

CORRECTIONAL HEALTH SERVICES AGREEMENT

The Correctional Health Services Agreement ("Agreement") is made and entered as of this 01ST day of July 2017, by and between Haywood County, NC on behalf of its Detention Center ("County") a State of North Carolina county (referred to collectively as "County"), and Southeast Correctional Medical Group, a Georgia corporation (referred to hereinafter as "SECMG"). Services under this agreement shall commence on July 01, 2017 and shall continue through June 30, 2018 in accordance with Section 6.01.

WITNESSETH

- A. WHEREAS SECMG does business as Southeast Correctional Medical Group, and contracts with counties to provide correctional healthcare services and desires to provide such services for the county under the terms and conditions hereof; and
- B. WHEREAS County is charged by law with responsibility for administering, managing and supervising the Inmate health care delivery system of Haywood County; and
- C. WHEREAS The objective of the County is to provide for the delivery of quality health care to Inmates in accordance with applicable law; and
- D. WHEREAS County desires to enter a health care services agreement with SECMG to promote this objective;

NOW, THEREFORE, for good and valuable consideration, the receipt and the sufficiency of which are hereby acknowledged, the County and SECMG hereby agree as follows:

ARTICLE I Health Care Services

- 1.01 **General Engagement** County hereby engages SECMG to provide for the delivery of reasonable and necessary medical, mental and dental care to individuals under the custody and control of County or sentenced to and incarcerated at the facilities (Inmates) and SECMG hereby accepts such engagement according to the terms and provisions hereof.
- 1.02 **Scope of Services** SECMG will provide on a regular basis professional medical, mental health and related health care administrative services for the Inmates, including a program to review preliminary screening of Inmates, a health evaluation of each inmate following admission to facility, regularly scheduled sick call, nursing coverage, regular physician/physician extender visits on site, medical specialty service administration, emergency medical care, medical records management, pharmacy services, a quality assurance program, and administrative support services.
- 1.03 **Specialty Services** SECMG will arrange specialty care services on-site to the extent reasonably possible. To the extent specialty care is required and cannot be rendered on site, SECMG will make appropriate off-site arrangements for the rendering of such care. The cost of specialty services will be applied to the cost pool.
- 1.04 **Dental** SECMG will arrange for dental services for the Inmates. The cost of dental services will be applied to the cost pool.

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- 1.05 **Emergency Services** SECMG will provide emergency medical treatment to inmates as necessary and appropriate on site. With the assistance of the Sheriff's officers and 911 services, SECMG will arrange for emergency services to be provided at local hospitals. Cost of emergency transportation and emergency medical treatment will be applied to the cost pool.
- 1.06 **Hospitalization Services** SECMG will arrange for admission and hospitalization of any inmate, who in the opinion of SECMG's medical director requires hospitalization. Cost of the hospitalization will be applied to the cost pool.
- 1.07 **Infant Care** SECMG will provide health services to any pregnant inmate, but will not be responsible in any way for any healthcare services for any such infant following birth. Any further healthcare services performed at the request of the County will incur additional costs beyond this contract and will be paid for by County.
- 1.08 **Elective Medical Care** SECMG will not be responsible for the provision of elective medical care to inmates. For purposes of this agreement, "elective medical care" means medical care which if not provided would not, in the opinion of SECMG's medical director, cause an inmate's health to deteriorate or cause harm to an inmate's well-being.
- 1.09 **Transportation Services** To the extent any inmate requires off-site health care treatment (e.g. hospitalization, specialty services, etc.) County will provide appropriate transportation services as requested by SECMG. Routine transfers will be the responsibility of the County in regards to off-site non-emergency medical treatment.
- 1.10 **Medications and Supplies** All supplies and medications required to render care are the responsibility of Haywood County. SECMG uses a controlled generic formulary for medications. SECMG will review and track those invoices and then apply to the cost pool for payment.

**ARTICLE II
Personnel**

- 2.01 **Staffing** SECMG will provide medical personnel necessary for the rendering of health care service to inmates as contemplated herein.

