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# Commonwealth of Kentucky

## CONTRACT

**IMPORTANT**  
Show Doc ID number on all packages, invoices and correspondence.

<b>Doc Description:</b> Fayette County Detention Center - 20-Bed SB192 SAP/MAT	
<b>Doc ID No:</b> PON2 527 1700001461 1	<b>Procurement Folder:</b> 4505335
<b>Procurement Type:</b> Memorandum of Agreement	<b>Record Date:</b>
<b>Issued By:</b> Nikki James	<b>Cited Authority:</b> FAP111-44-00
<b>Telephone:</b> 502-564-6523	

<b>CONTRACT</b>	Fayette County Detention Center
	600 OLD FRANKFORT CIR
	LEXINGTON KY 40510
	US

Effective From: 07/01/2017 Effective To: 06/30/2018

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	Fayette County Detention Center - 20-Bed SB192 SAP		7,300.00	DAY	9.00000	0.00	65,700.00

Extended Description

Fayette County Detention Center - 20-Bed SB192 SAP

<b>BILL TO</b>	ADMINISTRATIVE SERVICES/CENTRAL OFFICE	<b>SHIP TO</b>	ADMINISTRATIVE SERVICES/CENTRAL OFFICE
	P.O. BOX 2400		P.O. BOX 2400
	275 EAST MAIN STREET ROOM G-37		275 EAST MAIN STREET ROOM G-37
	FRANKFORT KY 40601		FRANKFORT KY 40601
	US		US

Effective From: 07/01/2017 Effective To: 06/30/2018

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
2	Fayette County Detention Center - SB192 MAT		0.00		0.00000	50,000.00	50,000.00

Extended Description

Fayette County Detention Center -SB192 MAT

<b>BILL TO</b>	ADMINISTRATIVE SERVICES/CENTRAL OFFICE	<b>SHIP TO</b>	ADMINISTRATIVE SERVICES/CENTRAL OFFICE
	P.O. BOX 2400		P.O. BOX 2400
	275 EAST MAIN STREET ROOM G-37		275 EAST MAIN STREET ROOM G-37
	FRANKFORT KY 40601		FRANKFORT KY 40601
	US		US

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<b>Total Order Amount:</b>	115,700.00
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### **Personal Information and Security Breach**

Vendors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a. An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b. A Social Security number;
- c. A taxpayer identification number that incorporates a Social Security number;
- d. A driver's license number, state identification card number or other individual identification number issued by an agency;
- e. A passport number or other identification number issued by the United States government; or
- f. Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."

The vendor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall immediately notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Office of Procurement Services, the Commonwealth Office of Technology and the NG-KIH Program Office of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the vendor abides by the requirements set forth in that exception.

The vendor hereby agrees that the Commonwealth may withhold payment(s) owed to the vendor for any violation of the Identity Theft Prevention Reporting Requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies.StandardsandProcedures.aspx>

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**Memorandum of Agreement Terms and Conditions**  
**Revised May 2016**

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Department of Corrections ("the Commonwealth") and Fayette County Detention Center ("the Contractor") to establish an agreement for Substance Abuse Program (SAP) and Medically Assisted Treatment (MAT). The initial MOA is effective from July 1, 2017 through June 30, 2018.

**Scope of Services:**

KYDOC has deemed it appropriate and feasible that the Fayette County Detention Center provide long-term residential substance abuse recovery program for twenty (20) male state inmates housed in the aforementioned facility. The Fayette County Detention Center shall also provide medically assisted treatment (MAT) for county inmates.

The MOA between the parties relates only to provision of the substance abuse recovery program and does not provide for confinement of inmates. State inmates' confinement in the jail is governed by applicable statutes and regulations and is not pursuant to the MOA. The MOA is not a contract for the confinement of inmates within the meaning of PREA regulation 28 C.F.R. § 115.12.

**Section 1.02 – Issuing Office**

The KYDOC Division of Administrative Services is issuing the MOA on behalf of the KYDOC Adult Institutions Division of Substance Abuse.

