

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Allan L. Roeder
Dept: Interim City Manager
Subject: AWARD OF CONTRACT TO GEO GROUP INC.
FOR JAIL SERVICES RFP NO. S-1162

From: Todd D. Elgin
Dept: Police
Date: June 23, 2015

OBJECTIVE

To seek City Council approval to award a contract to GEO Group Inc. (GEO), to provide jail booking and security to the Police Department.

BACKGROUND

In June 2000, the City Council approved the City's first contract with GEO Group Inc. (formerly CSI) to provide 24 hour jail booking and security services for the Police Department. Because of GEO's excellent performance history, the Police Department is requesting that the current contracts with the company be renewed on a 3-year basis. The current contract is set to expire on June 30, 2015.

A formal Request for Proposal (RFP) was completed to evaluate other jail service companies that chose to participate in the selection process.

DISCUSSION

By using contract jail services, Police Officers are able to reduce the time it takes to process arrestees and return to the field. These jail services reduce the Police Officer's prisoner processing time from approximately two hours to approximately fifteen minutes, thus increasing their availability to handle additional calls for service. In 2014, GEO's jail staff processed 5,619 arrestees, generating manpower savings of approximately 9,833 hours. These savings enabled the Department to keep the equivalent of approximately five (5) additional Police Officers on the street.

The RFP was posted on the City's web site on April 8, 2015, and was completed by May 2015. The selection consisted of two (2) jail service companies successfully completing the RFP process. GEO Group Inc. submitted one price proposal with their RFP. G4S Security Solutions (G4S), submitted two (2) price proposals with their RFP. The pre-proposal meeting was held on April 22, 2015, with both jail service companies in attendance. The due date for RFP No. S-1162 was May 8, 2015, and two (2) completed submissions were submitted.

The evaluation criteria and scoring weights were Price: 30 percent, Project Plan: 35 percent, and qualifications and ability to meet proposal requirements: 35 percent. Submissions were reviewed for basic compliance with the terms required in the RFP and scored accordingly. Based upon the packages reviewed, both companies that responded to the RFP passed this initial screening process.

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The jail services companies finished with the following scores:

Proposer	Rater 1	Rater 2	Rater 3	Total
GEO Group	895	825	1000	2720
G4S Option #1	846	776	986	2608
G4S Option #2	828	793	968	2589

After completion of the RFP response scoring, staff determined that GEO Group Inc. best suits the Police Department's needs. GEO jail staff is familiar with Department policy and protocol for operating the jail. GEO's price proposal is approximately \$7,000.00 less than their current contract, and was less money than G4S's proposal.

FINANCIAL IMPACT

The financial impact to the City will be \$1,590,661 over the life of the three (3) year contract. Fiscal year 2015/2016, \$514,627, fiscal year 2016/2017, \$530,066 and fiscal year 2017/2018, \$545,968.

The cost of the jail contract is partially mitigated by booking fees collected by the Department. In 2014, approximately \$97,000 was collected through this process. The cost of the proposed contract for GEO's services was anticipated and is fully funded in the Police Department's current budget. No additional funding will be necessary.

RECOMMENDATION

It is recommended that the City Council:

- Award a contract to GEO Group Inc. in the amount not to exceed \$1,590,661 beginning fiscal year 2015/2016 through fiscal year 2017/2018.
- Authorize the Interim City Manager or his designee to sign the agreement and make any modifications as needed on behalf of the City.


TODD D. ELGIN
Chief of Police


By: Chris Lawton, Lieutenant
Community Policing Bureau

Attachment: Agreement

Recommended for Approval


Allan L. Roeder
Interim City Manager

CITY OF GARDEN GROVE

**PROFESSIONAL SERVICES AGREEMENT
JAIL MANAGEMENT SERVICES**

THIS AGREEMENT is dated as of July 1, 2015, by and between the City of Garden Grove, California, a municipal corporation ("CITY") and The GEO Group, Inc., ("Operator").

RECITALS

WHEREAS, CITY owns an existing temporary holding facility which is used to house and care for prisoners; and

WHEREAS, CITY and Operator desire to enter into an agreement whereby Operator will provide the operation, management and supervision of CITY's existing jail in accordance with the laws, rules, regulations and procedures of the State of California; and

WHEREAS, CITY and Operator are authorized to enter into this Agreement under applicable law.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

1. Definitions

A. "ACA" shall mean the American Correctional Association or its designated successor, whose headquarters are presently 206 North Washington Street, Suite 200, Alexandria, VA 22314.

B. "ACA Standards" shall mean the Standards For Adult Local Detention Facilities (Fourth Edition, 2008 as may be modified, amended, supplemented, or supplanted in the future) published by ACA.

C. "Assigning Agency" shall mean any federal, state or local agency which may lawfully assign an Inmate to the Jail and which has executed an Intergovernmental Service Agreement.

D. "Board" shall mean the State of California Board of Corrections.

E. "Chief of Police" shall mean the Chief of Police of CITY.

F. "CITY's Facility Representative" shall mean the person who is the official liaison between CITY and Operator on all matters pertaining to the operation and management of the Jail as provided in Section 14.D, CITY's Facility Representative.

G. "Custody Criteria" shall mean those criteria used to determine an Inmate's Custody Level and shall normally include, to the extent known to the

Operator, the Inmate's offense history, present offense, escape history, history of violence, drug use or addiction, alcohol use or addiction, psychological status and present behavior.

H. "Custody Level" shall normally mean a custody designation of either Minimum Custody or Medium Custody that describes appropriate and adequate supervision and housing assignments commensurate with the on-going needs and requirements of the Inmate during his incarceration and is based on the Custody Criteria.

I. "Day" shall mean a twenty-four (24) hour time period beginning with twelve o'clock midnight and ending twenty-four hours later.

J. "Jail" shall mean the cells, booking area, inmate food preparation area and fingerprint area (collectively "holding facility") in the current facilities located in CITY's Police Department Building located at 11301 Acacia Parkway, Garden Grove, California, which shall house inmates in accordance with the applicable Minimum Standards.

K. "Department" shall mean the State of California Department of Corrections and Rehabilitation.

L. "Employee" shall mean every person in the service of Operator under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.

M. "Fiscal Year" shall mean CITY's fiscal year commencing on July 1, and ending as of June 30, of each year.

N. "For Cause" shall mean a material failure by either party to meet the provisions of this Agreement or in the sole judgment of CITY the failure of the Operator to meet the applicable Minimum Standards when such failure to meet the applicable Minimum standards affects the operation of the Jail.

O. "Force Majeure" shall mean the failure of performance of any of the terms and conditions of the Agreement resulting from acts of God.

P. "Inmate" shall mean any male or female arrestee who is to be lawfully held at the Jail by CITY or pursuant to an Intergovernmental Service Agreement and who is classified as Minimum Custody or Medium Custody.

Q. "Intergovernmental Service Agreement" shall mean an agreement between CITY and any Assigning Agency whereby CITY and the Assigning Agency agree to the terms and conditions whereby the Assigning Agency's Inmates shall be booked and held in custody at the Jail

R. "Medium Custody" shall mean that Custody Level appropriate to an Inmate who is classified as eligible to be assigned to the Jail but who is not eligible to be assigned to the least secure housing in the Jail and may not work outside of the Jail's area.

S. "Minimum Custody" shall mean that Custody Level appropriate to an Inmate who is classified as eligible to be assigned to the Jail and is eligible to be assigned to the least secure housing in the Jail, but may not work outside of the Jail's area.

T. "Minimum Standards" shall mean the applicable Federal, State and CITY requirements, laws and statutes, applicable court orders, Board standards (including but not limited to Title 15 of the California Code of Regulations), Orange County Health Department Rules and Regulations and ACA standards, whether now in effect or hereafter effected or implemented, as applicable to the Jail, except as waived by CITY or State. Where a conflict exists between Federal and State requirements, laws, statutes, and applicable court orders, the Board's standards shall apply.

U. "Perishables" shall mean those items that are easily destroyed or spoiled.

V. "Police Department Building" shall mean the Garden Grove Police Department building located at 11301 Acacia Parkway, Garden Grove, California 92840, which also houses the Jail.

W. "Service Commencement Date" shall mean July 1, 2015.

2. Purpose

A. *Purpose:* The purpose of this Agreement is to establish the terms and conditions under which Operator will operate and maintain the Jail.

B. *Nature of Operations:* Operator shall operate, manage, supervise and maintain the Jail for CITY in order to properly receive, detain and care for all Inmates who may be booked in the Jail.

3. Grant of Operating Rights

CITY hereby grants to Operator the sole and exclusive right to operate the Jail for the term hereof, and Operator agrees to provide all labor necessary to operate the Jail for the term hereof and pursuant to the terms and conditions herein specified.

4. Term of the Agreement

The initial term of this Agreement shall be for a period of three (3) years commencing upon the Service Commencement Date. The term of this Agreement may be extended upon the mutual agreement of both parties under the same terms and conditions as set forth in the Agreement, subject to any modifications upon mutual consent of the parties.

