

STATE OF INDIANA	)	IN THE LAKE COUNTY _____ COURT
	)	SS:
COUNTY OF LAKE	)	CAUSE NO.
LAKE COUNTY SHERIFF OSCAR	)	
MARTINEZ, JR., in his official capacity,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
LAKE COUNTY BOARD OF	)	
COMMISSIONERS, COMMISSIONER	)	
MICHAEL C. REPAY, in his official	)	
capacity, COMMISSIONER KYLE W.	)	
ALLEN, SR., in his official capacity,	)	
COMMISSIONER JERRY TIPPY,	)	
in his official capacity, and LAKE	)	
COUNTY AUDITOR JOHN PETALAS,	)	
in his official capacity,	)	
	)	
Defendants.	)	

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff, Lake County Sheriff Oscar Martinez, Jr., in his official capacity, for his Verified Complaint for Declaratory and Injunctive Relief against the Defendants, the Lake County Board of Commissioners, Commissioner Michael C. Repay, in his official capacity, Commissioner Kyle W. Allen, Sr., in his official capacity, and Commissioner Jerry Tippy, in his official capacity, and Lake County Auditor John Petalas, in his official capacity, states the following:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff Oscar Martinez, Jr. (the "Sheriff") is the duly elected and qualified Sheriff of Lake County, Indiana, and in such capacity is responsible for crime prevention, patrol, traffic enforcement, criminal investigation, scientific evidence collection, arrest of criminals, searches, seizures, and all other requirements of contemporary police work. He is also responsible for the operation of the Lake County, Indiana Jail ("Jail"), and caring for all inmates

housed in the Jail. The Sheriff's Department and Jail are located at 2293 North Main Street, Crown Point, Indiana 46307.

2. Defendant Lake County Board of Commissioners ("Board of Commissioners") is the executive of Lake County, Indiana, government, with its offices located at 2293 North Main Street, Crown Point, Indiana 46307.

3. Defendant Michael C. Repay is the Lake County Commissioner for the 3rd District and serves as the President of the Board of Commissioners.

4. Defendant Kyle W. Allen, Sr. is the Lake County Commissioner for the 1st District and serves as the Vice President of the Board of Commissioners.

5. Defendant Jerry Tippy is the Lake County Commissioner for the 2nd District.

6. Defendant Lake County Auditor John Petalas ("Auditor") is the clerk of the Board of Commissioners and the Lake County Council. He is responsible for the keeping of all ledgers and records affecting Lake County funds and seeing that such funds are received and disbursed in the manner provided by law, among other things. The Auditor's offices are located at 2293 North Main Street, Crown Point, Indiana 46307.

7. The Court has personal and subject matter jurisdiction over this case.

8. Pursuant to Indiana Trial Rule 75(A), venue is proper in this Court.

### **FACTUAL BACKGROUND**

#### ***The Sheriff's Duty to Care for the Inmates in the Jail***

9. Indiana Code § 36-2-13-5(a)(7) provides that the Sheriff "shall ... take care of the county jail and the prisoners there[.]" Our appellate courts have found that "implicit in this charge is that ***the Sheriff has the authority, and in fact, the duty, to enter into contracts to carry out this function.***" *Alexander v. Marion Cty. Sheriff*, 891 N.E.2d 87, 93 (Ind. Ct. App. 2008), *trans. denied* (emphasis added).

10. As of the date of this filing, the Jail houses approximately 656 inmates.

11. This includes approximately 48 federal detainees, pursuant to a 2013 contractual agreement between the Sheriff and the United States Marshals Service, a true and accurate copy of which is attached hereto as **Exhibit 1** (the “Federal Contract”).

12. As part of its responsibilities under the Federal Contract, the Sheriff is required to provide the federal detainees in the Jail with medical care – including, but not limited to, medical, dental, and mental health care “at the same level and range of care inside the [Jail] as that provided to state and local detainees.” (Ex. 1, page 4 of 14.)

***History of Department of Justice Involvement at the Lake County Jail***

13. On September 12, 2008, the United States Department of Justice notified Lake County officials of its intention to investigate conditions of confinement at the Jail, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997.

14. On December 7, 2009, the United States issued a “Findings Letter” pursuant to 42 U.S.C. § 1997, concluding that certain conditions at the Jail violated the constitutional rights of the individuals confined within the Jail. As a result of the Findings Letter, the United States, the Board of Commissioners, the Sheriff, and the Lake County Council entered into a Settlement Agreement, a true and accurate copy of which is attached hereto as **Exhibit 2**, containing “comprehensive provisions on protection from harm, medical care, mental health care, sanitation, training, quality assurance/performance improvement, fire and life safety, use of force, and improved policies, procedures, and practices.” (Ex. 2 at 2.)

15. The Settlement Agreement was approved by the United States District Court for the Northern District of Indiana, Hammond Division, on December 20, 2010. *See* Dkt. 12, *United States v. Lake County, Indiana, et al.*, Cause No. 2:10-cv-00476-TLS-PRC.

16. To implement many of the terms of the Settlement Agreement, the Sheriff engaged the services of Correctional Health Indiana, Inc. (“CHI”). Specifically, CHI is a qualified healthcare provider engaged to provide medical and health care services to the individuals confined within the Jail. CHI has provided medical and health care services to the individuals confined within the Jail since approximately January 2012.

17. CHI was instrumental in implementing the changes that were required to bring inmate medical services in the Jail into full compliance with the requirements of the Department of Justice Settlement Agreement on behalf of the Sheriff, the Board of Commissioners, and the Lake County Council.

18. On August 17, 2017, the parties to the Settlement Agreement filed a Joint Motion to Terminate Subsection A, Medical Care, and Subsection C, Suicide Prevention, of the Settlement Agreement, and notified the Court that medical services in the Jail (provided by CHI) had reached and maintained substantial compliance for at least one (1) year. *See* Dkt. 59, *United States v. Lake County, Indiana, et al.*, Cause No. 2:10-cv-00476-TLS-PRC. The Court granted the parties’ Joint Motion, and terminated the provisions of the Settlement Agreement provided by CHI on August 31, 2017. (*See* August 31, 2017 Order, a true and accurate copy of which is attached hereto as **Exhibit 3.**)

19. On December 17, 2019, the parties to the Settlement Agreement filed a Joint Motion to Terminate the Settlement Agreement, whereby they notified the Court that Lake County had reached substantial compliance with the terms of the Settlement Agreement, had maintained substantial compliance for one (1) year, and termination of the Settlement Agreement was appropriate. (*See* Order Terminating Settlement Agreement, a true and accurate copy of which is attached hereto as **Exhibit 4**, at 1-2.) The District Court terminated the Settlement Agreement and dismissed the matter on December 18, 2019. (*Id.*)



### ***Renewal of CHI's Contract for 2022***

20. Prior to the events giving rise to this lawsuit, CHI had entered into a number of contracts with the Sheriff to provide medical services in the Jail. CHI's seventh contract with the Sheriff was scheduled to expire on December 31, 2021.

21. On or about October 28, 2021, CHI and the Sheriff agreed to extend CHI's contract to provide medical services to inmates confined in the Lake County Jail from January 1, 2022 through December 31, 2022 (the "First CHI 2022 Contract"). A true and accurate copy of the First CHI 2022 Contract is attached hereto as **Exhibit 5**.

22. In sum, CHI agreed to provide healthcare services to individuals confined in the Lake County Jail for the year 2022 for a total cost of \$6,094,854, payable in 24 semi-monthly installments of \$253,952 each. (Ex. 5 at 4.)

23. On April 16, 2021, Lake County Superior Court Judge John M. Sedia determined that the authority, with jurisdiction, over purchasing in Lake County government, rested with the Lake County Council and not the Board of Commissioners. (*See* April 16, 2021 Order and July 23, 2021 Order, attached hereto as **Exhibit 6** and **Exhibit 7**, respectively.) However, implementation of that decision is stayed, pending the Board of Commissioners' appeal that is currently pending before the Indiana Court of Appeals. *See, e.g.*, Case No. 21A-MI-01805.

24. The funds to pay the First CHI 2022 Contract were approved and appropriated by the Lake County Council and placed in the Sheriff's 2022 budget.

25. However, the Board of Commissioners has taken the position that it must approve any contract entered into by the Sheriff. Therefore, the Sheriff requested that the First CHI 2022 Contract be placed on the agenda for the Board of Commissioners' November 17, 2021 meeting.

26. On November 17, 2021, the Board of Commissioners held a meeting and deferred any action on the First CHI 2022 Contract to their next meeting on December 15, 2021.

27. On December 15, 2021, the Board of Commissioners approved a motion to defer consideration of the First CHI 2022 Contract to their meeting on January 19, 2022 – despite the fact that the current CHI contract was set to expire on December 31, 2021, which would result in a situation where there was no healthcare provider on January 1, 2022, to provide medical care and services to the approximately 656 inmates housed in the Jail.

28. The Sheriff requested that the Board of Commissioners schedule a special meeting before January 1, 2022, to approve the First CHI 2022 Contract, because time was of the essence and inmate medical care was at stake. However, the Board of Commissioners refused.

29. In light of the Board of Commissioners’ refusal to act, the risk to inmates, both state and federal – of being without a medical provider as of midnight on December 31, 2021 – and the authority vested in him by Indiana law, on December 20, 2021, the Sheriff and CHI executed a revised version of the 2022 CHI contract renewal (the “Second CHI 2022 Contract”) which was identical to the First CHI 2022 Contract, but removed the signature block for the Board of Commissioners. A true and accurate copy of the Second CHI 2022 Contract is attached hereto as **Exhibit 8**.

30. On December 21, 2021, the Sheriff delivered a copy of the Second CHI 2022 Contract to the Auditor, who serves as the clerk of the Board of Commissioners. *See* Ind. Code § 36-2-9-7(a).

31. As of January 1, 2022, CHI began performing services at the Jail pursuant to the Second CHI 2022 Contract.

### ***The January 19, 2022 Board of Commissioners’ Meeting***

32. At its January 19, 2022 meeting, the Board of Commissioners addressed the First CHI 2022 Contract.

33. After discussion, the Board of Commissioners approved the First CHI 2022 Contract on a month-to-month basis, but at CHI's 2021 contract rate only. Because CHI's 2021 contract provided for bi-monthly payments of \$241,859, as compared to the 2022 contract's bi-monthly payments of \$253,952, the Board of Commissioners' action would result in a shortfall of \$12,093 per bi-monthly payment, or \$24,186 each month.

34. On January 18, 2022, prior to the Board of Commissioners' meeting, the Sheriff submitted a Purchase Order to the Board of Commissioners and/or Auditor for the full amount of the Second CHI 2022 Contract – \$6,094,854 – and included with the Purchase Order CHI's first invoice of \$253,952.00, dated January 16, 2022 (collectively the "Purchase Order"). A true and accurate copy of the Purchase Order is attached hereto as **Exhibit 9**.

