies or authorities.

The Facility shall be used only for the public purposes intended, and not for any activity that could make the Bonds "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code.

Operator is acting as an Independent Contractor for the County, and is not a partner or joint venturer of the County. All prisoner housing contracts must be between the County and the jurisdiction or agency seeking the services. Only prisoners under such contracts shall be housed at the Facility.

1.02 Operation and management of the Facility must be in accordance with the applicable standards of the Texas Commission on Jail Standards, applicable requirements of the American Corrections Association, and applicable requirements of prisoner housing contracts.

1.03 Operator is an independent operator engaged for the public purpose of operating a detention center on behalf of the County. No property interest or right in the Facility or grounds is granted to the Operator by this Agreement.

1.04 The Operator shall operate the Facility in compliance with the terms of the Lease Agreement. The Operator shall provide or cause to be provided all insurance, maintenance, certifications and other matters required of or made the obligation of the County under the Lease. This includes preparation of all reports or disclosures required under the Lease.

II. TERM

2.01 The term of this Agreement shall be three (3) years beginning on **February 1, 2012** and ending three (3) consecutive years thereafter ("Primary Term"), provided, however, that the County shall have the right, in its sole discretion, to terminate this Agreement after the second year of the Primary Term, without penalty, liability, cost, or loss based thereon. At the expiration of the Primary Term, the parties may mutually agree to a one (1) year renewal of the Agreement on mutually acceptable terms. At the expiration of said agreed renewal period, the parties may agree to extend the Agreement for an additional one (1) year period on mutually acceptable terms.

2.02 Notwithstanding any renewal option or other term herein, the County shall also have the right to terminate this Agreement, with or without cause, at the end of the three (3) year Primary Term, or at the end of any renewal period without any liability, cost or penalty for doing so. In addition, notwithstanding anything to contrary in this Agreement, the term of this Agreement, including the Primary Term and any renewals, shall not exceed five (5) years.

III. OPERATOR'S COMPENSATION

3.01 For purposes of this Article, the term "Project Revenues" shall mean "all gross payments or transfers to Trustee, as depository agent for the County, from any sources whatsoever, including, without limitation, the County or another depository agent of the County, arising from the operation of the Project, including without limitation (i) payments for the incarceration, detention, or housing of inmates (including any payments by County for the housing of inmates under the direct jurisdiction of the County required to be made pursuant to the Operating Agreement or the Lease) in the Project; (ii) gross revenues generated within the Project by the provision of goods and services to inmates or other persons; and (iii) amounts received pursuant to security provided by an Operator of the Project; provided all revenues relating to (a) the operation of an inmate commissary, (b) the operation of the inmate telephone system, (c) the operation of vending machines for the staff and the public, (d) the sale of hobby, crafts and related products created by the inmates, (e) reimbursement to the Operator for

transportation expenses incurred by Operator, (f) reimbursement to the Operator for health care expenses incurred, (g) reimbursement to the Operator for the cost of renovations or repairs to the Project completed as a condition precedent to the receipt or housing of inmates, shall not be "Project Revenues." Project Revenues are only those actually received by the County or on its behalf.

3.02 For purposes of this Article, the term "Operating Account" shall have the meaning such term is given in that certain Trust Indenture by and between the IAH Public Facility Corporation and U.S. Bank National Association. The term "Trustee" shall mean U.S. Bank National Association or its successor trustee. The term "Operator's Compensation" shall mean the amount payable to the Operator under Sections 3.04(a) and 3.05 below.

3.03 Anything to the contrary herein notwithstanding, the Operator's Compensation shall be paid solely from and to the extent monies are available therefor in the Operating Account. The Operating Account is funded by Project Revenues as set forth in the Trust Indenture.

3.04 Operator shall be paid a fixed fee per prisoner, per day (actual occupancy) for the operation and management services provided hereunder to be paid on a monthly basis from the Operating Account. The compensation to Operator shall be payable solely out of the Operating Account and solely on a fixed per diem basis in the following priority as available from the Operating Account on a monthly basis:

(a). A fixed per prisoner, per diem fee of \$34.75 for all non-ICE inmates and a fixed per prisoner, per diem fee for Immigration and Customs Enforcement ("ICE") inmates of \$54.34 per inmate, in consideration of the additional contracted for services unique to the ICE inmate population.