5. Use of Facility

A. *City's Use of Holding Facility:* CITY and/or its designees shall have the right to access the holding facility at any time to: (a) conduct inspections to

determine Operator compliance with the requirements of this Agreement or with other applicable operational standards; (b) conduct designated police activities, including but not limited to fingerprinting, in a manner that does not adversely affect the Operator's activities. CITY and Operator shall agree upon an advance form of notice to be given to Operator prior to CITY access for these purposes.

B. *Locks and Keys:* For each of the aforesaid purposes, CITY shall at all times receive from Operator and have the right to retain and use keys to all gate and fence locks upon and about the Jail. CITY shall have the right to use such keys and any and all other means which CITY may reasonably deem proper to open any lock upon or about the Jail in order to obtain entry in an emergency. Operator shall use CITY provided keys only and shall not duplicate any key or change any lock without the express prior written permission of CITY.

C. *Liability of City:* CITY shall have no liability to Operator for any exercise of CITY's rights under this Section 5, Use of Facility, except for (a) CITY's failure to exercise due care for Operator's property; (b) CITY-caused damage to facilities which Operator is otherwise required to maintain or repair under this Agreement; or (c) CITY's failure to exercise due care for the security, care, and custody of Inmates under Operator's supervision. Except as provided in this Section 5.C, Liability of CITY, Operator hereby waives any claims for damages for any injury or inconvenience to Operator or interference with Operator's business, or any loss occasioned thereby.

6. Operation of the Jail

A. *General Duties and Obligations; Standards:* Operator shall provide the operation and management services necessary to operate, maintain, and manage the Jail in compliance with the applicable Minimum Standards.

B. *Jail Manual:* Operator acknowledges that a written comprehensive Field Policies and Operations Manual covering all aspects of operations including the procedures to be utilized to facilitate management of the facility has been prepared and provided to Operator. During the first 90 days of Year Three of this Agreement, Operator shall work with the CITY's Facility Representative to revise the Manual, which revised Manual shall be submitted by Operator to CITY's Facility Representative no later than the 90th day of Year Three of the Agreement. Upon receipt of the revised Manual, CITY's Facility Representative will notify Operator, in writing, within twenty (20) calendar days, of CITY's approval or required changes. Upon receipt of any required changes, Operator shall submit completed corrections to the CITY's Facility Representative and CITY's Chief of Police, in writing, within five (5) calendar days. Any and all proposed additions, deletions or modifications to such Manual must be approved in writing by the Chief of Police prior to implementation. The Manual shall be adequate to permit assumption of operations by CITY in the event of Operator's inability to perform its duties hereunder or the termination of this Agreement for any reason.

C. *Specified Duties and Obligations:* Operator's duties and obligations shall be set forth in detail in the Jail Manual. In general, these shall include, but are not limited to, the performance of the services set forth below in accordance with the applicable Minimum standards.

(1) *Intake and Release Processing:* Operator shall provide intake and release processing which shall include review of Inmate's documents, Inmate search as permitted by law, inventory and storage of Inmate's personal property and funds, entry of Inmate data into CITY's and Orange County's booking systems, acceptance of Inmate custody, generation of intake and release documents and records, including all Orange County Health Department and Board required forms and reports related to intake, photographing and fingerprinting of Inmate, initiation of Inmate health and well-being screening, classification and housing assignment of Inmate, review of court release documents, return of Inmate personal property and funds, completion of internal release documentation and ascertainment of Inmate identification confirmation prior to release, transportation as described in Section 6.C.(5), Transportation, and any and all such other duties as may be required by applicable statute or rule.

(2) *Staffing:* Operator shall staff and operate the Jail in compliance with the applicable Minimum Standards.

(3) *Health Services:* As necessary, CITY shall be responsible financially for all inmate medical care services.

(4) *Laundry and Inmate clothing:* CITY shall provide temporary disposable clothing on an as-needed basis.

(5) *Transportation:* Operator shall provide transportation services for Inmates in the Jail to the nearest Sheriff's station or Contract Facility for incarceration, to the local courthouse for arraignments and/or to other local court ordered appearances, and to medical facilities for inmate medical care. Operator agrees to exercise its best effort to conduct such transportation services at a time when the jail will be devoid of prisoners and/or at least one jailer will remain on duty in the jail. CITY will provide one transportation vehicle for these transportation services.

(6) *Visitation:* CITY shall provide all furniture and equipment, and Operator shall provide all supervision necessary to implement a visitation program that meets the applicable Minimum Standards with respect to Inmate visitation.

(7) *Safety:* Operator shall operate and maintain the Jail in compliance with the applicable Minimum Standards relative to safety.

(8) *Security:* Operator shall be responsible for providing security for all Inmates in accordance with the applicable Minimum Standards while they are inside the Jail, at medical facilities and when they are being transported by Operator. While any Inmate is in the custody of CITY, an Assigning Agency, the Sheriff, other custodial entity, or a bailiff, Operator shall not be responsible for providing security for such Inmate, and such security shall be the responsibility of such custodial entity or officer.

(9) *Disciplinary Rules and Regulations:* Operator shall impose discipline through rules, regulations, and orders pursuant to a disciplinary system meeting or exceeding the applicable Minimum Standards.

(10) *Records:* Operator shall generate and maintain all Inmate records in accordance with established procedures of the applicable Judicial Council and the applicable Minimum Standards. Operator shall make available for examination by CITY all data and records with respect to matters covered by this Agreement and shall permit CITY to conduct random audits of, examine and make excerpts or transcripts from such data and records, and to make audits of all invoices, materials, payrolls, personnel records and other data relating to all matters covered by this Agreement. Operator shall maintain such data and records in an accessible location for a period three (3) years after final payment under this Agreement, at which time the Operator will turn over such data and records to the CITY to retain as the CITY deems necessary. CITY shall receive a copy of all such records. All Inmate records retained by Operator shall be confidential, unless required to be disclosed or reported by law. Operator shall consult with CITY prior to release of any Inmate records, even if such release is mandated by law.

(11) *Vehicle Maintenance and Insurance:* CITY shall self-insure and maintain CITY owned vehicles used by Operator. Operator shall obtain and maintain automobile liability insurance for all Operator's drivers while using CITY's vehicles. Operator will indemnify and hold CITY harmless for any accidents, damages, etc., caused solely or comparatively by Operator's drivers. All Operator's staff using any CITY vehicle in connection with the services provided under this Agreement shall have a valid California Driver's License, which shall be available for inspection by CITY upon request.

(12) *Uniforms:* Operator shall establish a policy prescribing a standard uniform for its employees including shirts, pants, belts, jackets, and associated uniform articles of clothing that are normally and routinely issued to corrections officers. Operator shall provide such uniform items to its employees either directly or through a uniform allowance. All employees and staff are to wear clean and pressed uniforms, be clean shaven and tattoos, if any, are not to be visible. No jewelry other than a watch and ring shall be worn while on duty.

(13) *Food Service:* Operator shall provide food service for all inmates in compliance with the applicable Minimum Standards.

7. Utilities and Maintenance

A. *Specified Duties and Obligations:* The parties' respective duties and obligations with respect to utilities and maintenance are as set forth below.

(1) *Utilities:* CITY shall be responsible for the provision of all utilities.

(2) *Telephone Services:* CITY shall be responsible for the provision of and payment for all pay telephone services at the Jail. CITY shall be responsible for the provision of and payment for in-house telephone services. Where feasible, calls made by Operator and its employees shall be placed through the cellular telephones of and be the responsibility of Operator and/or its employees.

(3) *Maintenance:* CITY shall maintain the physical structure of the Jail furniture and equipment contained therein, and provide cleaning and maintenance of Jail and holding cells, in accordance with the applicable Minimum Standards, including ordinary routine maintenance, and will in so doing, maintain, preserve and keep the Jail in good repair, working order and condition, subject to normal wear and tear, and will, from time to time, make or cause to be made, all necessary and proper repairs, replacements and renewals, which shall thereupon become part of the Jail. CITY shall, subject to the provisions of Section 7.A(5), Damage to Jail, have responsibility for all repairs, replacements and renewals related to Police Department Building systems located outside the Jail (such as electrical supply, hot water heaters, sewers, etc.), and structural conditions or defects of the Police Department Building which affect the Jail. Operator shall immediately notify CITY of needed maintenance or repairs for the Jail.

(4) *Fixtures:* Operator may from time to time after the Service Commencement Date, install machinery, equipment, and other personal property in the Jail, which may be attached or affixed to the Jail. All such equipment shall constitute fixtures and remain part of the Jail and may not be removed from the Jail unless replaced by a similar item within a reasonable time period. If CITY has given its prior written approval for such fixtures and their installation, the cost of the fixtures and their installation shall be borne by CITY; if CITY has not approved such fixtures and their installation in writing, the cost of the fixtures and their installation shall be at the sole cost and expense of Operator.