35. After the Board of Commissioners' meeting, the Sheriff received an e-mail stating that the Purchase Order would be held "because today at the Commissioners meeting the Commissioners approved this but at the 2021 rate for the year 2022. We need to change the grand total dollar amount to match the 2021 rate." A true and accurate copy of this e-mail is attached hereto as **Exhibit 10**.

**COUNT I—DECLARATION THAT THE SHERIFF, NOT THE BOARD OF COMMISSIONERS, HAS THE AUTHORITY TO ENTER CONTRACTS AND EXPEND FUNDS FROM THE SHERIFF'S BUDGET**

36. Plaintiff incorporates by reference the allegations of all the foregoing paragraphs as though fully set forth herein.

37. Indiana Code § 36-2-13-5(a)(7) provides that the Sheriff "shall ... take care of the county jail and the prisoners there[.]"

38. Our appellate courts have found that “implicit in this charge is that *the Sheriff has the authority, and in fact, the duty, to enter into contracts to carry out this function.*” *Alexander*, 891 N.E.2d at 93 (emphasis added). At issue in *Alexander* was the provision of telephone service to inmates. If providing telephone service to inmates was “tak[ing] care” of them, then providing medical care surely falls within the scope of the Sheriff’s duty under Ind. Code § 36-2-13-5(a)(7).

39. As such, the Sheriff has the duty to provide medical care to the inmates in the Jail, and the authority to enter into contracts (and encumber payments sufficient to meet those contractual obligations) to carry out this duty. Yet, the Board of Commissioners is prohibiting the Sheriff from carrying out this duty.

40. The Sheriff obtained the amount for the Second 2022 CHI Contract in his 2022 budget; the Auditor has certified that the Sheriff has funds in his budget to cover the Second 2022 CHI Contract (*see, e.g.*, Ex. 9); and yet the Board of Commissioners has only “approved” CHI’s 2021 contractual rate. This will result in a shortfall of \$24,186 each month, or \$290,232 for the entirety of 2022, and constitutes a breach of the Second 2022 CHI Contract and entitles CHI to immediately terminate the agreement (*see* Ex. 8 at 9-10), thereby placing the inmates housed in the Jail at risk of having no medical care (and placing the Sheriff at risk of breaching the Federal Contract to provide medical care to the federal detainees housed in the Jail).

41. Under Indiana law, the Board of Commissioners does not have the authority to prohibit the Sheriff from entering into contracts, and expending funds in his budget to do so, to care for the inmates in the Jail—especially where those funds have already been approved by the Lake County Council.

WHEREFORE, Plaintiff seeks an order from the Court: (1) declaring that the Sheriff, and not the Board of Commissioners, has the authority to enter into contracts that relate to the operation of the Jail and/or the care of the inmates within the Jail; (2) directing the Board of Commissioners and Auditor to approve the Purchase Order, attached hereto as Exhibit 9, and any future purchase orders and/or invoices submitted by the Sheriff in connection with the Second 2022 CHI Contract; (3) declaring that the Sheriff, and not the Board of Commissioners, has the authority to determine how to spend the funds in his annual budget, once it has been set by the Lake County Council; (4) declaring that the Sheriff need not submit future contracts to the Board of Commissioners for approval that relate to operation of the Jail and/or the care of the inmates within the Jail; and (5) granting Plaintiff all other just and proper relief.

#### **COUNT II—TORTIOUS INTERFERENCE WITH CONTRACT**

42. Plaintiff incorporates by reference the allegations of all the foregoing paragraphs as though fully set forth herein.

43. The Second 2022 CHI Contract is a valid and enforceable contract to provide healthcare services to the inmates in the Jail.

44. All Defendants were aware of the existence of the Second 2022 CHI Contract, prior to the January 19, 2022 Board of Commissioners' meeting, and the Auditor's subsequent rejection of the Purchase Order.

45. By only approving the First 2022 CHI Contract at the 2021 rate, and on a month-to-month basis, the Board of Commissioners, Commissioner Repay, Commissioner Allen, and Commissioner Tippy are intentionally forcing the Sheriff to breach his contract with CHI.

46. By refusing to approve the Purchase Order, and only committing to pay CHI's invoices at the 2021 rate, the Auditor is intentionally forcing the Sheriff to breach his contract with CHI.

47. Defendants' actions are without justification, and with malice.


48. As a result of Defendants' actions, the Sheriff has been damaged.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in his favor and against Defendants for all damages directly and proximately caused by their interference, to be specified at trial, as well as interest on those damages, for reasonable attorneys' fees, for the costs and expenses of this action, and for all other relief just and proper in the premises.

**VERIFICATION**

I, Oscar Martinez, Jr., Lake County Sheriff, do hereby affirm, under the penalties for perjury, that the facts alleged in the foregoing Verified Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge, information, and belief.

Dated: 01/21/2022

  
\_\_\_\_\_  
Oscar Martinez, Jr.  
Lake County Sheriff

Respectfully submitted,

ICE MILLER LLP

/s/ Jenny R. Buchheit

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# **Exhibit 1**





UNITED STATES MARSHALS SERVICE  
NORTHERN DISTRICT OF INDIANA  
5400 FEDERAL PLAZA, SUITE 1200  
HAMMOND, INDIANA 46320

OFFICE TELEPHONE: 219-852-6776 FAX: 219-852-6771

TO: ACT  
ORGANIZATION: Attn: Justice Medical  
PHONE NO.: Chattanooga FAX NO.:  
FROM: Chattanooga  
DATE: 9/8/14 PAGES: 15 (EXCLUDING COVER PAGE)

COMMENTS:

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**U.S. Department of Justice  
United States Marshals Service  
Prisoner Operations Division**

**Detention Services  
Intergovernmental Agreement**

1. Agreement Number 27-00-0060	2. Effective Date See Block 19	3. Facility Code(s) ZDO	4. DUNS Number 080725810
5. Issuing Federal Agency  United States Marshals Service Prisoner Operations Division 2604 Jefferson Davis Highway Alexandria, VA 22301-1025		6. Local Government LAKE COUNTY JAIL 2293 North Main Street Crown Point, IN 46307  Tax ID#: 35-600016B	
7. Appropriation Data  15X1020		8. Local Contact Person  Kenneth A. Ray 9. Telephone: 6066943031 Fax: Email: ken@rjsjusticeservices.com	
Services		Estimated Number of Federal Beds	Per Diem Rate
10. This agreement is for the housing, safekeeping, and subsistence of Federal detainees, in accordance with content set forth herein.		11.  Male: 100    Female: 20  Total: 120	12.  \$56.00 \$34.56
13a. Optional Guard/Transportation Services to:  <input checked="" type="checkbox"/> Medical Facility  <input checked="" type="checkbox"/> U.S. Courthouse  <input type="checkbox"/> JPATS  13b. <input type="checkbox"/> Department of Labor Wage Determination		14.  Guard/Transportation Hourly Rate: \$21.00  Mileage shall be reimbursed by the Federal Government at the General Services Administration (GSA) Federal Travel Regulation Mileage Rate.	
15. Local Government Certification  To the best of my knowledge and belief, information submitted in support of this agreement is true and correct. This document has been duly authorized by the governing authorities of their applying Department or Agency State or County Government and therefore agree to comply with all provisions set forth herein this document.		16. Signature of Person Authorized to Sign (Local)  <i>JOHN A. BUNCICH</i> Signature  JOHN A. BUNCICH Print Name LAKE COUNTY, IN SHERIFF Title 4/17/13 Date	
17. Federal Detainee Type Authorized  <input checked="" type="checkbox"/> Adult Male  <input checked="" type="checkbox"/> Adult Female  <input type="checkbox"/> Juvenile Male  <input type="checkbox"/> Juvenile Female	18. Other Authorized Agency User  <input checked="" type="checkbox"/> BOP  <input checked="" type="checkbox"/> ICE	19. Signature of Person Authorized to Sign (Federal)  <i>Renita L. Barbee</i> Signature  Renita L. Barbee Print Name Grants Specialist Title 5/14/2013 Date	

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### **Authority**

Pursuant to the authority of Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553), this Agreement is entered into between the United States Marshals Service (hereinafter referred to as the "Federal Government") and LAKE COUNTY JAIL (hereinafter referred to as "Local Government"), who hereby agree as follows:

### **Purpose of Agreement and Security Provided**

The Federal Government and the Local Government establish this Agreement that allows the United States Marshals Service (USMS) or other authorized agency user as noted in block #18 on page (1) to house Federal detainees with the Local Government at the LAKE COUNTY JAIL 2293 North Main Street, Crown Point, IN 46307 (hereinafter referred to as "the Facility") designated in #6 page 1.

The population(hereinafter referred to as "Federal detainees,") will include individuals charged with Federal offenses and detained while awaiting trial, individuals who have been sentenced and are awaiting designation and transport to a Bureau of Prisons (BOP) facility, and individuals who are awaiting a hearing on their immigration status or deportation.

The Local Government shall accept and provide for the secure custody, safekeeping, housing, subsistence and care of Federal detainees in accordance with all state and local laws, standards, regulations, policies and court orders applicable to the operation of the Facility. Detainees shall also be housed in a manner that is consistent with Federal law and the Core Detention Standards and/or any other standards required by an authorized agency whose detainees are housed by the Local Government pursuant to this Agreement (see attached).

The USMS ensures the secure custody, care, and safekeeping of USMS detainees. Accordingly, all housing or work assignments, and recreation or other activities for USMS detainees are permitted only within secure areas of the building or within the secure external recreational/exercise areas.

At all times, the Federal Government shall have access to the Facility and to the Federal detainees housed there, and to all records pertaining to this Agreement, including financial records, for a period going back three (3) years from the date of request by the Federal Government.

### **Period of Performance and Termination**

This Agreement is effective upon the date of signature of the authorized USMS Prisoner Operations Division official, and remains in effect unless inactivated in writing by either party. Either party may terminate this Agreement for any reason with written notice at

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least thirty (30) calendar days in advance of termination, unless an emergency situation requires the immediate relocation of Federal detainees.

Where the Local Government has received a Cooperative Agreement Program (CAP) award, the termination provisions of the CAP prevail.

#### **Assignment and Outsourcing of Jail Operations**

The overall management and operation of the Facility housing Federal detainees may not be contracted out without the prior express written consent of the Federal Government.

#### **Medical Services**

The Local Government shall provide Federal detainees with the same level and range of care inside the Facility as that provided to state and local detainees. The Local Government is financially responsible for all medical care provided inside the Facility to Federal detainees. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over-the-counter medications and, any prescription medications routinely stocked by the Facility which are provided to Federal detainees. When possible, generic medications should be prescribed. The cost of all of the above-referenced medical care is covered by the Federal per diem rate. However, for specialized medical services not routinely provided within the Facility, such as dialysis, the Federal Government will pay for the cost of that service.

