

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To:	Matthew J. Fertal	From:	Joseph M. Polisar
Dept.:	City Manager	Dept.:	Police
Subject:	RENEWAL OF JAIL CONTRACT	Date:	November 10, 2009

OBJECTIVE

To seek City Council approval to renew the City's contract with Correctional Systems Inc. (CSI) to provide jail booking and security services through June 2012.

BACKGROUND

In June 2000, the City Council approved the City's first contract with CSI to provide 24 hour jail booking and security services for the Garden Grove Police Department. Because of CSI's past excellent record, the Police Department requests that its contract with the company be renewed through June 2012.

ANALYSIS

The proposed agreement provides for 24-hour staffing at the jail by CSI, which is required to operate the facility in accordance with standards established by federal and state law, and in accordance with standards of the American Correctional Association. Under the agreement, CSI is required to provide \$10 million in liability insurance coverage for its activities in operating the jail and to indemnify the City from liabilities associated with its operation of the jail.

By using contract jail services, Police Officers are able to reduce the time it takes to process arrestees and return to the field, from over two hours to approximately 15 minutes, thus increasing their availability to handle additional calls for service. In FY 2008-09, CSI's jail staff processed 6,386 arrestees, generating manpower savings of approximately 12,772 hours. These savings enabled the Department to keep the equivalent of seven (7) additional Police Officers on the street.

FINANCIAL IMPACT

Cost for the first full year of the agreement is \$477,265, with 3 percent annual increases each year thereafter. The annual cost of the contract is partially mitigated by approximately \$110,000 in jail booking fees annually collected by the Department. If the value of the jailer program's gross savings of seven (7) officers

(\$1,013,362) is offset by the contract's first full year net cost of \$477,265, then the Department's agreement with CSI saves the City approximately \$536,097 annually. The cost of the proposed contract for CSI's services was anticipated and is fully funded in the Police Department's current budget. No additional funding will be necessary.

COMMUNITY VISION IMPLEMENTATION

Renewing the jail contract meet the goals of the Community's Vision by reducing by 75 percent the amount of time required by Police Officers to process arrestees, and creates additional time to provide direct law enforcement services to the community.

RECOMMENDATION

It is recommended that the City Council:

- Approve the renewal of the City's Jail Contract with Correctional Systems Inc. through June 2012, and authorize the City Manager to execute the contract.



JOSEPH M. POLISAR
Chief of Police

By: 
Courtney Allison
Police Fiscal Analyst

Recommended for Approval



Matthew Fertal
City Manager

Attachment 1: Two and one-half year jail budget projection
Attachment 2: Agreement

Attachment I
To
CITY JAIL OPERATIONS AND MANAGEMENT AGREEMENT
(Correctional Systems, Inc., and The City of Garden Grove)
Budget

	Year One	Year Two	Year Three
	January 1, 2010 to June 30, 2010	July 1, 2010 to June 30, 2011	July 1, 2011 to June 30, 2012
Staffing (9.6 FTE)	\$ \$173,779	\$ 357,985	\$ 368,724
Jail Administrator (1)			
Correctional Officers (8.5)			
Operations Manager (.125)			
Overtime & Benefits, Training, Recruitment, Background Checks, Psych Exams, Employee Functions, Uniforms and Travel			
Operating	\$ \$24,240	\$ 49,934	\$ 51,432
Incidental Expenses, Insurance, Food, Inmate Care Items			
City Provisions			
Booking Supplies, Utilities Transportation Vehicle, Equipment, Normal Maintenance			
Direct Costs	\$ \$198,019	\$ 407,919	\$ 420,157
Management Fee	\$ \$33,663	\$ 69,346	\$ 71,427
TOTAL OPERATIONS COST	\$ \$231,682	\$ 477,265	\$ 491,583

Notes

Liability Insurance is based upon \$10 million. Cost of living as set forth above.

Monthly billing will equal one twelfth (1/12) of the annual Total Operations Cost regardless of actual expenses.

ATTACHMENT 2
CITY JAIL
OPERATIONS AND MANAGEMENT AGREEMENT
(Correctional Systems, Inc. and the City of Garden Grove)

THIS AGREEMENT is dated as of January 1, 2010 (the "Effective Date"); by and between the City of Garden Grove, California, a municipal corporation ("CITY") and Correctional Systems, Inc., a Delaware corporation ("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 reasonable 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 January 1, 2010.

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

This Agreement shall be for a period commencing upon the Service Commencement Date and ending on June 30, 2012. The 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 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 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. Operator agrees to exercise its reasonable 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 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 audit, 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, unless 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 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.

(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, 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 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).

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(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.

(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 accidents in the Jail.

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:* 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, for each Fiscal Year during the extended term, CITY shall pay to Operator on a monthly basis, within thirty (30) days of receipt of invoice, one-twelfth (1/12) of the amount identified on Attachment 1 as the "Total Operations Cost" for such Fiscal Year, which amount includes annual cost-of-living adjustment ("COLA") increases of three percent (3%). In addition, should the term of this Agreement be further extended beyond Fiscal Year 2011-2012, Operator shall receive a COLA increase in the Total Operations Cost for each subsequent Fiscal Year (or portion thereof) in the amount of three percent (3%) of the Total Operations Cost for the immediately preceding Fiscal Year. For the purposes of this Agreement, one (1) Full Time Equivalent (FTE) means 2,080 Operator staff hours per Fiscal Year (including overtime hours) to be provided by Operator, and "Target FTE" means the anticipated, total FTEs established for the Fiscal Year in question as set forth on Attachment 1 (9.6 FTEs multiplied by 2,080 hours). Within sixty (60) days following the end of each Fiscal Year, Operator shall furnish CITY with documentation evidencing the actual total FTE amount for such Fiscal Year (the "Actual FTE"). In the event that the Actual FTE is greater than or equal to the Target FTE, Operator shall not be entitled to compensation for any such excess. Finally, 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.