(5) *Damage to Jail:* Promptly after the occurrence of any damage to or loss of the Jail that materially affects the continued operation of the Jail, the parties shall notify each other of such loss or damage and shall jointly assess the nature and extent of such damage or loss. As soon as practicable and desirable thereafter, the parties shall determine to rebuild, repair or restore such damage or loss or to terminate this Agreement as provided Section 11.D, Termination for Damage. In the event Operator and CITY shall determine to repair, rebuild or restore the Jail, Operator and CITY shall mutually determine the allocation for payment of the costs of undertaking such repair, rebuilding or restoration. If CITY and Operator determine not to rebuild, repair or restore the Jail, then this Agreement shall terminate with respect to the Jail thirty (30) days after such determination is made in accordance with Section 11.D. Neither party is under any obligation to rebuild, repair or restore the Jail even though CITY determines to rebuild, repair or restore the Police Department Building. Operator shall complete all damage reports required by the Minimum Standards, including those required by CITY.

8. Operator's Employees

A. *Background Investigation, Orientation and Training:* The Operator's duties and obligations with respect to background investigations, orientation and training are set forth below.

(1) *Background Investigation:* A civil and criminal background investigation and psychological evaluation shall be made by Operator of the jail manager, supervisor and all prospective employees prior to any prospective employee being hired by Operator for assignment to the Jail. The psychological

evaluation shall be conducted by a clinical psychologist acceptable to the CITY. Results of such investigation and evaluation shall be made available to CITY and CITY shall have the right to interview and approve all prospective Operator employees before being assigned to the Jail. Operator shall maintain on file for each employee two completed fingerprint charts, a photograph taken within the last six months, a criminal history, and immigration information (where applicable). Operator shall require all prospective employees to declare all narcotic and mood altering medications that they use and the frequency of their use.

(2) *Orientation and Training:* Operator shall provide an orientation program for all employees, as well as initial and recurring training in compliance with the applicable Minimum Standards. All training shall be conducted as close to the Jail as possible and shall include a minimum of twenty four (24) hours of critical skills training to include First Aid and CPR training. CITY may monitor the training records of all Operator employees working in the Jail. Operator shall provide a test for all employees to take at the end of each training class and shall require an affidavit be signed that they have taken the training and have passed the class. A copy shall be kept in each employee's personnel file and a copy in a master training file.

(3) *Court Appearances:* Operator shall pay all costs associated with court appearances made by Employees arising out of services provided under this Agreement.

(4) *DMV Checks:* Operator shall provide California Department of Motor Vehicle (DMV) reports on all prospective employees to CITY for review. CITY shall establish minimum driving requirements for any Operator employee who will be driving any CITY vehicle.

(5) *Lines of Authority:* Operator's Management Representative will report orally and in writing to CITY's Facility Representative when or if problems are experienced in the Jail, including but not limited to events such as inappropriate behavior in the Jail, use of force by an Operator's employee and any and all incidents, events or accidents in the Jail. All reports are to be made within a 24 hour period from the date of such event of inappropriate behavior, use of force, or other incident, event or accident.

B. *Reassignment of Operator Employees:* CITY reserves the right without qualification to cause Operator to remove any employee from CITY's holding facility and to exclude such employee of Operator from performing any services on CITY's premises or pursuant to this Agreement.

9. City's Responsibilities

A. *Cooperation:* CITY shall cooperate with the Operator in all matters of law enforcement, security and communication.

B. *Training:* If requested by Operator, CITY shall assist Operator in the initial orientation training of Operator's employees to operate the Jail

C. *Information:* CITY's Police Department shall assist and cooperate with Operator in providing information requested and needed by Operator in the screening of candidates for employment to the extent legally permitted. No liability shall attach to CITY for such assistance, however, and Operator agrees to fully indemnify and hold harmless CITY for providing such assistance.

D. *City Policies and Applicable Court Orders:* CITY shall provide Operator with copies of all CITY policies applicable to CITY's booking and custodial procedures and with any applicable court orders.

E. *Payment:* In consideration for all services provided and obligations undertaken by Operator pursuant to this Agreement CITY shall pay to Operator as follows per Attachment B-PROPOSAL PRICING FORM which is attached and incorporated herein by reference.

Year One \$514,627: July 1, 2015 to June 30, 2016

Year Two \$530,066: July 1, 2016 to June 30, 2017

Year Three \$545,968: July 1, 2017 to June 30, 2018

Payment shall be made on a monthly basis, within thirty (30) days of receipt of invoice. In addition, notwithstanding any provision of this Agreement to the contrary, any services provided by Operator at the Jail that are not specified in the Minimum Standards or the Jail Manual shall be reimbursed by CITY to Operator at the actual cost thereof, plus seventeen percent (17%) within thirty (30) days of receipt of invoice. Monthly invoices may be submitted by Operator following the completion of the work which is the subject of the invoice. In addition, for any additional services (other than the services specified in the Minimum Standards or the Jail Manual), the Operator shall be required to obtain advance written authorization from the Police Chief or his designee for such services. No payment or reimbursement shall be provided without such advance written authorization.

10. Independent Contractor

A. *Independent Contractor:* Operator is associated with CITY only for the purposes and to the extent set forth in this Agreement, and with respect to the performance of the Operation and Management Services pursuant to this Agreement, Operator is and shall be an independent contractor and, subject to the terms of this Agreement, shall have the sole right to supervise, manage, operate, control and direct the performance of the details incident to its duties under this Agreement, subject to the applicable Minimum Standards. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create the relationship of an employer-employee or principal-agent or to otherwise create any liability whatsoever for either party with respect to the indebtedness, liabilities, and obligations of the other party. Operator shall be solely responsible for (and CITY shall have no obligation with respect to) payment of all Federal Income, FICA, and other taxes owed or claimed to be owed by Operator,

arising out of Operator's association with CITY pursuant to this Agreement, and Operator shall indemnify and hold CITY harmless from and against, and shall defend CITY against, any and all losses, damages, claims, costs, penalties, liabilities and expenses including attorney fees with respect to any such taxes. Operator hereby expressly assumes all responsibility and liability for the payment of wages and benefits to its assigned personnel, and all related reporting and withholding obligations. Operator hereby agrees to indemnify and hold CITY harmless from any and all claims or liabilities that CITY may incur arising from any contention by any third party, including, but not limited to, any employee of Operator or any federal or state agency or other entity, that an employer-employee relationship exists by reason of this Agreement, including, without limitation, claims that CITY is responsible for retirement or other benefits allegedly accruing to Operator's assigned personnel.

11. Default and Termination

A. *Notice of Deficiency:* In the event CITY determines that Operator has failed to satisfactorily perform its contracted duties and responsibilities in conformance to the specifications identified in this Agreement, CITY shall notify Operator of the specific nature of the deficiency. Upon receipt of such notice, Operator will be allowed twenty (20) calendar days to cure the deficiency. If Operator determines it cannot cure the deficiency within the twenty (20) calendar day period, Operator must immediately submit, in writing, a plan for curing the deficiency to CITY (which plan shall show in detail by what means Operator proposes to cure the deficiency and the date the deficiency will be cured). Upon receipt of any such plan, CITY shall promptly review such plan and, at its discretion, which must be reasonable in the circumstances, may allow or not allow, Operator to pursue such plan of cure. CITY agrees that it will not exercise its remedies hereunder with respect to contract default for so long as Operator diligently, conscientiously, and timely undertakes to cure the deficiency in accordance with the approved plan. If CITY does not allow Operator an extension of the cure period, the twenty (20) day time period shall be suspended during the period of time the Operator's request for an extension of the cure period is pending before CITY.

B. *Termination for Default:* CITY may terminate Operator's operations and management services whenever CITY determines that Operator has failed to satisfactorily perform its contracted duties and responsibilities in conformance to the specifications identified in this Agreement, and is unable to remedy such failure in accordance with Section 11.A, Notice of Deficiency. Such termination shall be referred to herein as "Termination for Default". This Agreement may then be terminated by CITY upon service of a ten (10) day written notice to Operator.

(1) *Further Rights:* The rights and remedies of the parties provided in this Section 11.B, Termination for Default, shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

C. *Termination for Operator Bankruptcy or Insolvency:* In the event of the filing of a petition of bankruptcy by or against Operator or in the event of insolvency, CITY shall have the right to terminate Operator's Agreement without

penalty upon the same terms and conditions as a Termination for Default.

D. *Termination for Damage:* Either party may terminate this Agreement as provided in Section 7.A.(5), Damage to Jail, by giving thirty (30) days notice of its intention not to rebuild, repair or restore the affected premises. Such termination shall be referred to herein as "Termination for Damage".

E. *Termination without Cause:* In addition to the other termination and default provisions of this Agreement, CITY reserves the right to terminate this Agreement without cause by providing the Operator with sixty (60) days of notice of termination. In the event of termination without cause, the Operator shall be paid for all services rendered to and including the date of termination.