The staffing plan gives on-site staff at the jail 8 hours per day, 7 days a week. Sick call will be performed 7 days per week, as needed and physician or physician extender for weekly onsite visits. On call coverage will be available 24 hours, seven days a week, to respond to phone calls from designated jail staff during after-hours and, when necessary, report to the facility for inmate assessment and treatment. After hours call backs to the facility are based on an hourly rate. This is an additional expense to the county.

During the contract term, should the County's inmate population increase, adjustments to the staffing and contract may be required, and the county and SECMG will negotiate the additional compensation needed to support the increased staff and services.

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- 2.02 **Licensure, Certification and Registration of Personnel** All personnel provided or made available by SECMG to render services hereunder will be licensed, certified, or registered, as appropriate, in their respective areas of expertise pursuant to applicable North Carolina law.
- 2.03 **County Satisfaction with Health Care Personnel** If county should become dissatisfied with any health care personnel provided by SECMG hereunder, SECMG, in recognition of the sensitive nature of correctional services, will, following receipt of written notice from county of its dissatisfaction and the reasons thereof, exercise its best efforts to resolve the problem and, if the problem is not resolved, remove the individual about whom County has expressed its dissatisfaction. SECMG will be allowed a reasonable time prior to removal to find an acceptable replacement. For purposes of this section, notice from the Sheriff shall constitute notice from the County.
- 2.04 **Use of inmates in the Provision of Health Care Services** Inmates will not be employed or otherwise engaged by either SECMG or county in the direct rendering of any health care services. Inmates may be used in positions not involving the rendering of health care services to inmates as SECMG and county may mutually agree.
- 2.05 **Subcontracting and Delegation** In order to discharge its obligations hereunder, SECMG will engage certain health care professionals as independent contractors rather than as employees, and county expressly consents to such subcontracting or delegation. As the relationship between SECMG and these health care professionals will be that of independent contractor, SECMG will not be considered or deemed to be engaged in the practice of medicine or other professions practiced by these professionals, and SECMG will not exercise control over the manner or means by which these independent contractors perform their professional duties.
- 2.06 **Discrimination** SECMG will recruit, select, train, promote, transfer, and release its personnel, as contemplated hereunder, without regard to race, color, religion, national origin, handicap, age or sex (except where age, sex, or handicap is a bona fide occupational qualification) Further, SECMG will administer its other personnel policies without regard to race, color, religion, national origin, age or sex.

ARTICLE III
Reports and Records

- 3.01 **Medical Records** SECMG will cause to be maintained a medical record for each inmate who has received health care services. This medical record will be maintained pursuant to applicable law and will be kept separate from the inmate's confinement record. A copy of the applicable medical record information will be available to accompany any inmate who is transferred from the facility to another location for off-site services. Medical records will be kept confidential, and SECMG will follow the county's policy with regard to access by inmates and facility staff to medical records subject to applicable law regarding confidentiality of such records. No information contained in the medical records will be released by SECMG except as provided by county policy, by a court order, or otherwise in accordance with applicable law.

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- 3.02 **Inmate Health Insurance** SECMG may seek and obtain from any Inmate information concerning any health insurance the inmate might have that would cover any off-site services rendered by providers hereunder and county will cooperate fully with SECMG in its obligation hereunder.
- 3.03 **Inmate Information** In order to assist SECMG in providing the best possible health care services to inmates, county will provide SECMG information pertaining to inmates that SECMG identifies as reasonable and necessary for SECMG adequately to perform its obligations hereunder.
- 3.04 **Records Available to County with Limitations on Disclosure** SECMG will make available to County's request, all records, documents and other papers relating to the direct delivery of health care services to inmates hereunder; provided, however, that county understands that the systems, methods, procedures, written materials and other controls employed by SECMG in the performance of its obligations hereunder are proprietary in nature and will remain the property of SECMG and may not at any time, be used, distributed, copied, or otherwise utilized by county, except in connection with the delivery of health care services hereunder, unless such disclosure is approved in advance in writing by SECMG.
- 3.05 **County Records Available to SECMG with Limitations on Disclosure** During the terms of this Agreement and for a reasonable time thereafter, County will provide SECMG, at SECMG's request, County's records relating to the provision of health care services to inmates as may be requested by SECMG or as pertinent to the investigation or defense of any claim related to SECMG conduct. County will make available to SECMG such records as are maintained by county, hospitals, and other outside health care providers involved in the care and treatment of inmates (to the extent county has any claim to those records) as SECMG may reasonably request consistent with applicable law; provided, however, that any such information the County releases to SECMG shall be treated by SECMG as confidential, and SECMG will not, except as may be required by law, distribute same to any third party without prior written approval by County.