The Federal Government is financially responsible for all medical care provided outside the Facility to Federal detainees. The Federal Government must be billed directly by outside medical care providers pursuant to arrangements made by the Local Government for outside medical care. The Local Government should utilize outside medical care providers that are covered by the USMS's National Managed Care Contract (NMCC) to reduce the costs and administrative workload associated with these medical services. The Local Government can obtain information about NMCC covered providers from the local USMS District Office. The Federal Government will be billed directly by the medical care provider **not** the Local Government. To ensure that Medicare rates are properly applied, medical claims for Federal detainees must be on Centers for Medicare and Medicaid (CMS) Forms so that they can be re-priced to Medicare rates in accordance with the provisions of Title 18 U.S.C. Section 4006. If the Local Government receives any bills for medical care provided to Federal detainees outside the Facility, the Local Government should immediately forward those bills to the Federal Government for processing.

All **outside** medical care provided to Federal detainees must be pre-approved by the Federal Government except in a medical emergency. In the event of an emergency, the Local Government shall proceed immediately with necessary medical treatment. In such

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an event, the Local Government shall notify the Federal Government immediately regarding the nature of the Federal detainee's illness or injury as well as the types of treatment provided.

Medical care for Federal detainees shall be provided by the Local Government in accordance with the provisions of USMS, Publication 100-Prisoner Health Care Standards ([www.usmarshals.gov/prisoner/standards.htm](http://www.usmarshals.gov/prisoner/standards.htm)) and in compliance with the Core Detention Standards or those standards which may be required by any other authorized agency user. The Local Government is responsible for all associated medical record keeping.

The Facility shall have in place an adequate infectious disease control program which includes testing of all Federal detainees for Tuberculosis (TB) within 14 days of intake.

TB testing shall be accomplished in accordance with the latest Centers for Disease Control (CDC) Guidelines and the result promptly documented in the Federal detainee's medical record. Special requests for expedited TB testing and clearance (to include time sensitive moves) will be accomplished through advance coordination by the Federal Government and Local Government.

The Local Government shall immediately notify the Federal Government of any cases of suspected or active TB or any other highly communicable diseases such as Severe Acute Respiratory Syndrome (SARS), Avian Flu, Methicillin-Resistant Staphylococcus Aureus (MRSA), Chicken Pox, etc., which might affect scheduled transports or productions so that protective measures can be taken by the Federal Government.

When a Federal detainee is being transferred and/or released from the Facility, they will be provided with seven (7) days of prescription medication which will be dispensed from the Facility. Medical records and the USM-553 must travel with the Federal detainee. If the records are maintained at a medical contractor's facility, it is the Local Government's responsibility to obtain them before a Federal detainee is moved.

Federal detainees may be charged a medical co-payment by the Local Government in accordance with the provisions of Title 18, USC Section 4013(d). The Federal Government is not responsible for medical co-payments and cannot be billed for these costs even for indigent Federal detainees.

#### **Receiving and Discharge of Federal Detainees**

The Local Government agrees to accept Federal detainees only upon presentation by a law enforcement officer of the Federal Government or a USMS designee with proper agency credentials.

The Local Government shall not relocate a Federal detainee from one facility under its control to another facility not described in this Agreement without permission of the

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Federal Government. Additional facilities within the same Agreement shall be identified in a modification.

The Local Government agrees to release Federal detainees only to law enforcement officers of the authorized Federal Government agency initially committing the Federal detainee (i.e., Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE), etc.) or to a Deputy United States Marshal (DUSM) or USMS designee with proper agency credentials. Those Federal detainees who are remanded to custody by a DUSM may only be released to a DUSM or an agent specified by the DUSM of the Judicial District.

USMS Federal detainees sought for a state or local court proceeding must be acquired through a Writ of Habeas Corpus or the Interstate Agreement on Detainers and then only with the concurrence of the jurisdictional United States Marshal (USM).

#### **Optional Guard/Transportation Services to Medical Facility**

If Medical Facility in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at the Facility to and from a medical facility for outpatient care, and transportation and stationary guard services for Federal detainees admitted to a medical facility.

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel. Criteria as specified by the County Entity running the facility. In all cases these are part of a fulltime Law Enforcement Officer (LEO) or Correctional Officer (CO) that have met the minimum training requirements.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirement for security, prisoner monitoring, visitation, and contraband control.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

#### **Optional Guard/Transportation Services to U.S. Courthouse**

If U.S. Courthouse in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at its facility to and from the U.S. Courthouse.



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These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at the courthouse, the Local Government's transportation and escort guard will turn Federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport Federal detainees to any U.S. Courthouse without a specific request from the USM or their designee who will provide the detainee's name, the U.S. Courthouse, and the date the detainee is to be transported.

Each detainee will be restrained in handcuffs, waist chains, and leg irons during transportation unless otherwise authorized by the USMS.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

**Optional Guard/Transportation Services to Justice Prisoner & Alien Transportation System (JPATS)**

If JPATS in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at its facility to and from the JPATS.

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at JPATS, the Local Government's transportation and escort guards will turn federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport federal detainees to the airlift without a specific request from the USM who will provide the detainee's name, location (district), and the date the detainee is to be transported.



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Each detainee will be restrained in handcuffs, waist chains, and leg irons during transportation.

If an hourly rate for these services has been agreed upon to reimburse the Local Government, it will be stipulated on in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

### **Special Notifications**

The Local Government shall notify the Federal Government of any activity by a Federal detainee which would likely result in litigation or alleged criminal activity.

The Local Government shall immediately notify the Federal Government of an escape of a Federal detainee. The Local Government shall use all reasonable means to apprehend the escaped Federal detainee and all reasonable costs in connection therewith shall be borne by the Local Government. The Federal Government shall have primary responsibility and authority to direct the pursuit and capture of such escaped Federal detainees. Additionally, the Local Government shall notify the Federal Government as soon as possible when a Federal detainee is involved in an attempted escape or conspiracy to escape from the Facility.

In the event of the death or assault or a medical emergency of a Federal detainee, the Local Government shall immediately notify the Federal Government.

### **Special Management Inmates and Suicide Prevention**

The Local Government shall have written policy, procedure, and practice require that all special management inmates are personally observed by a correctional officer twice per hour, but no more than 40 minutes apart, on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent observation; suicidal inmates are under constant observation.

The Local Government shall have a comprehensive suicide-prevention program in place incorporating all aspects of identification, assessment, evaluation, treatment, preventive intervention, and annual training of all medical, mental health, and correctional staff.

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### **Prisoner Rape Elimination Act (PREA)**

The Facility must post the Prisoner Rape Elimination Act brochure/bulletin in each housing unit of the Facility. The Facility must abide by all relevant PREA regulations.

### **Service Contract Act**

This Agreement incorporates the following clause by reference, with the same force and effect as if it was given in full text. Upon request, the full text will be made available. The full text of this provision may be accessed electronically at this address: <http://www.dol.gov/casam/regs/statutes/351.htm>.

Federal Acquisition Regulation Clause(s):

52.222-41 Service Contract Act of 1965, as Amended (July 2005)

52.222-42 Statement of Equivalent Rates for Federal Hires (May 1989)

52.222-43 Fair Labor Standards Act and the Service Contract Act ~ Price Adjustment (Multiyear and Option Contracts) (May 1989)

The current Local Government wage rates shall be the prevailing wages unless notified by the Federal Government.

If the Department of Labor Wage Determination block #13b on page one (1) of this Agreement is checked, the Local Government agrees, in accordance with FAR PART 52.222.43 (f), must notify the Federal Government of any increase or decrease in applicable wages and fringe benefits claimed under this clause within 30 days after receiving a new wage determination.

### **Per-Diem Rate**

The Federal Government will use various price analysis techniques and procedures to ensure the per-diem rate established by this Agreement is considered a fair and reasonable price. Examples of such techniques include, but are not limited to, the following:

1. Comparison of the requested per-diem rate with the independent Federal Government estimate for detention services, otherwise known as the Core Rate;
2. Comparison with per-diem rates at other state or local facilities of similar size and economic conditions;
3. Comparison of previously proposed prices and previous Federal Government and commercial contract prices with current proposed prices for the same or similar items;

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**4. Evaluation of the provided jail operating expense information;**

The firm-fixed per-diem rate for services is stipulated in block #12 on page (1) of this agreement, and shall not be subject to adjustment on the basis of **LAKE COUNTY JAIL** actual cost experience in providing the service. The per-diem rate shall be fixed for a period from the effective date of this Agreement forward for thirty-six (36) months. The per-diem rate covers the support of one Federal detainee per "Federal detainee day", which shall include the day of arrival, but not the day of departure.

After thirty-six (36) months, if a per-diem rate adjustment is desired, the Local Government shall submit a request through the Office of the Federal Detention Trustee's (OFDT) electronic Intergovernmental Agreements (eIGA) area of the Detention Services Network (DSNetwork). All information pertaining to the Facility on the DSNetwork will be required before a new per-diem rate will be considered.

**Billing and Financial Provisions**

The Local Government shall prepare and submit for certification and payment, original and separate invoices; each month to each Federal Government component responsible for Federal detainees housed at the Facility.

Addresses for the components are:

United States Marshals Service  
Northern District of Indiana  
5400 Federal Plaza - Suite 1200  
Hammond, Indiana 46320  
(219) 852-6776

Federal Bureau of Prisons  
Community Corrections Office  
1850 Federal Building  
477 Michigan Avenue  
Detroit, Michigan 48226  
(313) 226-6186

Immigration and Customs Enforcement  
Central Regional Office  
Detention and Deportation Division  
7701 N. Stemmons Freeway  
Dallas, Texas 75247  
(214) 767-7062

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To constitute a proper monthly invoice, the name and address of the Facility, the name of each Federal detainee, their specific dates of confinement, the total days to be paid, the appropriate per diem rate as approved in the Agreement, and the total amount billed (total days multiplied by the per-diem rate per day) shall be listed, along with the name, title, complete address, and telephone number of the Local Government official responsible for invoice preparation. Additional services provided, such as transportation and guard services, shall be listed separately and itemized.

Nothing contained herein shall be construed to obligate the Federal Government to any expenditure or obligation of funds in excess of, or in advance of, appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. 1341.

### **Payment Procedures**

The Federal Government will make payments to the Local Government at the address listed in block #6 on page one (1) of this Agreement, on a monthly basis, promptly, after receipt of an appropriate invoice.

### **Hold Harmless**

It is understood and agreed that the Local Government shall fully defend, indemnify, and hold harmless the United States of America, its officers, employees, agents, and servants, individually and officially, for any and all liability caused by any act of any member of the Local Government or anyone else arising out of the use, operation, or handling of any property (to include any vehicle, equipment, and supplies) furnished to the Local Government in which legal ownership is retained by the United States of America, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees related thereto. The Local Government will be solely responsible for all maintenance, storage, and other expenses related to the care and responsibility for all property furnished to the Local Government.