12. Indemnification

A. *Indemnification and Hold Harmless by Operator:* Operator and its subcontractors, if any, with counsel mutually acceptable to CITY and Operator, agree to defend, indemnify, protect and hold CITY and its agents, officers, officials, employees, attorneys, consultants, volunteers and any parties with whom CITY has entered into an Intergovernmental Agency Agreement for the supply of detainees to CITY's facilities (collectively, "CITY Indemnitees"), harmless from and against any and all claims asserted or liability incurred for damages or injuries to any person or property, including injury to Operator's employees, agents or officers, which arise from, or are connected with, or are caused or claimed to be caused by, the acts, errors or omissions of Operator and/or its agents, officers, subcontractors or employees, in the performance or execution of this Agreement, and all expenses of investigating and defending against same including attorney fees, defense costs, court costs, third party administrator costs and other similar out-of-pocket expenses, regulatory proceedings costs, administrative proceedings costs and expenses of any kind; provided, however, that Operator's duty to indemnify and hold harmless the CITY Indemnitees shall not include any claims or liability to the extent arising from the negligence or willful misconduct of CITY Indemnitees. Operator agrees to pay all reasonable attorney and court costs as they are incurred by City in determining said negligence or willful misconduct of CITY Indemnitees. If it is determined that CITY is in any manner at fault, CITY agrees to reimburse Operator for a percentage of the costs incurred in determining such fault, based upon the percentage of fault found attributable to CITY.

B. *City's Choice of Counsel.* If CITY is sued as a result of the alleged actions and conduct of the Operator, CITY will have the right to select legal counsel mutually acceptable to CITY and Operator to defend the interests of CITY, and the reasonable costs and expenses for such legal counsel shall be paid by the Operator on a monthly basis as work is being performed by the legal counsel in defending CITY.

C. *Indemnification of CITY.* CITY shall defend, indemnify and hold Operator, its officers, agents and employees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees) or claims for injury or damages arising out of the performance of this Agreement to the extent that

such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or as a result from the negligence or willful misconduct of CITY, its officers, agents (except Operator, its employees, agents or subcontractors) or employees.

13. Insurance

Operator shall not commence work under this agreement until all certificates and endorsements have been received and approved by CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the Carrier to notify CITY, in writing, of any material change, cancellation, or termination at least 30 days in advance.

A. *Commercial General Liability Insurance:* Operator shall procure a policy or policies of Commercial General Liability insurance issued on an "occurrence" basis and not on a "claims made" or modified occurrence basis. Such insurance shall protect Operator against loss, including injury or death resulting there from suffered or alleged to have been suffered by any person or persons, resulting directly or indirectly from the performance or execution of this Agreement or any subcontract hereunder. Operator's insurer shall be a licensed and approved carrier in the State of California with an A. M. Best's rating of "A, Class VII" or better. Property liability insurance shall also protect Operator against loss from liability imposed by law for damage to any property caused directly or indirectly by the performance or execution of this Agreement and of any subcontract hereunder. Liability insurance (subject to the normal terms, conditions, and exclusions of the Commercial General Liability Coverage Form - Criminal Justice System Operations) must cover:

(1) *Assumption of Liability:* Operator's assumption of all liability caused by or arising out of all aspects of the provision and operation of the Jail.

(2) *Form, Limits:* The policy or policies for the insurance identified above must be of a comprehensive form and on an "occurrence basis" with a per occurrence limit of not less than Ten Million Dollars (\$10,000,000) and a general aggregate limit of not less than Ten Million Dollars (\$10,000,000) and include civil rights coverage as set forth in Section 13.F.(2), Civil Rights Coverage, with the same limits.

(3) Policies must not contain any exclusions for discrimination and/or alleged violations of civil rights.

B. *Automobile Insurance:* Operator shall obtain and maintain Automotive Liability Insurance, on an occurrence basis, which will cover any vehicle owned, leased, hired, borrowed or operated by Operator or its employees which are used in the performance of duties under this Agreement. The insurance shall have a limit of not less than Five Million Dollars (\$5,000,000) combined single limit.

C. *Workers' Compensation Insurance:* Operator shall obtain Workers' Compensation Insurance, including employer's liability coverage, with a limit not less than Two Million Dollars (\$2,000,000) or the amount required by California law, whichever is greater. If any work is sublet, Operator shall require the

subcontractor to provide similar Worker's Compensation Insurance coverage, unless such subcontractor's employees are covered by Operator's insurance. Operator agrees to indemnify CITY for any damage resulting to it from any failure of either Operator or any subcontractor to take out or maintain such insurance.

D. *Police Professional Liability Coverage:* Police Professional liability in an amount not less than \$10,000,000 per occurrence; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A, Class VII or better, as approved by the CITY. Policy must not contain any exclusions for any alleged or actual discrimination and/or civil rights violations. Policies also must not contain exclusions for sexual misconduct or molestation allegations and/or violations.

For any professional liability policy written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of this agreement, and for a period of not less than three (3) years from the date of completion of services hereunder. In the event of termination, cancellation, or material change of the policy during this period, -Operator shall obtain continuing insurance coverage for the prior acts or omissions of Operator during the course of performing services under the terms of this agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier. Evidence of coverage shall be submitted to the City of Garden Grove.

E. *Employee Theft Policy:* Operator shall provide a commercial crime/employee theft policy providing coverage in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000).

F. *Cyber Liability Policy:* Cyber Liability (EDP) in an amount not less than \$5,000,000 per occurrence to provide coverage for security and privacy liability, medical liability, cyber extortion, business interruption and extra expense.

G. *Excess Liability Policy:* Following form excess liability coverage shall be provided for any underlying policy that does not meet policy limits set forth herein.

H. *Endorsements:* All insurance policies shall contain a Waiver of Subrogation of rights against CITY, its officers, officials, agents, employees, attorneys, consultants, and volunteers. CITY, its officers, officials, agents, employees, attorneys, consultants and volunteers shall be named as additional insureds on all policy(ies) as to comprehensive general liability, civil rights liability, sexual misconduct and molestation liability, theft liability, police professional liability, property liability, and automobile liability, and excess liability coverages. Operator shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements as approved by CITY.

Additional insured endorsements under the commercial general liability policy shall provide coverage for on-going and completed operations for all injuries or losses that may occur under this agreement. Sexual misconduct and molestation and Civil Rights coverage shall not be excluded. Operator shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements as

approved by CITY.

Additional insured endorsements under the Operator's automobile liability policy shall designate the City of Garden Grove, its officers, officials, agents, attorneys, consultants, and volunteers as additional insured for automobiles owned, leased, hired, borrowed, or operated by Operator or Operator's employees. Operator shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements as approved by CITY.

Additional insured endorsements under the civil Rights liability policy shall provide for coverage for all intentional and unintentional losses that occur that result in any type of civil rights violation and/or discrimination violation. Additional insured endorsements shall designate the City of Garden Grove, its officers, officials, agents, employees, attorneys, consultants and volunteers as additional insured. Operator shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by CITY.

Additional insured endorsements under the sexual misconduct and molestation policy shall provide for coverage for all intentional and unintentional losses that occur under the policy. Additional insured endorsements shall designate the City of Garden Grove, its officers, officials, agents, employees, attorneys, consultants and volunteers as additional insured. Operator shall provide to CITY proof of insurance and endorsement forms that conform to City's requirements, as approved by CITY.

A loss payee endorsement shall be provided for all losses under the commercial crime/employee theft policy. The City of Garden Grove shall be designated as loss payee. An additional insured endorsement shall also be provided designating the City of Garden Grove, its officers, officials, agents, employees, attorneys, consultants, and volunteers as additional insured. Operator shall provide to CITY proof of insurance and endorsement forms that conform to City's requirements, as approved by CITY.

A waiver of subrogation shall be provided by the carriers for each policy waiving subrogation against the City of Garden Grove, its officers, officials, agents, employees, consultants, and volunteers.

An excess liability policy shall be provided for all underlying policies that do not meet underlying policy limits set forth herein. The excess policy must be following form to the underlying policies. Operator shall provide an insurance certificate stating the excess policy is "following form," and attach the schedule of underlying policies for the following form excess liability policy, and an additional insured endorsement for the following form excess liability policy. The additional insured endorsement shall designate the City of Garden Grove, its officers, officials, agents, employees, consultants, and volunteers as additional insured under the following form excess liability policy. Operator shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by CITY.

I. *Additional Policy Requirements:* The policies of insurance required by this Agreement shall also be subject to the following requirements and limitations:

(1) *Notice:* Each policy of insurance shall provide that said policy shall not be canceled nor the coverage reduced or materially changed until thirty (30) days after CITY's City Manager or City Manager's designee shall have received written notice of such cancellation, reduction, or material change, and that the notice shall be deemed effective on the date delivered to said City Manager as evidenced by properly validated return receipt.

(2) *Civil Rights Coverage:* Insurance provided by Operator under Section 13.A, Commercial General Liability Insurance, must protect CITY, its officers, officials, agents, employees, attorneys, consultants, and volunteers against civil rights actions and/or discrimination actions by Inmates involving "conditions of confinement" wherein declaratory and injunctive relief are sought and/or monetary damages are sought.