(b). The Operator shall pay the County monthly, as a first priority from its Operator Fee, a County Administrative Fee of:

- (i) an administrative fee of \$1.00 per prisoner per day for each ICE inmate in addition to;
- (iii) \$2.75 per prisoner per day for each prisoner when the Facility's inmate population is 526 or less;
- (ii) \$4.60 per prisoner per day for each prisoner when the Facility's inmate population is in excess of 526 prisoners; and

The Operator shall guarantee a minimum aggregate Administrative Fee annually to the County of not less than \$100,000.00, payable one-half (1/2) every six (6) months.

(c). In the event that the Operator is not paid its full compensation as set forth in Section 3.04(a) hereof for any calendar month, the deficiency in such payment shall be carried over to the following months and added to the Operator's Compensation due in following months during the term of this Agreement. On the termination of this Agreement, the unpaid compensation due and owing to the Operator shall be paid solely to the extent that monies are available therefor in the Operating Account, but only after all other Operation and Management Costs (as defined in the

Trust Indenture), and any Operator Fee (Cost Plus) (as defined in the Trust Indenture) has been paid.

3.05 To the extent that the County has a shortage of space in its own jail for its own inmates (not contract inmates), the Operator shall house the overflow prisoners at the request of the Sheriff at a discounted per diem fee of \$24.00, for up to twenty-five (25) prisoners. The Operator may charge a per diem inmate fee equal to the lowest daily inmate fee charged to any other agency for all such prisoners in excess of twenty-five (25). County shall pay the amounts set forth in this Section 3.05 from sources other than revenues generated from the operation of the Project, but such payments shall be deemed to be Project Revenues and shall be paid to the Trustee for deposit into the Project Fund as defined in the Trust Indenture. Payment to the Operator for these inmates will be made out of the Operating Account, subject to the limitations of Section 3.03 above.

3.06 For the purposes of this Agreement, a "day" shall mean a twenty-four (24) hour time period beginning with twelve (12) o'clock midnight and ending twenty-four (24) hours later.

3.08 The County's payments hereunder are subject to and solely payable from annual appropriations by the County, and subject to Section 3.05 hereof, such appropriations are intended to be solely from Project Revenues.

IV. DUTIES OF OPERATOR

4.01 Operator shall manage, operate and provide at its sole cost and expense:

- (a) all necessary furniture, fixtures and equipment not currently provided at the Facility including but not limited to computers, fax and copy equipment, radios, televisions, uniforms and linens and basic office furniture and administrative phone systems, which are necessary or prudent for operation and management of the Facility and the housing of prisoners;
- (b) intake facilities and prisoner accounting which shall encompass booking, record-keeping, billing, system of controls, identification systems and records, computerized communication interface with law enforcement agencies, and such statistical records as may be required by law or are generally accepted prisoner-locator practices;
- (c) attendants to control ingress and egress at the Facility, in addition to attendants necessary for the requisite level of security internally within the Facility and those required to monitor the activities of prisoners confined within the Facility;
- (d) food and beverage services;
- (e) clothing and uniforms;

- (f) engineering and maintenance;
- (g) procurement and purchasing;
- (h) recreational, vocational, counseling, education and exercise programs, and other program requirements required by law or prisoner housing contracts;
- (i) bookkeeping and financial accounting;
- (j) medical care;
- (k) training of jailers to be employed at the Facility and all start up costs of operations;
- (l) all repair, upkeep and maintenance, ordinary or extraordinary (to the extent set forth below), required for the Facility;
- (m) necessary utilities and refuse services; and
- (n) all other services necessary or proper for the efficient and safe operation of the Facility, and secure custody, care and housing of inmates, in compliance with all applicable federal, state and local laws and regulations, including the applicable standards of the Texas Commission on Jail Standards, and applicable standards of the A.C.A.

In regard to 4.01(l) above, the County agrees to assign to Operator, when necessary and appropriate, any warranties or guarantees it might have or be entitled to with regard to the Facility in order to effect repairs on the Facility, or to give Operator the right to pursue the manufacturer, builder, or other supplier who gave such warranties or guaranties, to seek reimbursement for monies expended by Operator to meet its repair, upkeep and maintenance obligations under this Agreement to the extent that those expenditures relate specifically to work covered by the subject warranty or guaranty. Extraordinary repairs shall generally be paid or reimbursed out of a Operating Reserve Repair Contingency Fund established under the Lease where funds are available in that account therefor, unless such is due to the negligence or intentional acts of Operator's employees, or by inmates due to the Operator's or its employees' negligence, or is covered by insurance or warranty. Operator's responsibility for extraordinary repairs, where funds are not available in a sufficient amount in the Operating Reserve Repair Contingency Fund to pay for the same, is limited to the proceeds of applicable insurance, unless the need for such repairs was created by the negligence or intentional act of its employees, or by inmates due to the Operator's or its employees' negligence with respect to any warranties, County agrees to cooperate and use its best efforts to assist Operator to obtain such warranties.