### **Disputes**

Disputes, questions, or concerns pertaining to this Agreement will be resolved between appropriate officials of each party. Both the parties agree that they will use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

### **Inspection of Services**

Inspection standards for detainees may differ among authorized agency users. The Local Government agrees to allow periodic inspections by Federal Government inspectors, to include approved Federal contractors, in accordance with the Core

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Detention Standards required by any or all of the Federal authorized agency users whose detainees may be housed pursuant to this Agreement. Findings of the inspections will be shared with the Facility administrator in order to promote improvements to Facility operations, conditions of confinement, and levels of services.

#### **Modifications**

For all modifications except for full or partial terminations, either party may initiate a request for modification to this Agreement in writing. All modifications negotiated will be effective only upon written approval of both parties.

#### **Litigation**

The Federal Government shall be notified, in writing, of all litigation pertaining to this Agreement and provided copies of any pleadings filed or said litigation within five (5) working days of the filing.

The Local Government shall cooperate with the Federal Government legal staff and/or the United States Attorney regarding any requests pertaining to Federal Government or Local Government litigation.

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## Rape Elimination Act Reporting Information

### SEXUAL ASSAULT AWARENESS

This document is requested to be posted in each Housing Unit Bulletin Board at all Contract Detention Facilities. This document may be used and adapted by Intergovernmental Service Agreement Providers.

While detained by the Department of Justice, United States Marshals Service, you have a right to be safe and free from sexual harassment and sexual assault.

### Definitions

#### A. Detainee-on-Detainee Sexual Abuse/Assault

One or more detainees engaging in or attempting to engage in a sexual act with another detainee or the use of threats, intimidation, inappropriate touching or other actions and/or communications by one or more detainees aimed at coercing and/or pressuring another detainee to engage in a sexual act.

#### B. Staff-on-Detainee Sexual Abuse/Assault

Staff member engaging in, or attempting to engage in a sexual act with any detainee or the intentional touching of a detainee's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desires of any person. Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by DOJ policy and the law.

#### C. Staff Sexual Misconduct is:

Sexual behavior between a staff member and detainee which can include, but is not limited to indecent, profane or abusive language or gestures and inappropriate visual surveillance of detainees.

### Prohibited Acts

A detainee, who engages in inappropriate sexual behavior with or directs it at others, can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy.

- Using Abusive or Obscene Language
- Sexual Assault
- Making a Sexual Proposal
- Indecent Exposure
- Engaging in Sex Act

### Detention as a Safe Environment

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior regardless of your age, size, race, or ethnicity. Regardless of your sexual orientation, you have the right to be safe from unwanted sexual advances and acts.

### Confidentiality

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need to know in order to make decisions concerning the detainee-victim's welfare and for law enforcement investigative purposes.

### Report All Assaults!

If you become a victim of a sexual assault, you should report it immediately to any staff person you trust, to include housing officers, chaplains, medical staff, supervisors or Deputy U.S. Marshals. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis. If you are not comfortable reporting the assault to staff, you have other options:

**Agreement Number 27-00-0060**

- Write a letter reporting the sexual misconduct to the person in charge or the United States Marshal. To ensure confidentiality, use special (Legal) mail procedures.
- File an Emergency Detainee Grievance - If you decide your complaint is too sensitive to file with the Officer in Charge, you can file your Grievance directly with the Field Office Director. You can get the forms from your housing unit officer, or a Facility supervisor.
- Write to the Office of Inspector General (OIG), which investigates allegations of staff misconduct. The address is: Office of Inspector General, U.S. Department of Justice, 950 Pennsylvania Ave. Room 4706, Washington, DC. 20530
- Call, at no expense to you, the Office of Inspector General (OIG). The phone number is 1-800-869-4499.

Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

A publication of the Office of the  
Federal Detention Trustee  
Washington, DC

Published February 2008



**U. S. Department of Justice  
United States Marshals Service**
**Modification of Intergovernmental Agreement**

1. Agreement No. 27-00-0060	2. Effective Date 4/1/2012	3. Facility Code(s) 2DO	4. Modification No. Two (2)	5. DUNS No. N/A
6. Issuing Federal Agency  United States Marshals Service Prisoner Operations Division Office of Contracts & Agreements 2604 Jefferson Davis Highway Alexandria, Virginia 22301		7. Local Government  Lake County Jail 2293 North Main Street Crown Point, Indiana 46307		
8. Appropriation Data 15X1020	9. Per-Diem Rate \$ 48.00	10. Guard/Transportation Hourly Rate \$ 17.71		
11. EXCEPT AS PROVIDED SPECIFICALLY HEREIN, ALL TERMS AND CONDITIONS OF THE IGA DOCUMENT REFERRED TO IN BLOCK 1, REMAIN UNCHANGED. TERMS OF THIS MODIFICATION:  THE PURPOSE OF THIS MODIFICATION IS TO ADD THE STATEMENT THAT TRANSPORTATION/GUARD MILEAGE SHALL BE REIMBURSED BY THE FEDERAL GOVERNMENT AT THE CURRENT GSA MILEAGE RATE.  NO OTHER TERMS OR CONDITIONS OF THIS AGREEMENT ARE AFFECTED.				
12. INSTRUCTIONS TO LOCAL GOVERNMENT FOR EXECUTION OF THIS MODIFICATION: A. <input checked="" type="checkbox"/> LOCAL GOVERNMENT IS NOT REQUIRED TO SIGN THIS DOCUMENT B. <input type="checkbox"/> LOCAL GOVERNMENT IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN ALL COPIES TO U. S. MARSHAL				
13. APPROVALS				
A. LOCAL GOVERNMENT  _____ Signature  _____ TITLE DATE		B. FEDERAL GOVERNMENT _____ Signature _____ Grants Analyst TITLE DATE		

UNITED STATES MARSHALS  
NORTHWEST INDIANA  
2012 APR -5 A 10:52



# **Exhibit 2**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LAKE COUNTY, INDIANA;  
ROGELIO "ROY" DOMINGUEZ, LAKE  
COUNTY SHERIFF, in his official capacity only;  
FRANCES DUPEY, President, Lake County  
Board of Commissioners, in her official capacity  
only; THOMAS C. O'DONNELL, President,  
Lake County Council, in his official capacity only;  
LAKE COUNTY BOARD OF  
COMMISSIONERS, in their official capacity  
only; LAKE COUNTY COUNCIL, in their  
official capacity only,

Defendants.

CIVIL ACTION NO:

2:10CV-476

**JOINT MOTION TO ENTER SETTLEMENT AGREEMENT**

The United States of America, Plaintiff, and Lake County, et al., Defendants, having entered into a Settlement Agreement concerning conditions of confinement at the Lake County Jail in Crown Point, Indiana, jointly move this Court for entry of the attached Settlement Agreement to resolve the above-captioned case. After engaging in settlement discussions, and to avoid the burdens of contested litigation, the Parties have agreed to the attached Settlement Agreement. The Settlement Agreement, if entered by this Court, will resolve all claims that the United States raised in its contemporaneously filed Complaint.

**I. BACKGROUND**

On September 12, 2008, the Civil Rights Division of the United States Department of Justice notified Lake County officials of its intention to investigate conditions of confinement at the Lake County Jail (the “Facility”), pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 (“CRIPA”). On December 7, 2009, the United States issued a findings letter pursuant to 42 U.S.C. § 1997 that concluded that certain conditions at the Facility violated the constitutional rights of individuals confined at the Facility.

In February 2010, the United States submitted a proposed draft Settlement Agreement to the County and Sheriff for review and comment. The Parties then conducted several extensive negotiations sessions during a five-month period. The Parties have reached resolution on the disputed issues in this matter. The Parties have embodied that resolution in this Settlement Agreement, and seek this Court’s approval of the Settlement Agreement.

**II. SUMMARY OF SETTLEMENT**

The Settlement Agreement consists of seven sections and contains comprehensive provisions on protection from harm, medical care, mental health care, sanitation, training, quality assurance/performance improvement, fire and life safety, use of force, and improved policies, procedures, and practices. The Parties agree that the implementation of the Settlement Agreement will begin immediately upon the effective date and shall terminate when the Defendants have achieved substantial compliance with each provision of the Settlement Agreement and have sustained substantial compliance for a period of one-year. The Parties further agree that a substantive subsection of the Settlement Agreement may conclude

independently of the rest of the Settlement Agreement if compliance for all subcomponents within the subsection has been achieved and maintained for the requisite one year period.

A monitor that is appointed and financed by the United States shall monitor for compliance with the Settlement Agreement.

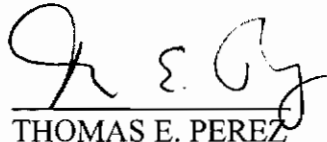
The Parties agree that the Settlement Agreement resolves all issues related to the United States' investigation of the Facility pursuant to CRIPA.

The Parties further stipulate that this Settlement Agreement complies in all respects with the provisions of 18 U.S.C. § 3626(a). The parties further stipulate that the prospective relief in this Settlement Agreement is narrowly drawn, extends no further than necessary to correct the violations of federal rights regarding suicide prevention, medical and mental health care, environmental safety, and protection from harm/use of force, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the parties agree and represent that this Settlement Agreement complies in all respects with the provisions of 18 U.S.C. § 3626(a).

Wherefore, the Parties respectfully request that this Court approve the Settlement Agreement in its entirety.