(3) *Separate Application:* The insurance afforded by Operator shall apply separately to each insured, against whom claim is made, or suit is brought. A separate insured endorsement shall be provided for each policy.

(4) *Primary/Non-Contributory Insurance:* The insurance provided by Operator shall provide primary and non-contributory insurance to CITY, its officers, officials, agents, employees, attorneys, consultants, and volunteers to the exclusion of any other insurance or self-insurance program that CITY may carry with respect to claims and injuries arising out of activities of the Operator or otherwise insured hereunder. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, attorneys, consultants, or volunteers shall not contribute with it. Claims made and modified occurrence policies shall not be accepted.

(5) Insurance companies must be acceptable to CITY and have an A.M. Best Guide Rating of A, Class VII or better, as approved by CITY.

(6) Endorsements limiting coverage to the sole negligence of the insured shall not be accepted.

(7) "Burning limits" or "defense within limits" policies that include the costs of defense and/or litigation within the coverage amounts shall not be acceptable.

J. *Reassessment of Coverage:* At the end of each contract year, or expiration of Operator's insurance policies, whichever is occurs first, CITY reserves the right to require increased insurance amounts and/or modified coverages depending upon assessment of the risk of exposure, Operator's past experience, and the availability and affordability of increased liability insurance coverage. Operator shall provide loss history for each policy covering a five (5) year period to date.

K. *Deductibles and Self-Insured Retention:* Any deductibles or self-insured retention must be declared to and approved by CITY. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insurance retention as respects CITY, its officers, officials, employees and volunteers; or Operator shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Any deductibles incurred by Operator arising from any incident occurring during a contract period will be deemed an operating expense. Nothing in this paragraph is intended to authorize an increase in the not-to-exceed Total Operations Cost provided for in Attachment 1.

L. *Certificates of Insurance and Cancellation:*

(1) All insurance required by this Article shall be procured and maintained, throughout the term of this Agreement, with financially sound insurance companies licensed to do business in the State of California and approved by CITY. Such certificates of insurance and any insurance policies themselves shall contain a provision that CITY shall receive written notice at least thirty (30) days prior to the cancellation or material change of any of the coverage provided under the policies.

(2) In the event that any insurance described herein or any portion thereof becomes commercially unavailable, Operator shall make commercially reasonable efforts to obtain such replacement insurance as may be available as soon as possible and this Agreement, if applicable, shall be modified in writing accordingly. In the event that adequate insurance becomes commercially unavailable, CITY or OPERATOR may terminate this Agreement upon sixty (60) days prior written notice as a Termination without Cause pursuant to Section 11.E herein.

M. *Waiver of Defenses:* Neither CITY nor Operator shall waive, release, or otherwise forfeit any possible defense CITY or Operator may have regarding Claims arising from, or made in connection with, the operation of the Jail by Operator without the written consent of the other party to this Agreement. CITY and Operator 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. This provision shall include any defenses CITY may have regarding litigation, losses, and costs resulting from investigation, claims or litigation pending at the time this Agreement becomes effective or arising thereafter from occurrences prior to the effective date of this Agreement.

N. *Insurance not a Waiver:* CITY does not, and shall not, waive any rights against Operator which it may have by reason of the hold-harmless provisions of this Agreement because of the acceptance by CITY or the deposit with CITY by Operator, of any of the insurance policies described herein. The hold-harmless provisions of this Agreement shall apply to all damages and claims for damages of every kind suffered, alleged to have been suffered, by reason of any of Operator's activities or any subcontractor's activities, regardless of whether or not the insurance policies required by this Agreement are determined to be applicable to any such damages or claims for damages.

O. *Certified Copies of Policies:* CITY shall be entitled to receive certified copies of any and all policies maintained by Operator, at Operator's expense. Operator shall provide CITY with the requested certified copy and any and all endorsements of the policy within five (5) days of the request, and the policies must be full and complete policies.

P. If Operator maintains higher insurance limits than the minimums shown above, Operator shall provide coverage for the higher insurance limits otherwise maintained by the Operator.

Q. Operator shall not hire any subcontractors without the express written permission of CITY. If Operator hires subcontractors to perform work under this contract, subcontractors shall be responsible to provide the same insurance as required of Operator herein. If any such subcontractor's insurance carrier(s) require there to be an agreement between the subcontractor and the CITY in order to trigger the required coverage, the subcontractor shall be required to enter into an agreement with CITY on terms acceptable to CITY. Operator shall be responsible to collect and maintain all insurance from subcontractors.

14. Operator's Corporate Obligations

A. *Maintenance of Corporate Existence and Business:* Operator shall, at all times, maintain its corporate existence and authority to transact business in good standing in its jurisdiction of incorporation and California. Operator shall maintain all licenses, permits, and franchises necessary for its businesses where the failure to so maintain might have material adverse effect on Operator's ability to perform its obligations under this Agreement.

B. *Non-Discrimination:* Operator shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement, and will comply with any rules and regulations of CITY relating thereto.

C. *Taxes, Liens and Assessments:* Operator shall: (i) not create or suffer to be created, any lien or charge upon the Jail or any part thereof; and (ii) pay or cause to be discharged, within sixty (60) days after the same shall come into force, any lien or charge upon the Jail or any part thereof and all lawful claims or demands for labor, materials, supplies or other charges which, if unpaid, might be or become a lien upon the City Building, the Jail, or any part thereof.

D. *City's Facility Representative:* The Chief of Police shall appoint a CITY's Facility Representative for the Jail who shall work for and be paid by CITY. CITY's Facility Representative will be the official liaison between CITY and Operator on all matters pertaining to this Agreement and the services provided hereunder. CITY's Facility Representative may appoint another CITY employee as acting CITY's Facility Representative during his or her absence, and during such time the acting CITY's Facility Representative shall exercise all rights and perform all duties of CITY's Facility Representative under this Agreement.

E. *Right to Audit:* CITY shall, subject to limitations provided by law with respect to rights of privacy, have the right to examine all records of Operator related to the Jail, including without limitation, all financial books and records, maintenance records, employee records, and Inmate records generated by Operator, its subcontractors or any other related parties in connection with performance of this Agreement. Operator shall make the same available for inspection by CITY or CITY's auditors at any time during normal business hours after reasonable notice during the term hereof and for a period of three (3) years thereafter.

F. *Self-Monitoring:* Operator shall develop and submit to CITY for approval, a detailed plan illustrating how Operator intends to monitor operations of the Jail to ensure compliance with this Agreement.

G. *Monitoring by City:* CITY may, in its discretion, in coordination with CITY's Facility Representative, devise its own checklist or lists for monitoring the quality of Operator's performance with this Agreement and the applicable Minimum Standards and Garden Grove Police Department Policies, and Operator shall cooperate fully with CITY and CITY's Facility Representative in obtaining the requisite information needed to complete such checklists and to assess the quality of Operator performance. Such monitoring by CITY shall not relieve Operator of any of its obligations under this Agreement.

15. Representations and Warranties

A. *Representations of Operator:* Operator, to the best of Operator's knowledge at the time of executing this Agreement, represents and warrants to and for the benefit of CITY with the intent that CITY will rely thereon for purposes of entering into this Agreement, as follows:

(1) *Organization and Qualification:* Operator has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of California with power and authority to own its properties and conduct its business as presently conducted and as proposed to be conducted pursuant to this Agreement.

(2) *Authorization:* This Agreement has been duly authorized, executed, and delivered by Operator and, assuming due execution and delivery by CITY, constitutes a legal, valid, and binding agreement enforceable against Operator in accordance with its terms.

(3) *No Violation of Agreements, Articles of Incorporation or Bylaws:* The consummation of the transactions contemplated by this Agreement and the fulfillment of the terms hereof will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which Operator is a party or by which its properties are bound, or any order, rule, or regulation of any court or any regulatory body, administrative agency, or other governmental body applicable to Operator or any of its properties, except any such conflict, breach, or default which would not materially and adversely affect

Operator's ability to perform its obligations under this Agreement, and will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under, the Articles of Incorporation (or other, corresponding charter document) or Bylaws of Operator.

(4) *No Defaults Under Agreements:* Operator is not in default, nor is there any event in existence which, with notice or the passage of time or both, would constitute a default by Operator, under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit, or other agreement or instrument to which it is a party or by which any of its properties are bound and which default would materially and adversely affect Operator's ability to perform its obligations under this Agreement.

(5) *Compliance with Laws:* Neither Operator nor its officers and directors purporting to act on behalf of Operator have been advised, and have no reason to believe, that Operator or such officers and directors have not been conducting business in compliance with all applicable laws, rules and regulations of the jurisdictions in which Operator is conducting business, including all safety laws and laws with respect to discrimination in hiring, promotion or pay of employees or other laws affecting employees generally, except where failure to be so in compliance would not materially and adversely affect Operator's ability to perform its obligation under this Agreement.