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.

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:* 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, employees, attorneys, volunteers and any parties with whom CITY has entered into an Intergovernmental Agency Agreement for the supply of detainees to CITY's facilities harmless from and against any and all claims asserted or liability 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 its agents, officers, subcontractors or employees, in performing the work or services herein, 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 to the extent reasonably related to such action; provided, however, that Operator's duty to indemnify and hold harmless shall not include any claims or liability to the extent arising from negligence or willful misconduct of CITY, its agents, officers or employees or any parties with whom CITY has entered into an Intergovernmental Agency Agreement for the supply of detainees to CITY's facilities. 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, its agents, officers, employees or any parties with whom CITY has entered into an Intergovernmental Agency Agreement for the supply of detainees to CITY's facilities. 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, Operator 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 quarterly basis as work is being performed by the legal counsel in defending CITY.

C. *Mutual Indemnification.* 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 negligent or intentional acts or omissions of CITY, its officers, agents (except Operator, its employees, agents or subcontractors) or employees.

13. Insurance

A. *Public Liability and Property Damage 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" basis. Such insurance shall protect Operator against loss, including injury or death resulting therefrom 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 thereunder. Operator's insurer shall be an approved carrier in the State of California with an A. M. Best's rating of "A" or better. Property damage 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 or any subcontract thereunder. 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 and in paragraph 13D 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 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 combined single limit of not less than One Million Dollars (\$1,000,000) for each accident.

C. *Workers' Compensation Insurance:* Operator shall obtain Workers' Compensation Insurance, including employer's liability coverage, with a minimum limit of One Million Dollars (\$1,000,000) or the amount required by 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. *Professional Liability Coverage:* 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 or better, as approved by the CITY. Policy must not contain any exclusions for discrimination and/or civil rights 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, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant 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. *Endorsements:* All insurance policies shall contain a Waiver of Subrogation of rights against CITY. CITY, its officers, officials, agents employees, attorneys, and volunteers shall be named as additional insureds on the policy(ies) as to comprehensive general liability, civil rights liability, property damage, automobile and excess liability coverages.

F. *Clauses:* Each policy of insurance shall contain the following clauses:

(1) *Notice:* It is agreed that these policies shall not be canceled nor the coverage reduced until thirty (30) days after CITY's City Manager or City Manager's designee shall have received written notice of such cancellation or reduction. 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, Liability Insurance, must protect CITY, its officers, officials, agents, employees, attorneys, 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:* Subject to Operator's General Liability policy combined single limit, the insurance afforded applies separately to each insured, against whom claim is made, or suit is brought.

(4) *Primary Insurance:* The insurance provided by Operator shall provide primary insurance to CITY, its officers, officials, agents, employees, attorneys, and volunteers to the exclusion of any other insurance or 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, or volunteers shall be excess of the Operator's insurance and shall not contribute with it.

G. Intentionally omitted.

H. *Deductibles and Self-Insured Retention:* Any change in the deductibles must be declared to and approved by CITY. Any self-insured retention must be declared to and approved by CITY.

I. *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 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 and CITY shall cooperate in efforts to obtain such replacement insurance as may be available and this Agreement shall be modified 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 12.E herein.

J. *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, which written consent shall not be unreasonably withheld or delayed. 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 claims or litigation pending at the time this Agreement becomes effective or arising thereafter from occurrences prior to the effective date of this Agreement.

K. *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.

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 Delaware, authorized to do business in 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) *Intentionally omitted.*

(9) *Intentionally omitted.*

(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, endorsements of insurance, binders or other proof of insurance, acceptable to CITY in its reasonable discretion, evidencing all insurance coverage required by Section 13, Insurance.

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

Chief of Police
Garden Grove Police Department
11301 Acacia Parkway
Garden Grove, California 92840
Voice: (714) 741-5900; Fax: (714) 741-5902

With Copy to:

City Manager
City of Garden Grove
P. O. Box 3070
Garden Grove, California 92842
Voice: (714) 741-5100; Fax: (714) 741-5044

Operator

Correctional Systems, Inc.
Attention: Benjamin E. Erwin
Vice President
1700 West Loop South, Suite 1500
Houston, Texas 77027
Voice: (713) 235-9317; Fax: (713) 623-8854

With Copy to:

Cathy Porter
General Counsel
Correctional Systems, Inc.
1700 West Loop South, Suite 1500
Houston, Texas 77027
Voice: (713) 335-9275; Fax: (281) 657-9748

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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.

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: _____

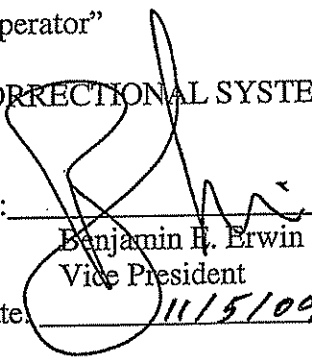
Matthew J. Fertal
City Manager

Date: _____

"Operator"

CORRECTIONAL SYSTEMS, INC.

By: _____


Benjamin H. Erwin
Vice President

Date: 11/5/09

CORRECTIONAL SYSTEMS, INC.

By: _____


Patrick Perrin
Vice President

Date: 11-5-09

ATTEST:

By: _____

Kathy Bailor, City Clerk

APPROVED AS TO FORM:

By: _____

Thomas F. Nixon, City Attorney