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**BOARD OF COMMISSIONERS
SARPY COUNTY, NEBRASKA**

**RESOLUTION APPROVING AND AUTHORIZING CHAIRMAN TO SIGN AGREEMENT FOR
JAIL PHYSICIAN SERVICES**

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6)(Reissue 1997), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 1997), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the Sarpy County Law Enforcement Center requires the services of a licensed physician; and

WHEREAS, physicians with Premier Health Care Services, Inc. have the experience and qualifications equired by Sarpy County to perform the required services of a jail physician.

NOW, THEREFORE, BE IT RESOLVED, by the Sarpy County Board of Commissioners that the attached agreement for Physician Services at the Law Enforcement Center between Sarpy County and Premier Health Care Services, Inc. is hereby approved and the Chairman of such Board is authorized to sign the same.

Dated this 17th day of November, 2009.

Moved by Rich Jansen, and seconded by Tom Richards, that the above Resolution be adopted. Carried.

<u>[Signature]</u>	YEAS:	<u>None</u>	ABSENT:	<u>None</u>
<u>[Signature]</u>		_____		_____
<u>[Signature]</u>		_____	ABSTAIN:	<u>None</u>
<u>[Signature]</u>		_____		_____

Attest:

[Signature]
Sarpy County Clerk



SEAL

Approved as to form:

[Signature]
Deputy County Attorney

AGREEMENT

Between

PREMIER HEALTH CARE SERVICES, INC.

332 Congress Park Drive

Dayton, Ohio 45459

and

SARPY COUNTY SHERIFF'S OFFICE

1208 Golden Gate Drive

Papillion, Nebraska 68046

This Agreement is entered into between Premier Health Care Services, Inc., an Ohio corporation (hereinafter known as "PHCS") and the Sarpy County Sheriff's Office in the State of Nebraska (hereinafter known as "COUNTY").

RECITALS

A. COUNTY operates a correctional facility, which requires healthcare services and is located at 1208 Golden Gate Drive, Papillion, Nebraska 68046.

B. PHCS is an Ohio corporation that provides correctional health care services through physicians, nurse practitioners, nurses and paraprofessionals, qualified to practice in the State of Nebraska.

C. COUNTY intends to contract with PHCS to provide the physician and medico-administrative components involved in the provision of health care services to its correctional facility. The sole interest and responsibility of COUNTY is to ensure that services covered by this Agreement shall be performed and rendered in a competent, efficient, and satisfactory manner. Accordingly, COUNTY shall only exercise that degree of control over PHCS as is mutually understood and agreed upon and specifically included in this Agreement.

Now, therefore, in consideration of the mutual covenants and agreements, both parties agree as follows:

ARTICLE 1. PHYSICIAN AND ADMINISTRATIVE SERVICES

1.1 Physician Services. In order to provide quality health care services, COUNTY hereby engages PHCS to provide coverage at the correctional facility's location by a duly licensed physician one day per week for Sick Call as the standard schedule. Upon request of the jail administrator, up to four additional physician Sick Calls per year will be scheduled without additional cost to the jail. A Physician will be available for on-call consultation services 24 hours per day 7 days per week. Additionally, PHCS may utilize physician assistants and/or nurse practitioners to augment physician Sick Call coverage as determined appropriate and necessary to meet the needs of the facility's population with the agreement of the jail administrator. In all cases, PHCS agrees to provide adequate and appropriate physician coverage to provide effective and efficient treatment of incarcerated inmates based upon volume and acuity as agreed between the parties.

This Agreement is based on an average daily inmate population of 148 inmates. If the average daily population increases or decreases during the term of this Agreement, as reasonably determined by the parties, the parties shall adjust the frequency of physician sick call and the compensation to be paid pursuant to Exhibit A.

1.2 Administrative Services. In order to fulfill its commitment to quality comprehensive services, PHCS shall provide the following medico-administrative services.

1.2.1 Assist the Jail Administrator in drafting healthcare policies and procedures and protocols (based upon the Minimum Standards for Jails in Nebraska, National Commission on Correctional Health Care and American Correctional Association standards). The policies/procedures and protocols will be reviewed and approved on an annual basis and all revisions will be dated and approved, as they are deemed necessary.

1.2.2 Serve as liaison between Jail Administration and contract health care staff;

1.2.3 Serve as liaison between correctional facility and local hospital(s), specialty clinics, health departments, EMS system, accreditation agencies, State jail inspector, Nebraska State Board of Pharmacy, mental health agencies, and private community health care providers;

1.2.4 Ensure continuous quality improvement monitoring of all health care operations;

1.2.5 Ensure proper health record development and maintenance;

1.2.6 Review and provide written response to health care related grievances.

1.2.7 Attend meetings with Jail Administrator, Nursing staff as deemed necessary by either party.

1.3 Value-Added Services. PHCS will work to enhance existing services or add services as available in the future as agreed by both parties such as inmate co-pay programming, commissary over-the-counter medication, pharmaceutical cost containment, biohazardous medical waste removal program, cost effective and efficient diagnostic laboratory and x-ray services and health related in-service training for correctional staff.