4.02 Operator shall prepare and furnish such reports as may be required by law to be submitted to the County and the Sheriff with respect to the operation of the Facility or the prisoners detained therein and, in addition, such other reports as may be required by a Texas state agency or any agency of the United States Government, or by any state or political subdivision thereof from

which prisoners have been assigned to the Facility.

4.03 Operator shall obtain, and thereafter maintain, the proper certification(s) necessary for the Facility to incarcerate federal, state and local prisoners, and shall maintain such certification(s) at all times. After such certifications have been obtained, if Operator is required, by the laws of the State of Texas, other applicable law or the rules and procedures promulgated by the Jail Commission, to implement operational modifications to maintain such certificates, the County and Operator may agree upon temporary increases in the Operator's Per Diem sufficient over a reasonable period of time to reimburse Operator for the cost of such operational modifications.

4.04 Operator will properly incarcerate all prisoners assigned to the Facility for whom there is space available at the Facility within the statutory and regulatory limits of the Facility.

4.05 Notwithstanding anything contained herein to the contrary, the County, Lessor (or financing entity) (or its assignee), and/or the Trustee shall have no liability whatsoever for any employees of Operator, Operator hereby agrees to indemnify and hold County and Lessor (or financing entity) (or its assignee) harmless from all costs, claims, expenses, and liabilities (including attorney's fees) whatsoever which may be incurred by County and Lessor (or financing entity) (or its assignee) and the Trustee arising from any and all acts done or omitted to be done by Operator, or the employees, agents and assigns of Operator, in connection with services performed or to be performed under this Agreement.

4.06 The interviewing, hiring, training, assignment, control, management, compensation, promotion and termination of all members of the Facility's administration and staff shall be the responsibility and obligation of Operator. Operator will use its best efforts to hire and train local personnel.

4.07 Operator shall use its best efforts to purchase goods and professional services locally when economically feasible.

4.08 Operator shall make available to its employees health care benefits that, at a minimum, are comparable to those provided by the County to its employees.

4.09 Operator shall provide all balance sheets, income statements, inmate rolls, accounting records or reports, audits and other such matters required of the County or the Lessor under the Lease Agreement (with Option to Purchase) for the Facility, including, without limitation, those found at **§2.1(I)** of the Lease Agreement (with Option to Purchase); and all Project operation information necessary to carry out the Lessor's and the County's continuing disclosure obligations under the Lease and Trust Indenture.

V. MEDICAL CARE

5.01 The Operator shall provide access to medical, optical, dental and emergency health care services. Basic medical care will be made available by Operator at Operator's cost to all prisoners detained at the Facility. Operator shall provide on-site nurses and medical technicians to handle sick-call and medical assessment and care that does not require a physician or specialist. The Operator shall also contract with a medical doctor to serve as medical consultant for the Facility.

5.02 The cost of hospitalization, prescription drugs, surgical, optical, dental care and all other non-basic medical services for which costs are incurred or charges made (and transportation costs to obtain such care) for a prisoner shall be the obligation of the jurisdiction or agency from which that prisoner was assigned to the Facility. The County shall have no obligation for such costs except to the extent the County was the jurisdiction from which the prisoner was assigned.

VI. COMPLIANCE WITH STANDARDS

6.01 Operator shall prepare and adopt a Procedures Manual for the operation of the Facility so as to assure that the Facility is operated fully in accordance with Texas state law, other applicable law, and rules and procedures promulgated by the Jail Commission. Operator shall make such modifications and corrections in the said Procedures Manual necessary to keep the Facility in compliance with Texas state law, other applicable law, and the rules and procedures promulgated by the Jail Commission.

6.02 Operator shall assure that all employees at the Facility are adequately trained to perform at standards required by Texas state law, other applicable law, and the rules and procedures promulgated by the Jail Commission.

6.03 Operator shall comply with all standards and requirements of the prisoner housing contracts entered into with other jurisdictions and agencies by the County, and provide all services to be provided by the County under such contracts and pursuant to the terms of such contracts.