**Section 1.02 – Communications**

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Agreement shall be in writing, emails are acceptable.

All program related communications are to be made to KYDOC Adult Institutions Director of Substance Abuse with a copy provided to KYDOC Administrative Services as listed below.

Kevin Pangburn  
Director Substance Abuse  
Kentucky Department of Corrections  
PO Box 2400  
Frankfort, Kentucky 40602  
Kevin.Pangburn@ky.gov

Communications relating to payments or billing issues are made to KYDOC Administrative Services as listed below.

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Hilarye Dailey  
Assistant Director  
Administrative Services  
Kentucky Department of Corrections  
PO Box 2400  
Frankfort, Kentucky 40602  
Hilarye.Dailey@ky.gov

Funding for this program is provided pursuant to SB192. Two invoices shall be submitted monthly for the 20 state inmates and MAT (medically assisted treatment). MAT shall be submitted monthly or upon use of MAT for county inmates. The invoice must include a reference to SB192 in the invoice number and follow the format and guidelines specified in Section 2.03(2) & (3).

## SECTION 2

The following provisions are agreed to by the parties and form the basis of the agreement.

The Fayette County Detention Center shall provide medically assisted treatment (MAT) for non-state inmates with opiate addiction or other substance use disorders. The contractor may bill KYDOC for medically assisted treatment, to include: laboratory/toxicology tests (not to exceed \$50 per test), initial medical examinations, screening for co-occurring disorders and undiagnosed medical conditions. Other services not listed herein must be approved by the KYDOC's Director of Substance Abuse for reimbursement to the contractor.

The contractor shall purchase Vivitrol injections from the KYDOC's pharmaceutical contractor, Diamond Pharmacy. Purchases of Vivitrol from other contractors shall not be reimbursed to the contractor. Annual MAT expenses may not exceed \$50,000 per year.

### Section 2.01 – SAP Program Guidelines

1. Housing and treatment of inmates participating in Substance Abuse Program (SAP) shall be in compliance with all Kentucky Revised Statutes and the Kentucky Jail Standards.
2. Facility requirement: Separate SAP participant living area, classroom and recreation time segregated from the general population.
3. Course will be administered in accordance with the Therapeutic Community model as approved by KYDOC Substance Abuse Division. Elements of the program must

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include, but are not limited to, cognitive behavioral counseling, 12-step intervention and relapse prevention.

4. Program must comply with DOC SAP Policy Guidelines (Guidelines and updated revisions can be found at <http://corrections.ky.gov> and Department of Corrections Policy and Procedure 13.8.
5. SAP Staff Credentials Standard – SAP Clinical staff must have a Bachelor Degree or equivalent years of clinical experience.
6. SAP Credentials Standard-SAP Program Director must meet requirements for licensure as specified in 908 KAR1:370.
7. All JSAP staff is required to comply with DOC training. Some training may include webinars.
8. All Jail Substance Abuse Program (JSAP) staff must meet minimum criteria and be approved by DOC prior to hiring.
9. SAP staffing requirement – A minimum of one (1) SAP staff per every twenty (20) inmate participants.
10. Jail Provider meetings are a requirement and the entire meeting must be attended by Jail SAP Program Directors or designee. Any absences must be approved by the DOC Jail SAP Program Administrators.
11. All new participants shall be drug tested upon arrival.
12. Must follow drug testing guidelines. At least 10% of the SAP Program population must be tested each month. Drug testing results shall be forwarded to the assigned DOC Program Administrator.
13. The Jail Substance Abuse Program Administrator will provide names of approved SAP inmates to fill SAP vacancies. Vacancies filled in any other manner will be considered a violation of the terms of the contract and not subject for payment.
14. Inmate qualifications:
  - a. Male adult felony offender currently residing in a prison or county jail.
  - b. Verified history of substance abuse
  - c. Within twenty-four (24) months of a Parole Board hearing
  - d. Sixty (60) days of no Category 3-11 or Category 4 or above disciplinary action prior to admission
  - e. No active Psychosis diagnosis
  - f. Must be classified by the KYDOC and assigned a custody level. (There are some occasions where medical limitations may hinder participation.)
15. Inmates in the Substance Abuse Program must be identified with clothing that distinguishes them from non-SAP inmates.
16. Duration of inmate's SAP participation-Minimum of six (6) months.
17. Progress measurement – Inmates progress is determined by successful completion of respective program phases based on classroom testing, consistent behavioral change and active participation. The Program Administrator ultimately determines inmate progress.
18. Participate in KYDOC sponsored follow-up study to determine effectiveness of services.