1.4 Exclusive Provider. PHCS will be the exclusive provider of physician level medical services at COUNTY during the term of this Agreement. COUNTY agrees for itself, its subsidiaries, affiliates, and successors that during the term of this Agreement that it will neither establish any interest in or any affiliation with a similar or like facility or provider which would be in direct or indirect competition with services provided by PHCS under the terms of this Agreement.

1.5 Regulatory Compliance. It is mutually understood and agreed that all applicable and known provisions of law and other rules and regulations of any and all governmental authorities having jurisdiction over the operation of the COUNTY shall be fully complied with by all parties hereto.

1.6 Non-Discrimination in Treatment, Evaluation, and Disposition. PHCS shall perform or coordinate all healthcare services required in the evaluation, treatment and disposition of any in-custody person in the correctional facility without regard to race, religion, handicap, age, or his/her ability to pay.

1.7 Responsible Physician. A physician shall be named by PHCS as the Responsible Physician (hereinafter known as the "Physician"). The Physician shall be responsible for the oversight of all clinical services herein described. If the person serving as the Physician shall, for any reason, cease or be unable to perform the duties of the Physician, PHCS shall, within seven (7) days of such cessation or inability to perform the duties, designate a successor or interim Physician who is deemed by both the designated Supervising Physician and the Jail Administrator to be qualified and capable of providing clinical services at the jail.

1.8 Provider Staff Changes. In the event that service to the required professional and ethical standards are not being provided by any of the provider employees of PHCS, COUNTY may request the reassignment of such provider. Such requests shall be in writing to the designated Supervising Physician only after all practical, reasonable and appropriate attempts have been made by COUNTY and the Physician to reach a mutually satisfactory resolution. Causes for reassignment shall include, but are not limited to:

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- 1.8.1 Loss of license or certification to practice medicine;
- 1.8.2 Serious misconduct;
- 1.8.3 Material violation of the terms of this Agreement subject to reasonable disputes raised in good faith;
- 1.8.4 Repeated conduct inconsistent with accepted professional behavior;
- 1.8.5 Major violations of COUNTY's rules, regulations, policies and procedures.

ARTICLE 2. EMPLOYMENT STATUS

2.1 Professional Employees

- 2.1.1 Definition of "Employee". For the purpose of this Agreement, the term "employee" shall be interpreted to mean all providers practicing within the correctional facility under an arrangement with PHCS, regardless of whether this arrangement is as a member of the corporation, as an employee via a contract or subcontract or otherwise, with PHCS.
- 2.1.2 Qualifications. For providing health care services under the terms of this Agreement, PHCS shall only employ or contract with providers who are qualified and licensed to practice medicine in the State of Nebraska.

2.2 Independent Contractors. No individual provision herein, nor the provisions of the Agreement as a whole, is to be interpreted in such a manner as to create an employer-employee relationship between COUNTY and PHCS or between COUNTY and the subcontractors of PHCS. Consequently, neither PHCS nor any of the employees covered by this Agreement shall be eligible to participate in any benefit program provided by COUNTY.

2.3 Employee's Continuing Medical Education. Professional seminars and development for the full-time employees of PHCS shall be the responsibility of PHCS. The costs of attendance at such meetings shall be an expense of PHCS. Employees of PHCS shall attend continuing medical education programs as are necessary to ensure that they remain current in regard to the latest technology and the latest procedures to assist them in their evaluation and treatment of patients in the correctional facility.

2.4 Employment Tax Liability. COUNTY shall not be responsible for the payment of wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension or other deferred compensation plans including but not limited to Workers' Compensation and Social Security obligations, licensing fees, etc., and for the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

ARTICLE 3. FACILITIES AND EQUIPMENT

3.1 Facilities. COUNTY shall make available to PHCS appropriate facilities for the clinical and medical-administrative services described herein.

3.2 Equipment. COUNTY shall make available such equipment and supplies as are necessary for the operation and efficient conduct of clinical operations. COUNTY agrees that the equipment provided will be modern, well maintained, and in sufficient quantity to ensure that PHCS's personnel are able to render high-quality health care services. It is understood by both parties that the provision of this service is to ensure the safety of those individuals who are in-custody and other personnel within the correctional facilities. COUNTY agrees to provide customary preventive maintenance for the equipment in a manner that will ensure minimal down time, to make timely replacement of unserviceable equipment, and to update equipment to keep current with technological advances.