**ARTICLE IV
Security**

- 4.01 **General** SECMG and county understand that adequate security services are necessary for the safety of the agents, employees, and subcontractors of SECMG, as well as for the security of inmates and facility staff. County will provide security services satisfactory to SECMG and sufficient to enable SECMG and its personnel safely to provide the health care services called for hereunder. To the fullest extent permitted by North Carolina law and subject to all defenses allowable by North Carolina Law, County hereby indemnifies SECMG, its agents, employees, contractor and officers against any claims or losses arising out of inmate disturbances or any other security failures and shall reimburse SECMG for any and all costs (including attorney's fees) incurred in connection with any such claims or losses, provided that any such loss or claim was the sole result of County's negligence or intentional acts. In the event of any claim or loss by SECMG under this section, SECMG shall immediately notify the County in writing that fully sets forth the basis of the claim or loss. Nothing herein shall be construed to prevent the County from asserting governmental or sovereign immunity.

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- 4.02 **Transportation Off-site** County will provide security as necessary and appropriate in connection with the transportation of any inmates between the facility and other location for off-site services as contemplated herein.

ARTICLE V

Office Space and Equipment

- 5.01 **Office Space and Support** The County agrees to provide SECMG with office space, facility, office furniture, utilities (including telephone and Internet access), computer with printer, copier, scanner, fax sufficient to enable SECMG to perform its obligations hereunder.
- 5.02 **General Services** County will provide for each inmate receiving health care services no less than full range of services and facility provided by county for other inmates at the facility including, but not limited to, daily housekeeping services, dietary services, building maintenance services, personal hygiene supplies and services, and linen supplies.
- 5.03 **Equipment** County will provide appropriate equipment sufficient to enable SECMG to perform its obligations hereunder. County will own this equipment. Medical Diagnostic equipment necessary for rendering care will be purchased for the county and billed back to the county over a 6 month period. In the event that the contract is terminated prior to completion of payments for equipment, the balance will be billed to the county on the last bill.

ARTICLE VI

Term and Termination of Agreement

- 6.01 **Term** This Agreement shall be for a term of one (1) year commencing on the date of this Agreement, subject to earlier termination in accordance with this Agreement. Unless either the County or SECMG gives written notice on nonrenewal to the other party at least sixty (60) calendar days prior to the end of the initial term or of any renewal term, this Agreement shall be automatically renewed for additional periods of one year.
- 6.02 **Termination With or Without Cause** This Agreement may be terminated at any time by either the County or SECMG, with or without cause, by providing the other party at least sixty (60) calendar days' prior written notice.
- 6.03 **Effect of Expiration or Termination** The expiration or the termination of this Agreement shall not affect the obligation of the County to pay compensation to SECMG or pay for any outstanding invoice for the period prior to such expiration or termination and shall not affect the obligation of SECMG to provide monthly reports for the period prior to the effective date of such expiration or such termination.