VII. DUTIES OF THE COUNTY

7.01 The County hereby covenants and agrees to transfer to the Facility all prisoners under the jurisdiction of the County from eligible third party transfer sources in excess of the maximum certified incarceration limit of the existing Polk County Jail, and the County covenants and will insure that all incarceration agreements between the County and the third party sources set forth in Section 1.01 of this Agreement will permit such transfer to the Facility.

7.02 The County and the Sheriff shall be solely responsible for the housing, care and control of prisoners in the existing Polk County Jail.

7.03 The County and the Sheriff shall cooperate with Operator in all matters of law enforcement, security and communications.

7.04 The County and the Sheriff shall assist Operator in the training, at Operator's expense, of Operator employees to operate the Facility.

7.05 The County and the Sheriff shall assist and cooperate with Operator in providing information needed by Operator in the screening of candidates for employment.

7.06 All jailers must be certified by TCLEOSE prior to undertaking jailer duties.

7.07 The County and Operator agree it shall be to their mutual benefit and interest that the Facility be fully utilized by maintaining the maximum prisoner population within statutory or regulatory limits. To this end, and throughout the term of this Agreement, the County and the Operator agree to cooperate in efforts to obtain maximum prisoner population from the sources set forth in Section 1.01 of this Agreement (i.e. County will enter into reasonable and advisable prisoner housing contracts or related agreements, Operator will actively seek to identify potential prisoner sources, etc.). It shall be the responsibility of Operator to assist the County in seeking out sources of prisoners for incarceration at the Facility, and to assist in negotiation and presentation for acceptance by the County contracts for the incarceration of prisoners from sources listed in Section 1.01 of this Agreement.

VIII. LIABILITY AND INDEMNITY

8.01 Operator hereby agrees to defend, hold harmless and indemnify the County, Lessor (or its assignee) and/or the Trustee, their officers, directors, employees, agents, and representatives (including the County Judge, the County Commissioners, and the Sheriff), from and against any and all claims, damages, demands, losses, costs and expenses, including attorney's fees, incurred or suffered by the County, Lessor (or its assignee), and/or the Trustee, their officers, directors, employees, agents, or representatives, arising out of or resulting from any negligent or wrongful act or failure to act by Operator pursuant to the provisions of this Agreement.

IX. INSURANCE

9.01 Operator shall obtain and maintain in force, at its sole cost, risk and expense during the term of this Agreement, a policy or policies of liability insurance in an amount of no less than Five Million Dollars (\$5,000,000.00) in coverage per occurrence, and Five Million Dollars (\$5,000,000) aggregate. Such insurance shall insure against all claims, [including claims based on violations of civil rights up to a maximum of One Million Dollars (\$1,000,000.00)], arising from services performed by Operator pursuant to this Agreement.

9.02 Said policy or policies of insurance shall name the County, the County Judge, the County Commissioners, the Sheriff, Lessor and/or its assignee, and the Trustee as "additional named insureds". Operator agrees that the policy or policies of insurance shall contain an endorsement specifically providing coverage for civil rights actions.

9.03 Operator shall provide and continue in force property insurance coverage in the name of the County, the Lessor and/or its assignee, and the Trustee as loss payees in amounts equal to the cost of replacement of all of the Facility, and shall maintain and continue fire, boiler and machinery coverage on the Facility. Operator agrees that its negotiated per diem, per prisoner fee has taken this operational expense into account.

9.04 Operator shall provide to the County insurance certificates as proof of the insurance policies obtained in accordance with this Article IX. All policies shall provide that coverage shall not be cancelled without thirty (30) days prior written notice to the Certificate Holder and all additional named insureds and loss payees. Operator shall obtain, as soon as possible (and before cancellation) and at its sole cost, replacement insurance policies.

9.05 Operator shall provide workers compensation insurance for its employees at the Facility which provides the statutorily required coverage, except that employer's liability coverage shall not be in an amount of less than \$1,000,000.

9.06 Operator shall carry auto liability insurance coverage in the amount of at least \$1,000,000 per single limit for bodily injury and property damage, with umbrella coverage in an amount not less than \$3,000,000, covering any vehicles used in its operations.