(6) *No Litigation:* There is not now pending or, to the knowledge of Operator, threatened, any action, suit, or proceeding to which Operator is a party, before or by any court or governmental agency or body, which might result in any material adverse change in Operator's ability to perform its obligations under this Agreement, or any such action, suit, or proceeding related to environmental or civil rights matters; and no labor disturbance by the employees of Operator exists or is imminent which might be expected to materially and adversely affect Operator's ability to perform its obligations under this Agreement.

(7) *Taxes:* Operator has filed all necessary federal, state, and foreign income and franchise tax returns and has paid all taxes as shown to be due thereon, and Operator has no knowledge of any tax deficiency which has been or might be asserted against Operator which would materially and adversely affect Operator's ability to perform its obligations under this Agreement.

(8) *Financial Statements:* Operator has delivered to CITY true and correct copies of its financial statements or other financial records that fairly present the current financial position of Operator including but not limited to 5 years of loss history for each policy.

(9) *No Adverse Change:* Since the date of Operator's most recent financial records provided to CITY, there has not been any material adverse change in Operator's business or condition, nor has there been any change in the assets or liabilities or financial condition of Operator from that reflected in such financial records which is material to Operator's ability to perform its obligations under this Agreement.

(10) *Disclosure:* There is no material fact which materially and adversely affects or in the future will (so far as Operator can now reasonably foresee) materially and adversely affect Operator's ability to perform its obligations under this Agreement which has not been accurately set forth in this Agreement or otherwise accurately disclosed in writing to CITY by Operator preceding the date hereof.

B. *Representations of City:* CITY represents and warrants to and for the benefit of Operator with the intent that Operator will rely thereon for purposes of entering into this Agreement as follows:

(1) *Authorization:* CITY has the requisite power to enter into this Operating agreement and perform its obligations hereunder and by proper action has duly authorized the execution, delivery, and performance hereof.

(2) *No Violation of Agreement:* The consummation of the transactions contemplated by this Agreement and the fulfillment of the terms hereof will not conflict with, or result in a breach of any of their terms and provisions, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, contract, or other agreement or instrument to which CITY is a party or by which its properties are bound, or any order, rule or regulation or any court or any regulatory body, administrative agency or other governmental body applicable to Operator or any of its properties, except any such contract, breach, or default which would not materially and adversely affect CITY's ability to perform its obligations under this Agreement.

(3) *No Litigation:* There is not now pending or, to the knowledge of CITY, threatened, any action, suit or proceeding to which CITY is a party, before or by any court or governmental agency or body, which might result in any material adverse change in CITY's ability to perform its obligations under this Agreement.

(4) *Disclosure:* There is no material fact which materially and adversely affects or in the future will (so far as CITY can now reasonably foresee) materially and adversely affect CITY's ability to perform its obligations under this Agreement or which might require changes in or additions to the Operation and Management Services that would increase the cost to Operator of providing such services, which has not been accurately set forth in this Agreement or otherwise accurately disclosed in writing to Operator by CITY prior to the date hereof.

16. Conditions

A. *Insurance:* As a condition precedent to the effectiveness of this Agreement, Operator shall provide, to CITY, Certificates of Insurance, endorsements, binders or other proof of insurance, acceptable to CITY in its sole discretion, evidencing all insurance coverage required by **Section 13**, Insurance. Operator shall make every effort to provide all insurances and endorsements in a timely manner.

17. Notices

A. *Notices:* Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during Operator's regular business hours or by facsimile before or during Operator's regular business hours. Delivery by facsimile shall be confirmed by sending a copy of the faxed notice to the other party by first class U.S. mail, postage prepaid, within forty-eight (48) hours of the delivery by facsimile; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore set forth in the Agreement, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

City of Garden Grove: Chief of Police
Garden Grove Police Department
11301 Acacia Parkway
Garden Grove, California 92840

With Copy to:

City Manager
City of Garden Grove
P. O. Box 3070
Garden Grove, California 92842

Operator
The GEO Group, Inc.
Attention: James Black, Vice-President
6100 Center Drive, Suite 825
Los Angeles, CA 90045

With Copy to:
City of Garden Grove
General Counsel
11222 Acacia Parkway
Garden Grove, CA 92840

18. Miscellaneous Provisions

A. *Binding Nature:* This Agreement shall not be binding upon the parties until it is approved and executed by both parties. This Agreement after properly approved and executed by the parties, shall inure to the benefit of CITY and Operator and shall be binding upon CITY and Operator and their respective successors and assigns, subject to the limitations set forth in Section 18.L, Assignability, and elsewhere in this Agreement.

B. *Invalidity and Severability:* In the event that any provision shall be null and void, the validity of the remaining provisions of this Agreement shall not in any way be affected thereby.

C. *Terminology and Definitions:* All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural and plural shall include the singular.

D. *Jurisdiction:* Any and all suits for any and every breach of this Agreement shall be instituted and maintained in any court of competent jurisdiction in the County of Orange, State of California.

E. *Attorney's Fees:* In the event that either party to this Agreement shall commence any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney's fees and costs.

F. *Law of California:* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

G. *Entire Agreement:* This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto, concerning the subject matter hereof, and all such covenants, agreements and understanding have been merged into this written Agreement. No other prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

H. *Amendment:* No changes to this Agreement shall be made except upon written agreement of both parties.

I. *Headings:* The headings used herein are for convenience of reference only and shall not constitute a part hereof or effect the construction or interpretation of this Agreement.

J. *Waiver:* No failure on the part of any party to exercise, and no delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or in the exercise of any other right. The remedies provided in this Agreement are cumulative and non-exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

K. *Counterparts:* This Agreement may be executed in any number of, and by the different parties hereto, on separate counterparts, each of which, when so executed, shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

L. *Assignability:* This Agreement is made on the express condition and understanding that Operator's personal services are a substantial inducement to CITY for entering into this Agreement. Therefore, this Agreement may not be sold, transferred or assigned by Operator, or by operation of law, to any other person or persons or business entity, without CITY's prior written permission. Any such sale, transfer or assignment without prior written permission, may be deemed by CITY to constitute a voluntary termination of this Agreement and this Agreement shall thereafter be deemed terminated and void.

M. *Signatures:* Each person executing this Agreement on behalf of a party hereto warrants and represents that he/she is duly authorized to execute this Agreement on behalf of the entity for which he/she is signing and that such party is bound to the rights and by the obligations set forth in this Agreement by such signature.

(Agreement Signature Block on Next Page)

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Agreement as of the date first set forth above.

"CITY"
CITY OF GARDEN GROVE

By: _____
City Manager

Date: _____

"OPERATOR"
The GEO Group, Inc.

By:  _____
Executive ~~VP~~ Vice President

Date: 5/28/15

AMBER D. MARTIN
Executive VP Contract Administration
The Geo Group, Inc.

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By:  _____
City Attorney

ATTACHMENT "A"

SCOPE OF SERVICES

Provide Jail Management and Operational Services for the Garden Grove Police Department

RFP S-1162

SECTION 1: Minimum Requirements for Submitting a Proposal

Respondents must have been in the business of providing operations and management services for municipal jails for a period of at least five years.

Respondents must provide complete proposals, including detailed descriptions of how they would provide the requested services, and detailed financial information that describes all aspects of the services they propose to provide.

Respondents' proposals must be valid for not less than one hundred twenty (120) days after the Open Date.

SECTION 2: General Conditions

Respondents are advised to become familiar with all conditions, instructions, and specifications of this RFP. By submitting a proposal, Respondent represents and warrants that it has thoroughly examined and become familiar with work required under this RFP, that Respondent has conducted such additional investigation as it deems necessary and convenient, that Respondent is capable of providing the services requested by City in a manner that meets City's objectives and specifications as outlined in this RFP, and that Respondent has reviewed and inspected all materials submitted in response to this RFP. Once the award has been made, a failure to have read the conditions, instructions, and specifications herein shall not be cause to alter the contract or for Respondent(s) to request additional compensation.

The Respondent(s) selected for the contract will be responsible for complying with all conditions of this RFP and any subsequent formal agreements. All responses provided should be as detailed as possible to provide to provide the proposal evaluators with enough information to make an assessment of the Respondents(s)' services in accordance with the requirements herein. Please do not include videos.

The form of the proposal shall be made in the format requested and each Respondent shall submit, in full, the completed original PROPOSAL PRICING FORM, along with the attachments and all other requested documentation.

Proposal Pricing Form (Attachment B): If the proposal is made by a sole owner, it shall be signed with his/her name and his/her address shall be given. If it is made by a partnership, it shall be signed with the partnership name by a member of the firm authorized to bind the partnership who shall also sign his/her name, and the name and address of each member shall be given. If it is made by a corporation, it

shall be made by an officer or other individual who has the full and proper authorization to do so and their address shall be given. If the proposal is made by a joint venture, it shall be signed on behalf of each participating company by officers or other individuals who have full and proper authorization to do so and their address shall be given.