Respectfully submitted,

FOR THE UNITED STATES:



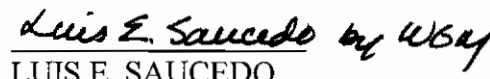
THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division



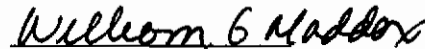
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Deputy Assistant Attorney General  
Civil Rights Division



JUDY C. PRESTON  
Deputy Chief  
Special Litigation Section



LUIS E. SAUCEDO  
Acting Deputy Chief  
Special Litigation Section

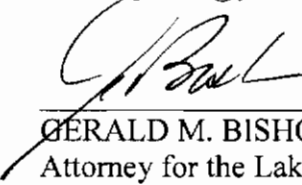


MATTHEW J. DONNELLY  
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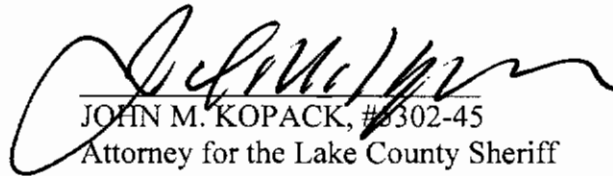
FOR DEFENDANTS:



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Fax: (219) 738-2818  
email: [jmklaw@sbcglobal.net](mailto:jmklaw@sbcglobal.net)

## **LAKE COUNTY JAIL SETTLEMENT AGREEMENT**

### **I. INTRODUCTION**

1. On September 12, 2008, the Civil Rights Division of the United States Department of Justice ("United States") notified Lake County, Indiana, officials of their intention to investigate conditions of confinement at the Lake County Jail ("LCJ" or "the facility"), pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 ("CRIPA").
2. On December 15-18, 2008, the United States toured LCJ with consultants in the fields of correctional suicide prevention, mental health care, medical care, fire safety, and environmental health.
3. Throughout the course of the investigation, the Lake County Sheriff and other Lake County officials provided the United States with complete cooperation and access to LCJ and all documents.
4. On December 7, 2009, the United States issued a "Findings Letter" pursuant to 42 U.S.C. § 1997 that concluded that certain conditions at LCJ violate the constitutional rights of individuals LCJ confines.
5. The parties enter into this Settlement Agreement ("Agreement"), which will be filed in the United States District Court, Northern District of Indiana, Hammond Division to effectuate the Agreement, for the purpose of clearly articulating and further complying with Lake County's duties under state and federal law. The parties agree this Agreement neither constitutes an admission by Lake County of the truth of any of the findings contained in the DOJ's Findings Letter of December 7, 2009, and does not and shall not constitute any admission of fault or liability by Lake County, the Lake County Sheriff and/or any of their elected officials, agents, servants or employees.
6. This Agreement does not constitute an admission that any of the provisions herein have not been complied with prior to the execution of this Agreement and any and all such deficiencies, risks, or breach(es) intimated by the language of this Agreement, express or implied, are hereby specifically disclaimed by Lake County.
7. The parties to this Agreement are the United States, represented by the United States Department of Justice, and Lake County, Indiana, represented by the Lake County Sheriff in his official capacity, the Lake County Commissioners in their official capacities, the Lake County Council, in its official capacity and each of their of their respective agents, assigns, employees, designees and successors in office, in their official capacities. Lake County will use its best efforts to ensure that the Lake County Jail takes all actions necessary to comply with all provisions contained in this Agreement.
8. Lake County enters into this Agreement because it is firmly committed to continue to provide constitutionally and legally compliant conditions in the Jail, by effectuating its duties under the Constitution and other applicable laws.



9. This Agreement is not intended to have any preclusive effect except between the parties hereto and should the issue of the preclusive effect of this Agreement be raised in any proceeding, other than one to enforce this Agreement, the parties agree to certify that this Agreement was intended to have no such preclusive effect.
10. This Agreement will not and cannot be used against Lake County in any proceeding other than a proceeding between the United States and Lake County for enforcement of the terms and conditions contained in this Agreement.
11. No person or entity is intended to or shall be a third-party beneficiary of the terms, conditions or provisions of this Agreement for purposes of any civil, criminal, or administrative action. Accordingly, no person or entity may assert any claim or right as a beneficiary or protected person or class under this Agreement. This Agreement is not intended to impair or expand the right of any person, entity or organization to seek relief against Lake County or its elected officials, employees, or agents for their past or future conduct; accordingly, this Agreement does not alter any legal standards governing any such claims, including those under any Federal or Indiana law.
12. Lake County is responsible for providing or obtaining all support, including financial resources, necessary to fulfill its obligations under this Agreement. Since the DOJ conducted its inspection in December of 2008, Lake County has and continues to make progress in implementing the recommendation contained in the Findings Letter and shall, within ninety (90) days of the effective date of this Agreement, authorize a bond issue of up to \$565,105 for the costs of facility repairs and other expenses necessary to carry out this Agreement. The funds from the bond issue will be used in part to (a) acquire a system for the electronic entry and storage of each inmate's medical and mental health records and (b) to update the shower facilities in the LC Jail to facilitate the ease of maintaining said facility in a clean and sanitary condition.
13. Nothing in this Agreement shall prevent the Sheriff or Lake County from modifying the LC Jail facilities or developing alternative placements programs for the detainees currently at the LC Jail and nothing in this Agreement shall be construed so as to prohibit the County from engaging a third party to perform any of the responsibilities of required by the County or the LCJ under this Agreement.
14. This Agreement resolves the CRIPA investigation conducted by the DOJ and addresses the corrective measures set forth by the DOJ in its December 7, 2009, Findings Letter to Lake County and, in conformity with CRIPA, this Agreement represents a voluntary effort by Lake County to address the alleged constitutional violations raised by the DOJ's investigation in its Findings Letter. See CRIPA, 42 U.S.C. §§ 1997b(a)(2)(B) & 1997g.



## II. DEFINITIONS

1. "LCJ" or "the facility" mean the Lake County Jail, currently located on 2293 North Main Street in Crown Point, Indiana, as well as any facility that is built, leased, or otherwise used, to replace or supplement the LCJ.
2. "DOJ" means the United States Department of Justice, which represents the United States in this matter.
3. "Effective date" means the date the Agreement is signed by the parties.
4. "Include" or "including" means "include, but not be limited to" or "including, but not limited to."
5. "Inmate" or "inmates" shall be construed broadly to refer to one or more individuals detained at, or otherwise housed, held, in the custody of, or confined at the LCJ.
6. Consistent with, or in accordance with, the term "generally accepted correctional standards of care" means a decision by a qualified professional that is substantially aligned with contemporary, accepted professional judgment, practice, or standards as to demonstrate that the person responsible based the decision on such accepted professional judgment.
7. "Qualified Medical Professional" means a licensed physician, licensed physician assistant, or a licensed nurse practitioner, who is currently licensed by the State of Indiana to deliver those health care services he or she has undertaken to provide.
8. "Qualified Medical Staff" means Qualified Medical Professionals and Qualified Nursing Staff.
9. "Qualified Mental Health Professional" means an individual with a minimum of masters-level education and training in psychiatry, psychology, counseling, social work or psychiatric nursing, who is currently licensed by the State of Indiana to deliver those mental health services he or she has undertaken to provide.
10. "Qualified Mental Health Staff" means individuals with a minimum of a bachelor's degree and two years of experience providing mental health services.
11. "Qualified Nursing Staff" means registered nurses and licensed practical nurses currently licensed by the State of Indiana to deliver those health services they have undertaken to provide.
12. "Serious Suicide Attempt" means a suicide attempt that is considered to be either potentially life-threatening or that required medical treatment for serious harm.
13. "Suicide Precautions" means any level of watch, observation, or measures to prevent self-harm to inmates confined in the LCJ.

14. "Train," means to instruct in the skills addressed to a level that the trainee has the demonstrated proficiency to implement those skills as, and when called for, in the training. "Trained" means to have achieved such proficiency.
15. "Correctional Officer" or "CO" shall mean merit correctional officers employed at the LCJ under the authority of the Sheriff and the Corrections Merit Board and shall not include civilian employees of the LCSD providing support services at or to the LCJ.
16. Throughout this Agreement, the following terms are used when discussing compliance: substantial compliance, partial compliance, and non-compliance:
  - a. "Substantial Compliance" indicates that LCJ has achieved compliance with most or all components of the relevant provision of the Agreement.
  - b. "Partial Compliance" indicates that compliance has been achieved on some of the components of the relevant provision of the Agreement, but significant work remains.
  - c. "Non-Compliance" indicates that most or all of the components of the Agreement provision have not yet been met.

### **III. SUBSTANTIVE PROVISIONS**

Lake County officials and LCJ shall take any actions necessary to achieve substantial compliance with the substantive provisions of the Agreement listed below. Lake County officials and LCJ shall implement and administer all the substantive provisions below in accordance with generally accepted correctional standards of care.

#### **A. MEDICAL CARE.**

1. LCJ shall provide adequate services to address the serious medical and mental health needs of all inmates.
2. LCJ shall develop and implement medical care policies, procedures, and practices to address and guide all medical care and services at LCJ, including, but not limited to the following:
  - (1) access to medical care;
  - (2) continuity of medication;
  - (3) infection control;
  - (4) medication administration;
  - (5) intoxication and detoxification;
  - (6) documentation and record-keeping;
  - (7) disease prevention;
  - (8) medical triage and physician review;
  - (9) intake screening;
  - (10) infection control;
  - (11) comprehensive health assessments;

- (12) mental health;
- (13) women's health;
- (14) quality management; and
- (15) emergent response.

3. Intake Screening and Health Assessments.

- a. LCJ shall develop and implement policies and procedures to ensure that adequate medical and mental health intake screenings and health assessments are provided to all inmates within 14 days.
- b. LCJ shall ensure that, upon admission to LCJ, Qualified Medical Staff utilize an appropriate medical intake screening instrument to identify and record observable and non-observable medical needs, and seek the inmate's cooperation to provide information, regarding:
  - (1) medical, surgical, and mental health history, including current or recent medications;
  - (2) current injuries, illnesses, evidence of trauma, and vital signs, including recent alcohol and substance use;
  - (3) history of substance abuse and treatment;
  - (4) pregnancy;
  - (5) history and symptoms of communicable disease;
  - (6) suicide risk history; and
  - (7) history of mental illness and treatment, including medication and hospitalization. Inmates who screen positively for any of these items shall be referred for timely medical evaluation, as appropriate.
- c. LCJ shall ensure that the comprehensive assessment performed for each inmate within 14 days of his or her arrival at LCJ shall include a complete medical history, physical examination, mental health history, and current mental status examination. The physical examination shall be conducted by Qualified Medical Staff. Records documenting the assessment and results shall become part of each inmate's medical record. A re-admitted inmate or an inmate transferred from another facility who has received a documented full health assessment within the previous three months and whose receiving screening shows no change in the inmate's health status need not receive a new full physical health assessment. For such inmates, Qualified Medical Staff shall review prior records and update tests and examinations as needed.
- d. LCJ shall ensure that Qualified Medical Staff attempt to elicit the amount, frequency and time of the last dosage of medication from every inmate reporting that he or she is currently or recently on medication, including psychotropic medication.
- e. LCJ shall implement a medication continuity system so that incoming inmates' medication for serious medical needs can be obtained in a timely manner, as medically appropriate when medically necessary. Within 24 hours of an inmate's arrival at LCJ, or sooner if medically necessary, Qualified Medical Staff shall decide

whether to continue the same or comparable medication for serious medical needs. If the inmate's reported medication is discontinued or changed, a Qualified Medical Professional shall evaluate the inmate face-to-face as soon as medically appropriate and document the reason for the change.

- f. LCJ shall ensure that incoming inmates who present with current risk of suicide or other acute mental health needs will be immediately referred for a mental health evaluation by a Qualified Mental Health Professional. Staff will constantly observe such inmates until they are seen by a Qualified Mental Health Professional. Incoming inmates reporting these conditions will be housed in safe conditions unless and until a Mental Health Professional clears them for housing in a medical unit, segregation, or with the general population.
- g. LCJ shall ensure that all inmates at risk for, or demonstrating signs and symptoms of drug and alcohol withdrawal are timely identified. LCJ shall provide appropriate treatment, housing, and medical supervision for inmates suffering from drug and alcohol withdrawal.
- h. LCJ shall incorporate the intake health screening information into the inmate's medical record in a timely manner.
- i. LCJ shall ensure that correctional officers supervising newly arrived inmates physically observe the conduct and appearance of these inmates to determine whether they have a more immediate need for medical or mental health attention prior to or following the intake health screening by Qualified Medical Staff.