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**ARTICLE VII
Compensation**

- 7.01 **Base Compensation** For the month of July, 2017, County shall pay SECMG the sum of \$17,827.65, which constitutes \$9,619.45 for the dates of July 1, 2017 through July 17, 2017, and \$8,208.20 for the remainder of the month. Thereafter, beginning August 1, 2017 and continuing for the remainder of the term of this Agreement, payments due from County to SECMG shall increase to the sum of \$17,833.33 per month, which includes the cost pool of \$30,000 per twelve (12) months. This compensation level assumes a maximum inmate population of 120.
- 7.02 **Per Diem** County agrees to compensate SECMG \$1.00 per inmate per day when the daily census is greater than 120.
- 7.03 **Monthly Fee** No later than 30 days after invoice date, provided invoice is received within 7 days after invoice date, County agrees to pay to SECMG the monthly amount set forth in Section 7.01 above.
- 7.04 **Additional Fees** The County shall be responsible for medical supplies, equipment and other items that may be required by SECMG or the Physician or Physician Extender to provide adequate Medical Services under this Agreement. The invoiced amount of such medical supplies, equipment and other items shall be the actual cost. No later than 30 days after invoice date, provided invoice is received within 7 days after invoice date, the County shall pay to SECMG the amount invoiced for medical supplies, equipment and other items purchased during the immediately preceding calendar month.

After hours medical call backs to the Detention Center will range in cost from \$100 to \$350 based time of day and acuity. The range in cost shall be based on time spent from arrival to departure of the necessary company personnel. These callbacks are designed to abort emergency room visits. This is an additional expense to the county.

- 7.05 **Cost Pool** The Cost Pool of \$30,000.00 (\$2,500.00 per month) shall be applied to those items identified in the contract. The County will be responsible for any expenses in excess of the Cost Pool amount. Any Cost Pool balance will be applied as a credit toward the next year's cost pool. In the event that the contract is not renewed, any cost pool balance will be returned to the County.

**ARTICLE VIII
Liability and Risk Management**

- 8.01 **Medical Malpractice Insurance** SECMG shall maintain, throughout the term of this Agreement, professional liability insurance covering the acts and omissions of the Physician or Physician Extender, in the minimum annual coverage amount of \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate, with an Insurance company reasonably satisfactory to SECMG and County. SECMG shall provide County proof of such professional liability Insurance.

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- 8.02 **General Liability Insurance** SECMG shall, at its own cost and expense, obtain and maintain in full force and effect, during the term of this Agreement, with insurers reasonably satisfactory to County, the following insurance coverage: (i) worker's compensation insurance as required by the law of the state of hire; (ii) commercial general liability insurance including broad form contractual liability coverage with a \$1,000,000 per occurrence and a \$3,000,000 general aggregate limit; Insurance of SECMG shall be deemed primary for injuries caused by the negligence or willful misconduct of SECMG.
- 8.03 **Evidence of Insurance** SECMG shall provide County with certificates of insurance evidencing the coverage required hereunder within thirty (30) days after execution of this Agreement. Each policy required hereunder shall provide that County shall receive fifteen (15) days' advance written notice in the event of a cancellation or material change in such policy. With the exception of insurance coverage listed in (i) and (ii) above, each policy of insurance which SECMG is required to possess under this Agreement shall name County, its subsidiaries, employees, officers, directors and shareholders, as additional insured with respect to the insurance policies herein required.
- 8.04 **Indemnification** To the fullest extent permitted by law, SECMG hereby agrees to indemnify, defend, and hold harmless the County, its subsidiaries, and the directors, officers, representatives, agents, employees of each or any such entity, from and against any and all claims, losses, damages, expenses and all other liabilities arising out of or resulting from performance or failure to perform under this Agreement by SECMG (or any of its agents, employees or subcontractors) including, without limitation, demands, claims, suits, or actions of any character presented or brought for any injuries (including death) to persons arising out of any negligent (including strict liability), wanton or intentional act or omission of SECMG, any of its subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any one of them may be liable, and whether or not the same be caused by or arise out of the joint, concurrent, or contributory negligence of any person or entity of County.

To the fullest extent permitted by North Carolina law and subject to all defenses allowable under North Carolina law, County does hereby agree to indemnify and hold harmless SECMG, its agents, directors, officers, trustees, servants, employees, medical staff from any and all injuries, claims, damages, liabilities, losses, injuries, including death asserted by a third party for the sole negligence or intentional acts or omissions committed by County or its Commissioners, Constitutional Officers, agents, or employees acting on behalf of County in connection with County's duties and services under this agreement. Nothing herein shall be construed to prevent the County from asserting governmental or sovereign immunity.