ARTICLE 4. LIABILITY INSURANCE AND PROFESSIONAL PRACTICE RESPONSIBILITY

Liability Insurance. In order to cover the services rendered by PHCS under this Agreement, PHCS shall provide and maintain professional liability insurance coverage with total limits of \$1 million per occurrence and \$1 million aggregate coverage per year (Professional Liability Insurance), and PHCS will provide a certificate of such Professional Liability Insurance to Sarpy County.

4.1 Professional Practice Responsibility.

4.1.1 PHCS. PHCS shall accept and be responsible for its own acts or omissions in the operations and professional practice of medicine as well as those acts or omissions of its employees. Nothing in this Agreement shall be interpreted or construed to place any such responsibility for professional acts or omissions on COUNTY.

4.1.2 COUNTY. COUNTY shall accept and be responsible for its own acts or omissions in the operations and provision of safety and security within the correctional facilities as well as those acts or omissions of its employees. Nothing in this Agreement shall be interpreted or construed to place any such responsibility for professional acts or omissions on PHCS.

ARTICLE 5. COMPENSATION FOR SERVICES

5.1 **Compensation.** COUNTY shall pay PHCS for its services in accordance with the amounts and payment schedule provided in Exhibit A.

ARTICLE 6. TERM AND TERMINATION

6.1 **Term.** This Agreement shall remain in full force and effect for a term of approximately one (1) year beginning on January 1, 2010 and ending on December 31, 2010. ("Initial Term") After the Initial Term this Agreement shall automatically renew in one (1) year terms, unless either party provides notice to the other of its intent not to renew prior to ninety (90) days from the end of the then current term. Notwithstanding the above, this Agreement shall not renew past December 31, 2013, unless the parties agree in writing.

6.2 **Termination.** This Agreement may be terminated with cause for failure of either party to abide by its terms. In such case, a thirty (30) day advance written notice of termination will be provided by the non-breaching party to the other at which time the breaching party may elect to terminate the Agreement or cure its default. If the default is not cured within the thirty (30) days after written notice has been delivered to the breaching party, this Agreement shall cease immediately upon written notice of the non-breaching party to the breaching party. Notwithstanding the above, after the Initial Term, this Agreement may be terminated without cause by either party through the provision of ninety (90) days notice.

Regardless of the type of termination, the responsibility of all provider employees to treat in-custody persons in accordance with this Agreement shall terminate simultaneously with the termination of the Agreement.

ARTICLE 7. GENERAL PROVISIONS

7.1 **No Waiver.** The waiver by either party of any breach or violation of any provision of this agreement shall not operate as, or be construed to constitute a waiver of any subsequent breach of the same or any other provision hereof.

7.2 **Assignability.** This Agreement and any rights under it are not assignable, and such assignment is expressly prohibited by either party, except that the COUNTY may assign the Agreement to a successor, subsidiary, affiliated or other related organization, provided that COUNTY would remain liable to PHCS under the terms of this Agreement.

7.3 **Entire Agreement.** This Agreement contains the entire agreement of all parties hereto and no other oral or written agreement shall be binding or obligating upon any of the parties. This Agreement supersedes all prior agreements, contracts, and understandings whether written or otherwise between the parties relating to the subject matter hereof. This Agreement shall not be a binding Agreement until executed by a duly authorized representative of PHCS in Dayton, Ohio.

7.4 Arbitration. All questions as to rights and obligations arising under the terms of this Agreement are subject to arbitration except controversies involving less than one thousand and no/100 dollars (\$1,000.00) or disputes involving professional conduct. Such arbitration shall be held in accordance with the commercial arbitration rules of the American Arbitration Association; provided, however, that the arbitration does not have to be filed with or held under the auspices of the American Arbitration Association.

If a dispute should arise under this Agreement, either party may within sixty (60) days, make a demand for arbitration by filing a demand in writing with the other. The parties hereto may agree upon one arbitrator, but in the event that they cannot so agree, there shall be three (3) arbitrators, one named in writing by each of the parties within twenty (20) days after demand for arbitration is made, and a third to be chosen by the two so named. Should either party refuse or neglect to join in the appointment of the arbitrators, they shall be appointed in accordance with the provisions of Section 12 of the Commercial Arbitration Rules. All arbitration hearings conducted hereunder and all judicial proceedings to enforce any of the provisions hereof shall take place in Sarpy County, Nebraska. The hearing before the arbitrators of the matter to be arbitrated shall be at the time and place within said county as is selected by the arbitrators. Notice shall be given and the hearing conducted in accordance with the provisions of the Commercial Arbitration Rules. The arbitrators shall hear and determine the matter and shall execute and acknowledge their award in writing and deliver a copy thereof to each of the parties by registered or certified mail.