9.07 Notwithstanding anything to the contrary in the foregoing sections, Operator shall provide all insurance required of the Operator or the Lessee under the Lease Agreement (with Option to Purchase) in the form and naming the insureds and loss payees as required in that Lease Agreement (with Option to Purchase). Operator agrees that the negotiated per prisoner fee has taken this operational expense into account. This includes business interruption insurance in accordance with Section 7.5 of the Lease. Section 7.5 of the Lease provides as follows:

Property Insurance. During the Term of this Lease and as Operation and Maintenance Costs, Lessee shall have and assume and shall bear the risk of loss with respect to the Project and shall, from and after the Completion Date, procure and maintain continuously in effect with respect to the Project, to the extent of the Purchase Price then applicable, all-risk insurance, including coverage for riots, subject only to the standard exclusions contained in the policy. Lessee also shall obtain business interruption insurance protecting Lessee, Lessor and Trustee against the loss of Project Revenues sufficient to pay Operation and Maintenance Costs and Rental Payments otherwise due hereunder for a period of one year. The proceeds of such business interruption insurance shall be paid to the Project Fund and applied as provided therein if and to the extent that other moneys (other than moneys held in the Reserve Fund) are not available to pay Operation and Maintenance Costs and make Rental Payments. All policies (or endorsements or riders) evidencing insurance required by this Section 7.5 shall be carried in the names of Lessee, Lessor and Trustee as their respective interests may appear and shall name Trustee as mortgagee and loss payee. Before the Completion Date, Lessor will cause the Design/Builder to maintain the all-risk insurance required by

this Section 7.5 and furnish certificates evidencing such coverage. The Net Proceeds of insurance required by this Section 7.5 shall be applied as provided in this Section 7.5 and Section 8.1 hereof.

X. APPROVAL AND MONITORING BY COUNTY SHERIFF

10.01 The Sheriff signs this Agreement to evidence his approval as required by §351.102, *Local Government Code*.

10.02 The Sheriff shall periodically monitor the operation of the Facility, and, to this end, the Sheriff or his designated representative shall conduct a thorough on-site inspection of the Facility no less than twice during each month throughout the term of this Agreement. Such monitoring shall not create any liability to the County or the Sheriff, and shall not be a basis for release or defense to liability of the Operator.

XI. MAINTENANCE, UPKEEP AND REPAIR

11.01 All ordinary maintenance, upkeep and repair costs for the Facility shall be paid by Operator pursuant to subsection 4.01(1) of this Agreement except as otherwise provided therein. Operator agrees that its negotiated per diem, per prisoner fee has taken this operational expense into account.

XII. TAXES AND GOVERNMENTAL CHARGES

12.01 Operator shall be responsible for any taxes or governmental charges of any kind assessed or incurred after the effective date of this Agreement which are levied or imposed on the Facility and related property. To the extent that such taxes are chargeable against the Facility and found by a final non-appealable judgment of a court of competent jurisdiction to be due and owing, they shall be paid out of the Operating Account or any reserve accounts available for payment thereof as amounts due or payable under the Lease. Such amounts are not a responsibility or debt of the County. This Facility is intended to be, and under current law, should be exempt from property taxation. The County is the owner of taxable title to the Facility based on current interpretations and decisions.

XIII. ADDITIONAL PROVISIONS

13.01 Notwithstanding anything to the contrary contained herein, in the event that the Lease is in default or notice of default or termination has been given prior to the County's exercise of its option to purchase the Facility pursuant to the Lease and, as a result thereof, the County surrenders possession of the Facility to the Lessor or its assigns, this Agreement shall be immediately terminated and canceled, and the County and Operator shall have no future duties, obligations or liabilities to each other in connection with this Agreement or in connection with the termination and cancellation of this Agreement. Thereafter, Operator may be selected by Lessor or

its assigns to provide operation, maintenance and supervision of the Facility. In the event the Lease is in default, the Operator retains a non-disturbance agreement with the lending institution.

13.02 Notwithstanding anything to the contrary contained herein, in the event any bankruptcy, reorganization debt arrangement, moratorium, proceeding under any bankruptcy or insolvency law or dissolution or liquidation proceeding is instituted by Operator, or if instituted against Operator, is consented to or acquiesced in by Operator and is not dismissed within sixty (60) days, the Agreement shall be immediately terminated and canceled, and the County shall immediately assume responsibility for the operation, management and supervision of the Facility.

13.03 Either party may terminate this agreement for the failure of the other party to comply with a material provision hereof after sixty (60) days written notice and opportunity to cure.