Respondents to the RFP must submit four (4) copies of their proposal in a sealed envelope. The envelope should be clearly marked as indicated on page 1 of this Request for Proposals.

Sealed proposals must be received in the Office of the Purchasing Agent located at 11222 Acacia Parkway, Garden Grove CA, 92840, no later than the due date and time specified.

All requests for clarification or inquiries concerning this RFP must be submitted in writing via email to Sandra Segawa sandras@garden-grove.org. Responses to questions or comments provided by any other department, employee, or City office concerning the RFP will not be valid and will not bind the City. Inquiries received via telephone, fax, or in person will not receive a response. City's responses to requests and submissions of questions will take the form of an addendum, which will be posted on the City's website via Planet Bids.

Respondents' failure to duly and adequately respond to this RFP will render the proposal non-responsive and is grounds for rejection by the City.

Late proposals will not be accepted, and will be returned unopened, regardless of postmark. Prospective Respondents are responsible for having proposals deposited on time at the place specified and assume all risk of late delivery, including any delay in the mail or handling of the mail by the U.S. Postal Service or City employees. All proposals must be in writing and must contain an original signature by an authorized officer of the submitting company. Electronic proposals (i.e., telephone, fax, e-mail, etc.) are not acceptable.

Respondents' proposal must be valid for no less than one hundred twenty (120) days after the open date.

The City of Garden Grove shall not be liable for any pre-contractual expenses incurred by any respondent or the selected Respondent. Respondents shall not include any such expenses as part of the price proposal in response to this RFP.

This Request for Proposals, Proposal Pricing Form, its attachments, the Responsive Proposal, and Addenda if any, will be incorporated as part of the contract.

If the respondent is a sole proprietorship, the contract shall be executed by the business owner personally. If the respondent is a partnership, the contract shall be executed by one of the partners that has authority to bind

the partnership. If the respondent is a corporation, the contract must be executed by two authorized signatories. The first must be one of the following: chairman of the board, president or any vice president; the second signature must be a secretary, any assistant secretary, the chief financial officer or any assistant treasurer. If the respondent is a joint venture, the contract must be executed on behalf of each participating firm by officers or other individuals who have full and proper authorization to bind the entity.

Every supplier of materials, services and all Respondents doing business with the City shall be an "Equal Opportunity Employer" as defined by Section 2000 (E) of Chapter 21, title 42 of the United States Code of federal Executive Order #11375, and as such shall not discriminate against any person by race, creed, color, religion, age, sex, or physical or mental disabilities with respect to hiring, application for employment, tenure, terms or conditions of employment.

SECTION 3: Background Information

The City of Garden Grove is a 17.8 municipality centrally located in Orange County. Approximately 175,000 people live in Garden Grove. The City is bordered by Anaheim, Orange, Santa Ana, Fountain Valley, Westminster, Los Alamitos, Cypress, and Stanton.

The City boasts an active redevelopment area to include a fastly growing Resort area along Harbor Blvd. This area draws visitors from around the world to attractions such as Disneyland, Anaheim Stadium, Christ Cathedral and the Honda Center.

The City of Garden Grove successfully dedicates its resources to provide residents, businesses and visitors the highest quality safety services, recreational facilities, and physical environment with impressive results.

The City operates a three-cell holding facility (jail), which consists of one sobering cell, one dry cell (described as having no facilities such as sink or toilet), and one standard cell. The jail typically house prisoners for up to six hours. At that time, the prisoners are released on Bail, Own Recognizance, Written Promise to Appear or transported to County Jail by jail staff. Occasionally prisoners are held longer than six hours but at no time are they housed at this facility.

Annually, approximately 6000-6400 arrestees are processed through the jail. In addition approximately 600 registrants are processed. See breakdown below:

YEAR	2011	2012	2013
ADULT BOOKING	5247	5617	5249
JUVENILE BOOKING	854	875	651
REGISTRANT	687	604	539

The City currently contracts with a vendor that provides operations and management services for the facility. This vendor is responsible for receiving, processing, housing, monitoring, transporting and/ or releasing prisoners arrested by officers of the Department and/or any other law enforcement agency, and performing other related duties as outlined in the department's policy manuals. The vendor's employees are actively supervised by the City's Jail Manager. The contractor also ensures that all employees assigned to the facility are in compliance with applicable training required by law.

The vendor is required to provide two employees at all times to operate the facility 24 hours a day, seven days a week, including holidays. Employees work eight (8) hour shifts.

The Jail Supervisor is an employee of the vendor that serves as the vendor's on site supervisor. In addition to performing standard custody work, this person is responsible for managing the vendor's operation of the Jail Facility and supervising the vendor's employees.

The Jail Manager is an employee of the City, who oversees daily operations of the jail. He/she acts as a liaison between the Vendor and the City.

SECTION 4: Requirements

Respondent shall provide operations and management services for the City of Garden Grove's jail facility, which includes the receiving, processing, housing, monitoring, transporting and/or releasing prisoners arrested by officers of the Department and/or any law enforcement agency, and performing other related duties as outlined in the department's policy manuals. Services shall include all required supervision, labor, uniforms, associated equipment and material needed to effectively and efficiently perform all duties required of a jail/holding facility including, but not limited to, any mandatory staff training.

Compliance: Respondent shall at all times during the term of the Agreement comply with all applicable federal, state, and local laws including, without limitation, Titles 15 and 24 of the California Code of Regulations, all applicable Minimum Standards specified by all applicable federal and State requirements, laws and statutes, applicable court orders and the California Corrections Standards Authority, whether now in effect, hereafter affected or implemented as applicable to Jail facilities in the future. This includes, but is not limited to, obtaining a business permit and a business license.

Equipment Requirements: Respondent shall, at its own costs and expense, provide all equipment that may be required for performance of the services required by this RFP.

Employee Qualifications: Respondent shall ensure that all employees assigned to the GGPD Jail Facility Meet the minimum requirements listed below:

PREFERRED REQUIREMENTS:

- Previous United States military experience
- Previous local/state/federal corrections or law enforcement experience
- Police academy graduate

Additionally, all employees shall:

1. Be at least 21 years of age.
2. Have a High School Diploma/GED
3. Have a valid California Class C driver's license
4. Must meet all minimum screening and background checks required for Custody Officers
5. Must complete required training and orientation mandated for Custody Officers
6. Be First Aid and CPR trained and qualified
7. Have good written and oral communication skills
8. Be able to prepare written and/or computer-based daily logs and reports of incidents that have taken place
9. Be responsible for prisoner tracking and booking information
10. Be physically able to perform all aspects of the Assignment
11. Provide favorable references from previous employers
12. Have an acceptable prior military check of DD form 214 (if applicable)
13. Have a current social security card
14. Have a current green card (if applicable)
15. Be willing to take and pass a random drug test

Employee Background Checks: Respondent shall institute a procedure for performing background checks. The following are the minimum requirements that must be met and written documentation provided to the City. All information, documentation, testing, certification, etc. is to be conducted and provided at no cost to the City of Garden Grove. By responding to this Request for Proposal, Respondent agrees to absorb any and all costs associated with these requirements.

- a. Employment/Qualifications Verifications: conduct a seven (7) year employer background check to verify the applicant was not terminated for other than honorable circumstances and verify any periods of unemployment.
- b. Education: Conduct a review of the schools attended by the applicant to verify completed educational level. Validate all references made to completing an "Equivalency Test" for High School level.
- c. Drugs: Conduct a random drug-screening test to verify non-usage of drugs. Applicants who are narcotics offenders or use dangerous drugs or use alcohol to an excessive degree will be disqualified.

- d. Reference Check: Conduct a minimum of three personal reference checks, non-family to include immediate and distant relative.
- e. DMV Check: Respondent shall provide California Department of Motor Vehicles (DMV) reports on all prospective employees to City for review. City shall establish minimum driving requirements for any Respondent employee who will be driving any City vehicle, which must be adhered to by the Respondent and its Employees.
- f. Credit Check: Conduct a standard credit check to determine financial responsibility and interview all raters who have given a negative review to determine the cause of said negative review.
- g. Psychological Review: Conduct a Minnesota Multiphasic Personality & Intelligence Test (MMPI) to determine moral integrity and mental stability of applicant. The psychological evaluation shall be conducted by a clinical psychologist acceptable to the City.
- h. Fingerprints: The applicant's fingerprints must be processed through Live Scan for California Department of Justice and NCIC/FBI clearance. Fingerprinting and processing of applicant to obtain clearances shall be performed by the City, with the required Department of Justice fees paid by Respondent. Fingerprinting must be completed, and clearance received prior to applicant working in the City jail facility.

Employee Staffing Requirements: Respondent shall ensure that two employees are on-duty at all times to operate the Facility 24 hours a day, seven (7) days a week, including holidays.

The Jail Supervisor shall be a salaried position. The Jail Supervisor shall complete all training requirements, as outlined in State Corrections Standards Authority ("CCR") Title 15, Article 3. TRAINING, PERSONNEL, AND MANAGEMENT, Section 1021. Additionally, the Jail Supervisor shall receive 24-hours of STC refresher training on an annual basis.