ARTICLE IX
Miscellaneous

- 9.01 **Responsibilities of Parties** SECMG and County are independent contractors in the performance of this Agreement and shall not be considered or permitted to be an agent, servant, joint venture or partner of the other. All persons furnished, used, retained or hired by or on behalf of SECMG shall be considered to be solely the employees or agents or designees of SECMG. SECMG agrees that it:

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- (i) Is responsible for payment of any kind and all unemployment, social security, and other payroll taxes for its employees and agents, as applicable, including any related assessments and contributions required by law; and
- (ii) will assure by contractual provision that any subcontractors and/or their designees shall provide that they shall be solely responsible for payment of any and all applicable unemployment, social security, and other payroll taxes for their employees and agents, to the same extent as set forth in (i) above.

- 9.02 **Notice** All notices and other communications permitted or required pursuant to this Agreement shall be in writing, addressed to the party at the address set forth at the end of this Agreement or to such other address as the party may designate from time to time in accordance with this Section 9.01. All notices and other communications shall be (a) mailed by certified or registered mail, return receipt requested, postage pre-paid, (b) personally delivered or (c) sent by telecopy with a receipt confirmation. Notices mailed to this Section 9.01 shall be deemed given as of three days after the official U.S. Postmark date and notices personally delivered shall be deemed given at time of receipt. Notices sent by telecopy with receipt confirmation shall be deemed received on the day thereafter.
- 9.03 **Transferability** Except as provided in Section 4.07, neither the County nor SECMG may assign or otherwise transfer this Agreement to a third party without the prior written consent of the other party, which may be given or withheld by the other party in its sole discretion.
- 9.04 **Non-Compete** In the event of Termination, for a period of one (1) year, County shall not use directly or indirectly the onsite professional healthcare services of the Physician, physician extender, nurse or support staff furnished by SECMG without the express written permission of SECMG.
- 9.05 **Entire Agreement; Amendment** This Agreement constitutes the entire agreement between the County and SECMG with respect to the subject matter hereof and supersedes all prior agreements. This Agreement shall not be amended or waived, in whole or in part, except in writing signed by both the County and SECMG.
- 9.06 **Governing Law** This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of North Carolina, except as specifically noted. Disputes between the Parties shall, first, be formally mediated by a third party or entity agreeable to the Parties, in which case the Parties shall engage in good faith attempts to resolve any such dispute with the Mediator before any claim or suit arising out of this Agreement may be filed in a court of competent jurisdiction.
- 9.07 **Non-Disclosure** The County and SECMG shall take all reasonable steps to insure that information with respect to the terms of this Agreement or with respect to the business of the County and SECMG acquired by virtue of the position of the other party under the Agreement shall not be disclosed or used outside of the business of either party; provided, however, the foregoing restriction shall not apply to information;

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- (a) provided to government authorities as required by applicable law or applicable regulation or consented to by the patient;
- b) furnished to healthcare providers involved in a particular patient's case;
- (c) which is or becomes public knowledge through no fault of either party; or
- (d) which is otherwise required to be disclosed by applicable law or applicable regulation or pursuant to a court order.

9.08 **Successors** This Agreement is binding upon the parties, their successors and assigns. Thirty (30) days' notice of any material change in ownership, management, etc. shall be given the other party by the party experiencing the change.

9.09 **Tele-copied Signatures** Any signature delivered by a party by facsimile transmission shall be deemed to be an original signature hereto.

IN WITNESS WHEREOF, the County and SECMG have executed and delivered this Agreement as of the date first above written.

Haywood County

Southeast Correctional Medical Group

By: _____

By: *Briana Elvaiah*

Name: Ira Dove
Title: County Manager, Haywood County

Name: Briana Elvaiah
Title: VP Finance

Address: 215 North Main Street
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