4. Acute care.

- a. LCJ shall provide adequate and timely acute care for inmates with serious and life-threatening conditions, and ensure that such care adequately addresses the serious medical needs of inmates. Adequate care will include timely medical appointments and follow-up medical treatment.

5. Chronic care.

- a. LCJ shall develop and implement a written chronic care disease management plan, which provides inmates with chronic diseases with timely and appropriate diagnosis, treatment, medication, monitoring, and continuity of care.
- b. LCJ shall adopt and implement appropriate written clinical practice guidelines for chronic and communicable diseases, such as HIV, hypertension, diabetes, asthma, and elevated blood lipids, consistent with nationally accepted guidelines.
- c. LCJ shall maintain an updated log to track all inmates with chronic illnesses to ensure that these inmates receive necessary diagnosis, monitoring, and treatment.
- d. LCJ shall keep records of all care provided to inmates diagnosed with chronic illnesses in the inmates' individual medical records.



- e. LCJ shall ensure that inmates with chronic conditions are routinely seen by a physician to evaluate the status of their health and the effectiveness of the medication administered for their chronic conditions.
- f. LCJ shall ensure that inmates with disabilities or who need skilled nursing services or assistance with activities of daily living shall receive medically appropriate care.

6. Treatment and Management of Communicable Disease.

- a. LCJ shall develop and implement adequate testing, monitoring, and treatment programs for management of communicable diseases, including tuberculosis ("TB"), skin infections, and sexually transmitted infections ("STIs").
- b. LCJ shall develop and implement infection control policies and procedures that address contact, blood borne and airborne hazards, to prevent the spread of infections or communicable diseases, including TB, skin infections, and STIs. Such policies should provide guidelines for identification, treatment and containment to prevent transmission of infectious diseases to staff or inmates.
- c. LCJ shall continue to test all inmates for TB upon booking at LCJ and follow up on test results as medically indicated, pursuant to Centers for Disease Control ("CDC") Guidelines. LCJ shall follow current CDC guidelines for management of inmates with TB infection, including providing prophylactic medication when medically appropriate. If directed by a physician, inmates who exhibit signs or symptoms consistent with TB shall be isolated from other inmates, evaluated for contagious TB, and hospitalized or housed in an appropriate, specialized respiratory isolation ("negative pressure") room on-site or off-site. LCJ shall provide for infection control and for the safe housing and transportation of such inmates.
- d. LCJ shall ensure that any negative pressure and ventilation systems function properly. Following CDC guidelines, LCJ shall test daily for rooms in-use and monthly for rooms not currently in-use. LCJ shall document results of such testing.
- e. LCJ shall develop and implement adequate guidelines to ensure that inmates receive appropriate wound care. Such guidelines will include precautions to limit the possible spread of Methicillin-resistant Staphylococcus aureus ("MRSA") and other communicable diseases.
- f. LCJ shall adequately maintain statistical information regarding communicable disease screening programs and other relevant statistical data necessary to adequately identify, treat, and control infectious diseases.

7. Access to Health Care.

- a. LCJ shall ensure inmates have timely and adequate access to appropriate health care.
- b. LCJ shall ensure that the medical request ("sick call") process for inmates is adequate and provides inmates with adequate access to medical care. The sick call process shall include:
  - (1) written medical and mental health care slips available in English, Spanish, and other languages, as needed;
  - (2) a confidential collection method in which the request slips are collected by Qualified Medical Staff seven days per week;
  - (3) opportunity for illiterate inmates and inmates who have physical or cognitive disabilities to access medical and mental health care; and
  - (4) opportunity for all inmates, irrespective of primary language, to access medical and mental health care.
- c. LCJ shall ensure that the sick call process includes logging, tracking, and timely responses by Qualified Medical Staff. The logging procedure shall include documentation of the date and summary of each request for care, the date the inmate was seen, the name of the person who saw him or her, the disposition of the medical or mental health visit (e.g., referral; whether inmate scheduled for acute care visit), and, if follow-up care is necessary, the date and time of the inmate's next appointment. LCJ shall document the reason for and disposition of the medical or mental health care request in the inmate's medical record.
- d. LCJ shall develop and implement an effective system for screening medical requests within 24 hours of submission. LCJ shall ensure sick call requests are appropriately prioritized based upon the seriousness of the medical issue.
- e. LCJ shall ensure that evaluation and treatment of inmates in response to a sick call request occurs in a clinical setting.
- f. LCJ shall ensure that there is an adequate number of correctional officers to escort inmates to and from medical units to ensure that inmates requiring treatment have timely access to appropriate medical care.
- g. LCJ shall ensure that Qualified Medical Staff make daily rounds in the isolation areas to give inmates in isolation adequate opportunities to contact and discuss medical and mental health concerns with Qualified Medical Staff in a setting that affords as much privacy as reasonable security precautions will allow. During rounds, Qualified Medical Staff will assess inmates for new clinical findings, such as deterioration of the inmate's condition.
- h. LCJ shall revise its co-pay system in terms of amount and waivers and such policy will clearly articulate that medical care will be provided regardless of the inmate's ability to pay. No fee-for-service shall be required for certain conditions, including

health screenings, emergency care, and/or the treatment and care of conditions affecting public health, e.g., Tuberculosis, MRSA, pregnancy, etc., particularly for indigent inmates who are not covered by a health insurance plan or policy.

8. Follow-Up Care.

- a. LCJ shall provide adequate care and maintain appropriate records for inmates who return to LCJ following hospitalization.
- b. LCJ shall ensure that inmates who receive specialty or hospital care are evaluated upon their return to LCJ and that, at a minimum, discharge instructions are obtained, appropriate Qualified Medical Staff reviews the information and documentation available from the visit, this review and the outside provider's documentation are recorded in the inmate's medical record, and appropriate follow-up is provided.

9. Emergency Care.

- a. LCJ shall ensure that Qualified Medical and Mental Health Staff are trained to recognize and respond appropriately to medical and mental health emergencies. LCJ shall train correctional officers to recognize and respond appropriately to medical and mental health emergencies. LCJ shall ensure that all inmates with emergency medical or mental health needs receive timely and appropriate care, including prompt referrals and transports for outside care when medically necessary.
- b. LCJ shall train all correctional officers to provide first responder assistance (including cardiopulmonary resuscitation ("CPR") and addressing serious bleeding) in emergency situations. LCJ shall provide all correctional officers with the necessary protective gear, including masks and gloves, to provide first line emergency response.

10. Record Keeping.

- a. LCJ shall ensure that medical and mental health records are adequate to assist in providing and managing the medical and mental health needs of inmates at LCJ.
- b. LCJ shall develop and implement policies, procedures, and practices to ensure timely responses to orders for medications and laboratory tests. Such policies, procedures, and practices shall be periodically evaluated to ensure timely implementation of clinician orders.
- c. LCJ shall ensure that medical and mental health records are centralized, complete, accurate, readily accessible, and systematically organized. All clinical encounters and reviews of inmates should be documented in the inmates' records.
- d. To ensure continuity of care, LCJ shall submit appropriate medical information to outside medical providers when inmates are sent out of LCJ for medical care. LCJ shall obtain records of care, reports, and diagnostic tests received during outside

appointments in a timely fashion and include such records in the inmate's medical record or document the inmate's refusal to cooperate and release medical records.

- e. LCJ shall maintain unified medical and mental health records, including documentation of all clinical information regarding evaluation and treatment.

11. Medication Administration.

- a. LCJ shall ensure that inmates receive necessary medications in a timely manner.
- b. LCJ shall develop policies and procedures to ensure the accurate administration of medication and maintenance of medication records. LCJ shall provide a systematic physician review of the use of medication to ensure that each inmate's prescribed regimen continues to be appropriate and effective for his or her condition.
- c. LCJ shall ensure that medicine administration is hygienic, appropriate for the needs of inmates, and is recorded concurrently with distribution.
- d. LCJ shall ensure that medication administration is performed by Qualified Nursing Staff who shall administer prescription medications on a directly-observed basis for each dose, (unless the physician's order notes that the inmate can self-administer the medication), shall not discontinue medications without a physician's order, and shall accurately document medication orders as being ordered via telephone. Qualified Nursing Staff shall practice within the scope of their licensures.
- e. When LCJ has advance notice of the discharge of inmates with serious medical or mental health needs, LCJ shall provide such inmates with at least a seven-day supply of appropriate prescription medication, unless a different amount is deemed medically appropriate, to serve as a bridge until inmates can arrange for continuity of care in the community. LCJ shall supply sufficient medication for the period of transit for inmates who are being transferred to another correctional facility or other institution. LCJ shall prepare and send with transferring inmates a transfer summary detailing major health problems and listing current medications and dosages, as well as medication history while at LCJ. LCJ shall ensure that information about potential release or transfer of inmates is communicated to Qualified Medical and Mental Health Staff as soon as it is available.
- f. LCJ shall create a formal mechanism, such as a Pharmacy and Therapeutics Committee, to assist in creating guidelines for the prescription of certain types of medications.
- g. LCJ shall ensure that Qualified Medical Staff counsels all patients who refuse medication.
- h. LCJ shall secure the medication room and discontinue allowing food to be stored in the medication refrigerator.



12. Medical Facilities.

- a. LCJ shall ensure that sufficient clinical space is available to provide inmates with adequate medical care services including:
  - (1) intake screening;
  - (2) sick call;
  - (3) physical assessment; and
  - (4) acute, chronic, emergency, and speciality medical care (such as geriatric and pregnant inmates).
- b. LCJ shall ensure that medical areas are adequately cleaned and maintained, including installation of adequate lighting in medical exam rooms. LCJ shall ensure that hand washing stations in medical areas are fully equipped, operational and accessible.
- c. LCJ shall ensure that appropriate containers are readily available to secure and dispose of medical waste (including syringes and sharp medical tools) and hazardous waste.
- d. LCJ shall provide for inmates' reasonable privacy in medical care, and maintain confidentiality of inmates' medical status, subject to legitimate security concerns and emergency situations.