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19. Provide through its clinical staff a monthly performance report to the KYDOC. Content to be determined by KYDOC Substance Abuse Program Administrator.
20. Pursue and obtain licensure status as explained in 908 KAR 1:370 Licensure Procedures and Standards.

#### Section 2.02 – Kentucky Department of Corrections Responsibilities

1. KYDOC Substance Abuse staff will provide clinical oversight and review program performance and compliance as outlined in this Agreement.
2. A Substance Abuse Program Administrator will review the applications for approval. If approved, the inmate will be moved to the facility based upon bed availability.
3. KYDOC will provide an additional \$9 per inmate per day increment above the standard per diem paid to County Jails for housing a state inmate. The SAP per diem is authorized for only those inmates that KY DOC approves and enrolls into SAP or controlled intake inmates that are placed in SAP by the sentencing Judge. Payment includes the date of arrival but not the date of departure.
4. KYDOC will make a determination of funding for those inmates placed in SAP by non KYDOC Substance Abuse staff. Funding for said inmates is at the discretion of KYDOC and subject to funds availability.
5. KYDOC has ninety (90) days after notification of cancellation to move inmates into another facility if required.
6. KY DOC will scan completion and graduation certificates into KOMS.

#### Section 2.03 – Fayette County Detention Center Responsibilities

1. Establish and administer a SAP program as described in Section 2.01 of this Agreement able to support up to twenty (20) male inmates.
2. Invoice KYDOC on a calendar month basis separate from any other invoice. The invoice must be of sufficient detail to explain costs.
3. Maintain supporting documents to substantiate invoices and shall furnish same if required by KYDOC.
4. Confirm the arrival and enrollment of state inmates into the Jail SAP to KYDOC Substance Abuse.
5. The receiving jail may not refuse a SAP inmate that has been approved by the Department of Corrections.
6. Once an inmate's name is provided to a Jail SAP, the program has one week to transport the inmate to the program.
7. The receiving jail may not refuse to transport an inmate once he has been determined to be an appropriate SAP referral by the DOC.
8. Jails that refuse to transport or accept inmates will not be given additional referrals.
9. The jail may appeal to KYDOC, Population Management Branch, the assignment of an inmate to the jail's facility. The appeal must be specific to the inmate and must

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articulate the reason the jail cannot accept the inmate and the impact to its facility and operations. KYDOC will process the appeal internally as appropriate and make a final determination. If the appeal is upheld the inmate will be reassigned by KYDOC.

10. Notify KYDOC Substance Abuse when a state inmate is discharged from SAP.
11. Participate in a follow-up study sponsored or endorsed by KYDOC to determine effectiveness of services.
12. Provide, through its clinical staff, a monthly report to KYDOC. Content to be determined by KYDOC Substance Abuse, Program Administrator
13. All state funds paid to the Fayette County Detention Center for inmates participating in the Substance Abuse Treatment program and any interest earned on the funds shall be expended on the treatment of inmates in SAP.