If there is only one arbitrator, his/her decision shall be binding and conclusive on the parties. If there are three arbitrators, the decision of any two shall be binding and conclusive. The decision of the arbitrators shall be final and shall not be subject to review.

If the arbitrators selected pursuant to the section shall fail to reach a decision within thirty (30) days after the completion of the hearing, they shall be discharged and three new arbitrators shall be appointed and shall proceed in the same manner and the process shall be repeated until a decision is finally reached by at least two of the three arbitrators selected.

7.5 Amendments. This Agreement or its Attachments may be amended at any time by mutual agreement of the parties hereto provided that before any amendment shall be operative or valid, it shall be reduced to writing and signed by both parties.

7.6 Annual Review. This Agreement shall be reviewed by COUNTY and PHCS annually to affect any modifications that may be necessary and to ensure that the terms of this Agreement, professional and medico-administrative, is being fulfilled.

7.7 Parties Bound. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assignees where permitted by this Agreement.

7.8 Captions. The headings and captions contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

7.9 Notices. Any notice or other communication by either party to the other shall be in writing and shall be deemed to have been given if either delivered personally or mailed, postage prepaid, registered or certified mail, addressed as follows:

If to PHCS: Premier Health Care Services, Inc.
332 Congress Park Dr.
Dayton, Ohio 45459
Attn: Chief Legal Officer

If to COUNTY: Sheriff Jeff Davis
1208 Golden Gate Drive
Papillion, Nebraska 68046

or to such other person or address as either party may designate by notice pursuant to this section.

Executed this 24th day of November, 2009, by Premier Health Care Services, Inc.

William A. Cole
William A. Cole, M.D.
President and CEO

Executed this 17th day of November, 2009, by the Sarpy County Board of Commissioners.

BY: Jim Jones
Chairman
Sarpy County Board of Commissioners

Attest: Debra J. Houghtaling
Clerk



Approved as to form and content:

Michelle D.
Sarpy County Deputy Attorney

EXHIBIT A COMPENSATION FOR SERVICES

A.1 Compensation. During each year of the term of this Agreement, COUNTY shall pay PHCS for the provision of physician and medico-administrative services described herein in the amount of Forty Thousand Six Hundred Ninety Two Dollars and Eighty Four Cents (\$40,692.84)

A.2 Method of Compensation Payment. The COUNTY shall pay PHCS under the above section in one-twelfth installments of Three Thousand Three Hundred Ninety One Dollars and Seven Cents (\$3,391.07) by the 10th day of each month.

A.3 Inflationary Adjustment. Beginning on January 1, 2011 and ending December 31, 2011 an annual adjustment of two percent (2%) will be applied to A.1 (\$41,506.70). Beginning on January 1, 2012 and ending December 31, 2012 an annual adjustment of two and one-half percent (2.5%) will be applied (\$42,544.37). Beginning on January 1, 2013 and ending December 31, 2013 an annual adjustment of two and one-half percent (2.5%) will be applied (\$43,607.98).

Addendum to Jail Physician Services Agreement

Residency Verification

The Vendor agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The Vendor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Vendor is an individual or sole proprietorship, the following applies:

1. The Vendor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.
2. If the Vendor indicates on such attestation form that he or she is a qualified alien, the Vendor agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Vendor understands and agrees that lawful presence in the United States is required and the Vendor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. Sect. 4-108.

Executed this 17th day of November, 2009, by the Sarpy County Board of Commissioners.



BY: [Signature]
Chairman

Attest: [Signature]
Clerk

(SEAL)

Approved as to form and content:

[Signature]
Deputy County Attorney

BY: [Signature]
Premier Health Care Services, Inc.

Attest: _____

Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE
1210 GOLDEN GATE DRIVE
SUITE 1129
PAPILLION, NE 68046-2845
FAX (402) 593-4304



Brian E. Hanson, Purchasing Agent
(402) 593-2349
Debby Peoples, Assistant Purchasing Agent
(402) 593-4164
Beth Cunard, Purchaser/Contract Specialist
(402) 593-4476
Lois Spethman, Supply Clerk/Purchaser
(402) 593-2102

MEMO

To: Sarpy County Board of Commissioners
From: Beth Cunard
Re: Jail Physician Agreement

Attached is an agreement with Premier Health Care Services, Inc. for the provision of physician services at the Sarpy County Law Enforcement Center. I have placed this agreement on the Board agenda for November 17, 2009. All provisions are the same as the current contract with the exception of a decrease in yearly increases to 2.5%. The previous yearly increase was 3.5%. The new yearly rate is \$40,692.84.

The Law Enforcement Center staff continues to be pleased with the services received and recommend approval. If you have any questions, please feel free to contact me at 593-4476.

November 9, 2009


Beth Cunard

cc: Deb Houghtaling
Mark Wayne
Scott Bovick
Brian Hanson
Greg London