13. Specialty Care.

- a. LCJ shall ensure that inmates whose serious medical or mental health needs extend beyond the services available at LCJ shall receive timely referral for specialty care to appropriate medical or mental health care professionals qualified to meet their needs.
- b. LCJ shall ensure that inmates who have been referred for outside specialty care by the medical staff or another specialty care provider are scheduled for timely outside care appointments and transported to their appointments. Inmates awaiting outside care shall be seen by Qualified Medical Staff as medically necessary, at intervals of no more than 30 days, to evaluate the current urgency of the problem and respond as medically appropriate.
- c. LCJ shall maintain a current log of all inmates who have been referred for outside specialty care, including the date of the referral, the date the appointment was scheduled, the date the appointment occurred, the reason for any missed or delayed appointments, and information on follow-up care, including the dates of any future appointments.
- d. LCJ shall ensure that pregnant inmates are provided adequate pre-natal care. LCJ shall develop and implement appropriate written policies and protocols for the treatment of pregnant inmates, including appropriate screening, treatment, and management of high risk pregnancies.

14. Staffing, Training and Supervision.

- a. LCJ shall ensure that its health care structure is organized with clear lines of authority for its operations to ensure adequate supervision of the system's health care providers.
- b. LCJ shall maintain sufficient staffing levels of Qualified Medical Staff and Qualified Mental Health Staff to provide care for inmates' serious medical and mental health needs.
- c. LCJ shall ensure that all Qualified Medical Staff and Qualified Mental Health Staff are adequately trained to meet the serious medical and mental health needs of inmates. All such staff shall receive documented orientation and in-service training on relevant topics, including identification of inmates in need of immediate or chronic care, suicide prevention, and identification and care of inmates with mental illness. LCJ shall ensure that all other medical and mental health staff receive adequate training to properly implement the provisions of this Agreement.
- d. LCJ shall ensure that Qualified Medical Staff receive adequate physician oversight and supervision.
- e. LCJ shall ensure that all persons providing medical or mental health treatment meet applicable state licensure and/or certification requirements, and practice only within the scope of their training and licensure. Upon hiring and annually, LCJ shall verify that all medical or mental health staff have current, valid, and unrestricted professional licenses.
- f. LCJ shall ensure that correctional officers are adequately trained in identification, timely referral, and proper supervision of inmates with serious medical needs. LCJ shall ensure that correctional officers are trained to understand and identify the signs and symptoms of drug and alcohol withdrawal and to recognize and respond to other medical urgencies.
- g. LCJ shall ensure that correctional officers receive initial and periodic training on basic mental health information (e.g., recognizing mental illness, specific problematic behaviors, additional areas of concern); recognition of signs and symptoms evidencing a response to trauma; appropriately responding to mental illness; proper supervision of inmates suffering from mental illness; and the appropriate use of force for inmates who suffer from mental illness. Such training shall be conducted by a Qualified Mental Health Professional, registered psychiatric nurse, or other appropriately trained and qualified individual.

15. Dental Care.

- a. LCJ shall ensure that inmates receive adequate dental care, and follow up. Such care should be provided in a timely manner. Dental care shall not be limited to extractions.

- b. LCJ shall ensure that adequate dentist staffing and hours shall be provided to avoid unreasonable delays in dental care.

16. Mortality Reviews.

- a. LCJ shall request an autopsy, and related medical data, for every inmate who dies while in the custody of LCJ or under medical supervision directly from the custody of LCJ.
- b. LCJ shall conduct a mortality review for each inmate death while in custody and a morbidity review for all serious suicide attempts or other incidents in which an inmate was at high risk for death. Mortality and morbidity reviews shall involve physicians, nurses, and other relevant LCJ personnel and shall seek to determine whether there was a pattern of symptoms that might have resulted in earlier diagnosis and intervention. Mortality and morbidity reviews shall occur within 30 days of the incident or death, and shall be revisited when the final autopsy results are available. At a minimum, the mortality and morbidity reviews shall include:
  - (1) critical review and analysis of the circumstances surrounding the incident;
  - (2) critical review of the procedures relevant to the incident;
  - (3) synopsis of all relevant training received by involved staff;
  - (4) pertinent medical and mental health services/reports involving the victim;
  - (5) possible precipitating factors leading to the incident; and
  - (6) recommendations, if any, for changes in policy, training, physical plant, medical or mental health services, and operational procedures.
- c. LCJ shall address any problems identified during mortality reviews through timely training, policy revision, and any other appropriate measures.

**B. MENTAL HEALTH CARE.**

- 1. LCJ shall provide adequate services to address the serious mental health needs of all inmates, consistent with generally accepted correctional standards of care, including sufficient staffing to meet the demands for timely access to an appropriate mental health professional, to ensure qualified mental health staff perform intake mental health screenings and evaluations, and to perform comprehensive assessments and comprehensive multidisciplinary treatment planning. See Section III. A.
- 2. Timely and Appropriate Evaluation of Inmates.
  - a. LCJ shall develop and implement policies and procedures to provide adequate screening to properly identify and assess inmates with mental illness, and evaluate inmates' mental health needs. See also Section III.A.2.
  - b. LCJ shall ensure that the intake health screening process referred to in Section III.A.2 includes a mental health screening, which shall be incorporated into the inmate's

medical records. LCJ shall ensure timely access to a Qualified Mental Health Professional when presenting symptoms of mental illness require such care.

- c. LCJ shall ensure that the mental health intake screening process includes inquiry regarding:
  - (1) past suicidal ideation and/or attempts;
  - (2) current ideation, threat, or plan;
  - (3) prior mental illness treatment or hospitalization;
  - (4) recent significant loss, such as the death of a family member or close friend;
  - (5) history of suicidal behavior by family members and close friends;
  - (6) suicide risk during any prior confinement;
  - (7) any observations of the transporting officer, court, transferring agency, or similar individuals regarding the inmate's potential suicide risk;
  - (8) medication history; and
  - (9) drug and alcohol withdrawal history.

3. Assessment and Treatment.

- a. LCJ shall ensure that any inmate who screens positively for mental illness or suicidal ideation during the intake screening process, or who is otherwise referred for mental health services, receives a comprehensive mental status evaluation in a timely manner from a Qualified Mental Health Professional (immediate for emergent issues, within 24 hours of referral for an expedited comprehensive evaluation, or 72 hours of referral for a routine comprehensive evaluation). The comprehensive mental health evaluation shall include a recorded diagnosis section, including a standard five-Axis diagnosis from DSM-IV-TR, or subsequent Diagnostic and Statistical Manual of the American Psychiatric Association. If Qualified Mental Health Staff find a serious mental illness, they shall refer the inmate for appropriate treatment. LCJ shall review available information regarding any diagnosis made by the inmate's community or hospital treatment provider, and shall account for the inmate's psychiatric history as a part of the assessment. LCJ shall adequately document the comprehensive mental status evaluation in the inmate's medical record.
- b. LCJ shall ensure adequate and timely treatment for inmates whose assessments reveal serious mental illness, including timely and appropriate referrals for specialty care and regularly scheduled visits with Qualified Mental Health Professionals.
- c. LCJ shall ensure that treatment plans adequately address inmates' serious mental health needs and that the plans contain interventions specifically tailored to the inmates' diagnoses.
- d. LCJ shall provide for an inmate's reasonable privacy in mental health care, and maintain confidentiality of inmates' mental health status, subject to legitimate security concerns and emergency situations.



- e. LCJ shall provide adequate on-site psychiatric coverage for inmates' serious mental health needs and ensure that psychiatrists see such inmates in a timely manner.
- f. LCJ shall ensure timely and appropriate therapy, counseling, and other mental health programs for all inmates with serious mental illness. This includes adequate space for treatment, adequate number of Qualified Mental Health Staff to provide treatment, and an adequate array of structured therapeutic programming.
- g. LCJ shall ensure mentally ill inmates in segregation receive timely and appropriate treatment, including completion and documentation of regular rounds in the segregation units at least once per week by adequately trained Qualified Mental Health Professionals in order to assess the serious mental health needs of inmates in segregation. Inmates with serious mental illness who are placed in segregation shall be immediately and regularly evaluated by a Qualified Mental Health Professional to determine the inmate's mental health status, which shall include an assessment of the potential effect of segregation on the inmate's mental health. During these regular evaluations, LCJ shall evaluate whether continued segregation is appropriate for that inmate, considering the assessment of the Qualified Mental Health Professional, or whether the inmate would be appropriate for graduated alternatives.
- h. LCJ shall maintain an updated log of inmates receiving mental health services, which shall include both those inmates who receive counseling and those who receive medication. The log shall include each inmate's name, diagnosis or complaint, and next scheduled appointment. Each clinician shall have ready access to a current log listing any prescribed medication and dosages for inmates on psychotropic medications. In addition, inmate's files shall contain current and accurate information regarding any medication changes ordered in at least the past year.
- i. LCJ shall ensure that a Qualified Mental Health Professional conducts an in-person evaluation of an inmate prior to a medically-ordered seclusion or restraint, or as soon thereafter as possible. Patients placed in medically-ordered seclusion or restraints shall be evaluated on an on-going basis for physical and mental deterioration. Seclusion or restraint orders should include sufficient criteria for release.
- j. LCJ shall ensure an adequate array of crisis services to appropriately manage the psychiatric emergencies that occur among inmates. Crisis services shall not be limited to administrative segregation or observation status. Inmates shall have access to appropriate licensed in-patient psychiatric care, when clinically appropriate.

4. Psychotherapeutic Medication Administration.

- a. LCJ shall ensure that psychotherapeutic medication administration is provided when appropriate.
- b. LCJ shall ensure that psychotropic medication orders are reviewed by a psychiatrist or physician on a regular, timely basis for appropriateness or adjustment. LCJ shall

ensure that changes to inmates' psychotropic medications are clinically justified and documented.

- c. LCJ shall ensure timely implementation of physician orders for medication and laboratory tests. LCJ shall ensure inmates who are being treated with psychotropic medications are seen regularly by a physician to monitor responses and potential reactions to those medications, including movement disorders, and provide treatment where appropriate.

## **C. SUICIDE PREVENTION.**

### **1. Suicide Prevention Policy.**

- a. LCJ shall develop policies and procedures to ensure the appropriate management of suicidal inmates, and establish a suicide prevention program in accordance with generally accepted correctional standards of care.
- b. The suicide prevention policy shall include, at a minimum, the following provisions:
  - (1) an operational description of the requirements for both pre-service and annual in-service training;
  - (2) intake screening/assessment;
  - (3) communication;
  - (4) housing;
  - (5) observation;
  - (6) intervention; and
  - (7) mortality and morbidity review.
- c. LCJ shall ensure suicide prevention policies include procedures to ensure the safe housing and supervision of inmates based on the acuity of their mental health needs.
- d. LCJ shall ensure security staff posts in all housing units are equipped with readily available, safely secured, suicide cut-down tools.
- e. LCJ shall ensure that cells for suicidal inmates shall be retrofitted to render them suicide-resistant (e.g., elimination of protrusive shower heads, exposed bars, unshielded lighting or electrical sockets).
- f. LCJ shall document inmate suicide attempts at LCJ in an inmate's correctional record in the classification system, in order to ensure that intake staff will be aware of past suicide attempts if an inmate with a history of suicide attempts is readmitted to LCJ.