#### Section 2.04 – Minimum Guarantee

The Department of Corrections guarantees an Annual Average Population of seventy percent (70%) of twenty (20) SAP participants as stipulated in Section 2.03. If the actual annual average population is less than seventy percent (70%) of twenty (20), the Department of Corrections shall pay the county jail the difference between the actual payments and the equivalent per diem for seventy percent (70%) of the agreed SAP participants. This guarantee shall be reduced by the number of inmates absent from the Facility if the inmate is absent for more than twenty four (24) hours. The guarantee shall exclude the initial thirty (30) day ramp up period and a ninety (90) day end-of-contract transition period to allow removal of inmates. The annual average population shall be calculated by June 15th of the fiscal year. (Example: 20 inmate SAP. Guaranteed minimum payment for the fiscal year would be  $20 \times 9 \times 365 \times 70\% = \$45,999$ . If total actual payment was \$32,420, KYDOC would provide additional payment of \$13,570.)

#### **Justice and Public Safety Cabinet Standard Terms and Conditions**

The contractor agrees to indemnify and hold harmless the Department of Corrections against any and all claims, losses, demands, obligations, or litigation that result from or by: (1) services rendered by the contractor in performing or supplying services in connection with performance of this MOA, (2) the erroneous or negligent acts of the contractor, its officers, or employees in the performance of this MOA, (3) the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under this MOA in a manner not authorized by the MOA, or by federal or Commonwealth regulations or statutes by the contractor, (4) any and all acts and omissions of the contractor, and (5) any failure of the contractor, its officers, or employees to observe local, state, and federal laws.

The parties acknowledge that records, statistical information, and/or data provided by Department of Corrections to the contractor are the property of Department of Corrections. In order for Department of Corrections to maintain control and integrity



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of its records, the contractor agrees that any Open Records Act or Freedom of Information Act Request seeking access to information or data provided by Department of Corrections will be reported to Department of Corrections, and if the requestor will agree to do so, the request will be forwarded to Department of Corrections. If the requester will not agree to withdraw the request and instead submits it to Department of Corrections, then the contractor agrees to consult with Department of Corrections and to protect the data to the maximum extent permitted by law.

No change, waiver, or discharge of any liability or obligation under this MOA on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

If any term or provision or any part of this MOA is declared invalid or unenforceable, the remainder of this MOA shall not be affected, and each term and provision of this MOA shall be valid and enforceable to the fullest extent permitted by the law.

No party shall assign its respective rights or obligations under this MOA without prior written consent of the other party.

This MOA shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

The parties agree that any claim, action, or lawsuit arising under this MOA must be brought in Franklin Circuit Court in the Commonwealth of Kentucky.

This MOA is the final and exclusive agreement between the parties. All prior negotiations and agreements are merged into this MOA.

**Cancellation clause:**

Either party may cancel the agreement at any time for cause or may cancel without cause on 30 days' written notice.

**Funding Out Provision:**

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar days written notice of termination of the agreement due to lack of available funding.

**Reduction in Contract Worker Hours:**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document.

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**Access to Records:**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030(8) and (10), agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

**Effective Date:**

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**Violation of tax and employment laws:**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the agreement to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the agreement shall report any such final determination(s) of

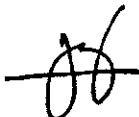
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violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the agreement shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination as described above, or failure to comply with the above statutes for the duration of the agreement shall be grounds for the Commonwealth's cancellation of the agreement and their disqualification from eligibility for future state contracts for a period of two (2) years.

[Check box section below need only be included for Contractors that are quasi-governmental entities or 501(c)3 non-profit entities.]

Contractor must check one:

  The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

           The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s) , which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

**Discrimination:**

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms

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of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, i state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for

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noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Approvals**


This agreement is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this agreement and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

1st Party:

      COMMISSIONER  
Signature                      Title

JAMES L. ERWIN      5-23-17  
Printed Name                      Date

2nd Party:

      Mayor  
Signature                      Title

Jim Gray      5/16/17  
Printed Name                      Date

Other Party

\_\_\_\_\_  
Signature                      Title

\_\_\_\_\_  
Printed Name                      Date

Approved as to form and legality:

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Attorney