All employees are required to follow grooming standards as set forth within the Garden Grove Police Department General Orders 3.19.

Hair: Male uniform personnel must not wear a hair style that is longer than the bottom of their shirt collar while assuming a normal stance. Female uniform personnel must not wear a hairstyle that is longer than the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

Hair shall not display extreme or untidy styles and shall not impair vision in any manner. Hair clips and barrettes will be of conforming colors (black, brown, blue, silver, no bright colors).

Mustache: A mustache must not extend more than one-half inch beyond the corner of the mouth. A mustache cannot touch the lower lip.

Sideburns: Sideburns must not extend below the bottom of the ear. Sideburns must not connect to the mustache.

Facial Hair: Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

Body Piercing or Alteration: Except for a single stud pierced earring worn in the lobe of each ear of female employees only, no body piercing shall be visible while any employee is on duty or representing the Department in any official capacity.

Alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- a.) Tongue splitting or piercing.
- b.) The complete or transdermal implantation of any material other than hair replacement.
- c.) Abnormal shaping of the ears, eyes, nose or teeth.
- d.) Branding or scarification.

In addition, all tattoos shall be concealed in a manner that prevents them from being visible.

Uniform Requirements: Respondent shall provide GGPD-approved uniform items to its employees. Uniforms shall be clean and presentable.

Hours of Operations: Respondent shall provide continuous operation of the Jail Facility, twenty-four (24) hours per day, seven (7) days per week, including holidays.

Inspections: Respondent shall be subject to inspections by authorized Police Department personnel to determine if all relevant operators, records and equipment are in compliance with all applicable federal, state, and local laws and terms of its agreement with the City. The City reserves the right to conduct random audits without prior notification.

Invoices: Respondent shall submit statements of service charges to be paid by the City to the records and jail manager on a monthly basis, in a format approved by the Police Department. Each invoice shall detail, with specificity, the number of hours worked by each employee and the services for which the City is being information charged.

Documents: Copies of the following documents shall be submitted to the records and jail manager within fifteen (15) days after the Agreement is executed.

- Business License
- Certificate of insurance and any other insurance documents

E-Verify: If Respondent is not already enrolled in the U.S. Department of homeland Security's E-Verify program, Respondent shall enroll in the E-Verify program within fifteen (15) days of entering into any agreement with the City to verify the employment authorization of new employees assigned to perform work. Information pertaining to the E-Verify program can be found at <http://www.uscis.gov/everify>. Respondent shall certify its registration with E-Verify and provide its registration number to the City.

Section 5: Format of Response/Proposal:

Respondents interested in responding should submit a packet that is labeled, includes a table of contents, and has each page numbered individually that includes the following sections or subsections in the response including the following:

- A. Required Proposal Forms. Complete and execute the all forms as required in this RFP.
- B. Company Description. A description of the company, including the organization's experience and history of providing services as required in this RFP.
- C. Experience. Provide a detailed description of related experience in performing the services requested.
- D. Scope of Work. Based on the Requirements in Section 4, describe how your company proposes to supply all the services requested and required by all Local, State and Federal laws.
- E. Training and Transition. Provide a detailed description of how your company proposes to train its employees to operate the GGPD jail Facility. Include information about how your company will transition GGPD from its current vendor that provides the services referred to under this RFP to your company, including any "down time" that may be necessary to effectuate this transition. Also provide a detailed financial summary of the costs associated with this training and transition.
- F. References. Please *do not* use the City of Garden Grove as a reference. Provide a list of three professional references including:
 - Name of Agency/Organization
 - Contact Person
 - Address
 - Telephone
 - Fax
 - E-Mail
 - Description of Services Provided

- G. Contractor and Subcontractor Listing. If applicable, submit the names, addresses, phone numbers, and applicable licenses of all the firms that will provide services in conjunction with the performance of this agreement.
- H. Additional Information. Respondents may provide additional information that is relevant to the proposal for consideration. Please do not include videos.
- I. Anticipated Contract Form. Carefully review the terms of the Anticipated Contract Form on Page 13 of this RFP document and note in your proposal any terms or conditions to which you would like to propose modifications. Detail the proposed modification(s). However, please be aware that deviations from City's standard terms and conditions may result in rejection of your proposal.

Section 6: Selection Process

The City reserves the right to accept or reject any and all proposals and reserves the right to waive informalities and irregularities in the proposal process. The City also reserves the right to withdraw this Request for Proposal or decline to award a contract at its' sole discretion. The City may reject proposals from respondents who cannot satisfactorily prove the experience and qualifications required by this RFP and/or provide the scope of services required herein.

The City reserves the right to require any or all respondent(s) to either make a presentation that illustrates their abilities to provide services and/or attend an interview session to gauge their suitability to provide services for this project. If so requested, the Respondent(s) shall make their personnel available within ten (10) calendar days of request. No cost allowance shall be permitted for this requirement.

The City will be the sole and exclusive judge of quality and compliance with proposal specifications in any of the matters pertaining to this RFP. The City reserves the right to award the contract(s) in any manner it deems to be in the best interest of the City and make the selection based on its sole discretion, including negotiating with one or more Respondent(s) for the same services.

**ATTACHMENT B
PROPOSAL PRICING FORM – Page 1 OF 2**

RFP NO. S-1162

THE HONORABLE MAYOR AND CITY COUNCIL
CITY OF GARDEN GROVE
11222 ACACIA PARKWAY
GARDEN GROVE, CALIFORNIA 92840

To: THE HONORABLE MAYOR AND CITY COUNCIL

The undersigned having carefully examined the Plans and specifications to: Provide Jail Management and Operation Services for the Garden Grove Police Department and HEREBY PROPOSE do all the work required in accordance with the Scope of Services for the sum of:

\$ 514,627 for year 1 and in written words:

Five hundred fourteen thousand six hundred twenty-seven dollars for year one

\$ 530,066 for year 2 and in written words:

Five hundred thirty thousand sixty-six dollars for year two

\$ 545,968 for year 3 and in written words:

Five hundred forty-five thousand nine hundred sixty-eight dollars for year three

The above proposal price includes all applicable taxes for the pricing proposed in this submittal. **Note:** In case of discrepancy between the words and figures, the words prevail.

General Terms:

1. The Respondent understands and agrees that it will be bound by its proposal as expressed on this Proposal Pricing Form and its attachments and the proposal submitted if respondent is selected and subsequently approved by the City.
2. The request For Proposal, Proposal Pricing Form and its attachments, the Response to the Request for Proposal and Addenda, if any, are made a part of the proposal submitted by Respondent.
3. The respondent acknowledges that it has received the following Addenda:

Addenda # 1
4. The Respondent understands and agrees that the City reserves the right to reject any or all proposals or waive any informality or irregularity in the proposal process as set forth in the RFP.

**ATTACHMENT B
RFP S-1162
PROPOSAL PRICING FORM – Page 2 of 2**

5. Respondents' quoted rates shall remain in effect for not less than one hundred twenty (120) days after the Open date.

Exceptions:

Any Respondent's exceptions to these terms or conditions or deviations from the written specifications shall be shown in writing and attached to the Proposal Pricing Form. However, such exceptions or deviations may result in the rejection of your proposal.

PAYMENT TERMS: NET 30

EXCEPTIONS OR N/A

DEVIATIONS: _____

COMPANY NAME: The GEO Group, Inc.

ADDRESS: 6100 Center Drive, Suite 825

Los Angeles, CA 90045

TELEPHONE: (310) 348-3000 E-MAIL: jblack@geogroup.com

SUBMITTED BY: JAMES BLACK Vice President
Name (Printed) Title



SIGNATURE

CITY JAIL OPERATIONS AND MANAGEMENT AGREEMENT
(The GEO Group, Inc. and The City of Garden Grove, CA)
BUDGET

	YEAR ONE	YEAR TWO	YEAR THREE
	July 1, 2015 to June 30, 2016	July 1, 2016 to June 30, 2017	July 1, 2017 to June 30, 2018
Staffing (9.625 FTE)	\$ 390,030	\$ 401,731	\$ 413,783
Jail Administrator (1)			
Jail Officers (8.5)			
Jail Director (.125)			
Salaries, Overtime, Benefits, Taxes, Training, Recruitment, New Hire Costs			
Operating Costs	\$ 12,880	\$ 13,266	\$ 13,664
Incidental Expenses, Office Supplies, Food, Inmate Care Items			
Insurances	\$ 36,942	\$ 38,050	\$ 39,192
Direct Costs	\$ 439,852	\$ 453,048	\$ 466,639
Management Fee	\$ 74,775	\$ 77,018	\$ 79,329
TOTAL OPERATIONS COST	\$ 514,627	\$ 530,066	\$ 545,968

Note:

Monthly billing will equal one twelfth (1/12) of the annual Total Operations Cost each month regardless of actual expenses.
3% COLA escalator in Years Two & Three