13.04 The Operator agrees and understands that the need for law enforcement support of the facility may create special needs to support local law enforcement and criminal justice education. Therefore, the Operator agrees to make an annual donation of \$25,000 to the County payable by September 30 of each year for the following educational projects:

- (1) \$10,000 per year to fund the County's law enforcement and criminal justice education scholarship to be provided to graduating seniors from Polk County high schools;
- (2) \$15,000 per year donation to be designated by Polk County to the Polk County Higher Education and Technology Foundation for use and support of the Polk County College campus supporting law enforcement and criminal justice education.

13.05 Operator agrees to design and construct a recreation yard at the rear of the currently existing Facility and provide all fencing and amenities for outdoor recreation generally including basketball, handball, walking track, necessary plumbing and security features to adequately serve the current inmate population at the Facility provided that the total expense for such improvements to the Facility shall not exceed the total expenditure of \$60,000.00. CEC shall commence the construction and design of the outdoor recreation facilities as soon as reasonably practical following the execution of this Agreement.

13.06 Inmate telephone revenues are not Facility Revenues, and shall be payable to, and belong to the County to be used at the County's discretion unless otherwise agreed to by the parties.

13.07 Commissary services procurement shall be made in coordination with the Sheriff and in compliance with §351.0415 of the Local Government Code. Commissary proceeds will be placed in a separate account controlled by the Sheriff to be used only for inmate welfare purposes at the Facility in accordance with §351.0415(c), Local Government Code.

13.08 The Operator and the County each represent that no member of the Commissioners Court of Polk County, no elected or appointed peace officer who serves in Polk County, and no

employee or Commissioner of the Texas Commission on Jail Standards has a financial interest in the Operator.

XIV. APPLICABLE LAW AND VENUE; LEGAL CONSTRUCTION

14.01 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Polk County, Texas, and venue of any action or dispute shall be in a court of competent jurisdiction in Polk County, Texas.

14.02 In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

14.03 If for any reason this Agreement shall be held void or voidable, or otherwise be held unlawful, this Agreement shall immediately terminate, and Operator shall have no claim or right of action against the County, its officials, its employees, its agents or its attorneys for any such termination or alleged act or omission related to the same.

XV. NOTICES

15.01 Notices required to be given hereunder by any party to the other shall be in writing and shall be valid if actually received by the party to whom such notice is given or if deposited in the United States Mail, postage prepaid and addressed to the party as herein below specified.

Notices to County shall be delivered or sent as follows:

Polk County, Texas
Attention: County Judge
Polk County Courthouse
101 West Church Street
Livingston, Texas 77351

With a copy to:

Herbert S. Bristow
Haley & Olson, P.C.
Triangle Tower, Suite 600
510 North Valley Mills Drive
Waco, Texas 76710

Notices to Operator shall be delivered or sent as follows:

Community Education Centers ("CEC")
35 Fairfield Place
West Caldwell, New Jersey 07006

With a copy to:

Debra Shannon
Community Education Centers ("CEC")
35 Fairfield Place
West Caldwell, New Jersey 07006

XVI. EXECUTION AUTHORITY

16.01 By his or her signature below, each signatory individual certifies that he or she is the properly authorized agent or officer of the applicable party hereto, and has the necessary authority to execute this Agreement on behalf of such party, and each party hereby certifies to the other that any resolutions necessary to create such authority have been duly passed and are now in full force and effect.

XVII. AMENDMENT

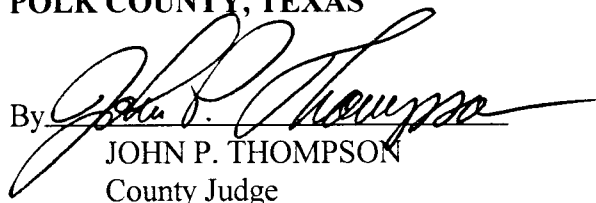
17.01 This Agreement may be amended only by a written instrument specifically purporting to amend this Agreement and executed by all parties hereto.

XVIII. ENTIRE AGREEMENT

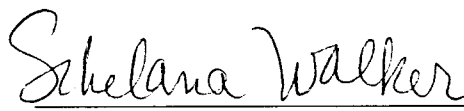
18.01 This Agreement constitutes the sole and only Operation and Management Agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

SIGNED this 28 day of February, 2012.

POLK COUNTY, TEXAS

By 
JOHN P. THOMPSON
County Judge

ATTEST:


County Clerk

APPROVED:


Polk County Sheriff

COMMUNITY EDUCATION CENTERS, INC.
("CEC")

By: _____
Print Name: _____
Title: _____

Attest:

Corporate Secretary