### **2. Suicide Precautions.**

- a. LCJ shall ensure that suicide prevention procedures include provisions for constant direct supervision of actively suicidal inmates and close supervision of special needs

inmates with lower levels of risk (e.g., 15 minute checks). LCJ shall ensure that correctional officers document their checks.

- b. LCJ shall ensure that when staff initially place an inmate on Suicide Precautions, the inmate shall be searched and monitored with constant direct supervision until a Qualified Mental Health Professional conducts a suicide risk assessment, determines the degree of risk, and writes appropriate orders. Until such an assessment, inmates shall be placed in gowns recommended and approved for use with suicidal patients.
- c. LCJ shall ensure that, at the time of placement on Suicide Precautions, Qualified Medical or Mental Health Staff shall write orders setting forth the conditions of the watch, including but not limited to allowable clothing, property, and utensils. These conditions shall be altered only on the written instruction of a Qualified Mental Health Professional, except under emergency circumstances.
- d. LCJ shall ensure inmates on Suicide Precautions receive regular, adequate mental status examinations by Qualified Mental Health Staff. Qualified Mental Health Staff shall assess and interact with (not just observe) inmates on Suicide Precautions on a daily basis.
- e. LCJ shall ensure that inmates will only be removed from Suicide Precautions after approval by a Qualified Mental Health Professional, in consultation with a psychiatrist, after a suicide risk assessment indicates it is safe to do so. A Qualified Mental Health Professional shall write appropriate discharge orders, including treatment recommendations and required mental health follow-up.

3. Suicide Risk Assessments.

- a. LCJ shall ensure that any inmate showing signs and symptoms of suicide is assessed by a Qualified Mental Health Professional using an appropriate, formalized suicide risk assessment instrument within an appropriate time not to exceed 24 hours of the initiation of Suicide Precautions.
- b. LCJ shall ensure that the risk assessment shall include the following and findings from the risk assessment shall be documented on both the assessment form and in the inmate's medical record:
  - (1) description of the antecedent events and precipitating factors;
  - (2) suicidal indicators;
  - (3) mental status examination;
  - (4) previous psychiatric and suicide risk history;
  - (5) level of lethality;
  - (6) current medication and diagnosis; and
  - (7) recommendations or treatment plan.

4. Suicide Prevention Training.

- a. LCJ shall review and, to the extent necessary, revise LCJ's suicide prevention training curriculum to include the following topics:
  - (1) the suicide prevention policy as revised consistent with this Agreement;
  - (2) why facility environments may contribute to suicidal behavior;
  - (3) potential predisposing factors to suicide;
  - (4) high risk suicide periods;
  - (5) warning signs and symptoms of suicidal behavior;
  - (6) observation techniques;
  - (7) searches of inmates who are placed on Suicide Precautions;
  - (8) case studies of recent suicides and serious suicide attempts;
  - (9) mock demonstrations regarding the proper response to a suicide attempt; and
  - (10) the proper use of emergency equipment, including suicide cut-down tools.
- b. Within 12 months of the effective date of this Agreement, all LCJ staff members who work with inmates shall be trained on LCJ's suicide prevention program. Staff shall demonstrate competency in the verbal and behavioral cues that indicate potential suicide, and how to respond appropriately. Initial and at least annual training shall be provided.

**D. FIRE SAFETY.**

1. Fire Safety.

- a. LCJ shall develop and implement a comprehensive fire safety program and ensure compliance is appropriately documented. The initial fire safety plan shall be approved by the State Fire Marshal or the Crown Point Fire Chief or Inspector. The fire safety plan shall be reviewed thereafter by the Marshal, Fire Chief or Inspector at least every two years, or within six months of any revisions to the plan, whichever is sooner.
- b. LCJ shall ensure that comprehensive fire drills are conducted every three months on each shift. LCJ shall document these drills, including start and stop times and the number and location of inmates who were moved as part of the drills.
- c. LCJ shall ensure that LCJ has adequate fire and life safety equipment, including installation and maintenance of fire alarms and smoke detectors in all housing areas. Maintenance and storage areas shall be equipped with sprinklers or fire resistant enclosures.
- d. LCJ shall ensure that all fire and life safety equipment is properly maintained and routinely inspected.



- e. LCJ shall ensure that emergency keys are appropriately marked and identifiable by touch and consistently stored in a quickly accessible location, and that staff are adequately trained in use of the emergency keys.
- f. LCJ shall ensure that staff are able to manually unlock all doors (without use of the manual override in the event of an emergency in which the manual override is broken), including in the event of a power outage or smoke buildup where visual examination of keys is generally impossible. LCJ shall conduct and document random audits to test staff proficiency in performing this task on all shifts, a minimum of three times per year. LCJ shall conduct regular security inspections and provide ongoing maintenance to security devices such as door locks, fire and smoke barrier doors, and manual unlocking mechanisms to ensure these devices function properly in the event of an emergency.
- g. LCJ shall implement competency-based testing for staff regarding fire and emergency procedures.
- h. LCJ shall ensure that fire safety officers are trained in fire safety and have knowledge in basic housekeeping, emergency preparedness, basic applicable codes, and use of fire extinguishers and other emergency equipment.

#### **E. SANITATION AND ENVIRONMENTAL CONDITIONS.**

##### **1. Sanitation and Maintenance of Facilities.**

- a. LCJ shall revise and implement written housekeeping and sanitation plans to ensure the proper routine cleaning of housing, shower, and medical areas. Such policies should include oversight and supervision, including meaningful inspection processes and documentation, as well as establish routine cleaning requirements for toilets, showers, and housing units.
- b. LCJ shall implement a preventive maintenance plan to respond to routine and emergency maintenance needs, including ensuring that shower, toilet, and sink units are adequately maintained and installed.
- c. LCJ shall ensure adequate ventilation throughout LCJ to ensure that inmates receive an adequate supply of airflow and reasonable levels of heating and cooling. LCJ shall review and assess compliance with this requirement at least twice annually.
- d. LCJ shall ensure adequate lighting in all inmate housing and work areas and cover all light switches with exposed wires.
- e. LCJ shall ensure adequate pest control throughout the housing units, medical units, and food storage areas.
- f. LCJ shall ensure that all inmates have access to needed hygiene supplies.

- g. LCJ shall develop and implement policies and procedures for cleaning, handling, storing, and disposing of biohazardous materials. LCJ shall ensure that any inmate or staff utilized to clean a biohazardous area are properly trained in universal precautions, are outfitted with protective materials, and receive proper supervision when cleaning a biohazardous area.
- h. LCJ shall provide and ensure the use of cleaning chemicals that sufficiently destroy the pathogens and organisms in biohazard spills.
- i. LCJ shall inspect and replace as often as needed all frayed and cracked mattresses. LCJ shall destroy any mattress that cannot be sanitized sufficiently to kill any possible bacteria. LCJ shall ensure that mattresses are properly sanitized between uses.
- j. LCJ shall ensure adequate numbers of staff to perform housekeeping duties.

2. Sanitary Laundry Procedures.

- a. LCJ shall develop and implement policies and procedures for laundry procedures to protect inmates from risk of exposure to communicable disease.
- b. LCJ shall ensure that inmates are provided adequate clean clothing, underclothing and bedding, consistent with generally accepted correctional standards (e.g., at least twice per week), and that the laundry exchange schedule provides consistent distribution and pickup service to all housing areas.
- c. LCJ shall train staff and educate inmates regarding laundry sanitation policies.
- d. LCJ shall ensure that laundry delivery procedures protect inmates from exposure to communicable diseases by preventing clean laundry from coming into contact with dirty laundry or contaminated surfaces.
- e. LCJ shall require inmates to provide all clothing and linens for LCJ laundering and prohibit inmates from washing and drying laundry outside the formal procedures.

3. Food Service.

- a. LCJ shall ensure that food service at LCJ is operated in a safe and hygienic manner and that foods are served and maintained at safe temperatures, and adequate meals are provided.
- b. LCJ shall ensure that all food service staff, including inmate staff, must be trained in food service operations, safe food handling procedures, and appropriate sanitation.
- c. LCJ shall ensure that kitchen(s) are staffed with a sufficient number of appropriately supervised and trained personnel.

- d. LCJ shall ensure that dishes and utensils, food preparation and storage areas, and vehicles and containers used to transport food are appropriately cleaned and sanitized.
- e. LCJ shall check and record, on a regular basis, the temperatures in the refrigerators, coolers, walk-in-refrigerators, the dishwasher water, and all other kitchen equipment with temperature monitors to ensure proper maintenance of food service equipment.

**F. QUALITY IMPROVEMENT AND QUALITY MANAGEMENT PROGRAM.**

- 1. LCJ shall develop and implement written quality management policies and procedures to regularly assess, identify, and take all reasonable measures to assure compliance with each of the provisions of this Agreement, as applicable.
- 2. LCJ shall develop and implement policies to address and correct deficiencies that are uncovered during the course of quality management activities, including monitoring corrective actions over time to ensure sustained resolution.
- 3. LCJ shall institute a Quality Improvement Committee and ensure that such committee meets on a monthly basis and that this committee includes representatives from medical, mental health, and custody staff.
- 4. Quality management programs related to medical and mental health care will utilize performance measurements to assess quality of care and timely access to care with quantitative and qualitative data analysis and trending over time and specifically shall address:
  - a. the effectiveness of the intake assessment, referral, and sick call process;
  - b. the management and utilization of psychotropic medications;
  - c. suicide prevention, including assessment of suicide risk, review and tracking of suicide attempts, monitoring of inmates on suicide observations or precautions;
  - d. the appropriateness of physical plant facilities such as safe cells for management of at risk inmates, and follow-up and treatment for those who may have engaged in suicidal or self-harm activities;
  - e. the appropriateness of treatment planning and treatment interventions for inmates in the mental health program;
  - f. discharge planning for the effective management and continuity of care for inmates leaving the system; and
  - g. the quality of medical records and other documentation.

**G. PROTECTION FROM HARM.**

- 1. Use of Force by Staff.
  - a. LCJ shall develop and maintain comprehensive and contemporary policies and procedures surrounding the use of force and with particular emphasis regarding permissible and impermissible use of force.

- b. LCJ shall address the following impermissible uses of force in its use of force policy and in the pre-service and in-service training programs for correctional officers and supervisors:
  - (1) use of force as an initial response to verbal insults or inmate threats;
  - (2) use of force as a response to inmates' failure to follow instructions where there is no immediate threat to the safety of the institution, inmates, or staff, unless LCJ has attempted a hierarchy of nonphysical alternatives that are documented;
  - (3) use of force as punishment or retaliation;
  - (4) striking, hitting, or punching a restrained inmate;
  - (5) use of force against an inmate after the inmate has ceased to offer resistance and is under control;
  - (6) use of choke holds on an inmate; and
  - (7) use of unnecessary or excessive force.
- c. LCJ shall develop and implement a policy to ensure that staff adequately and promptly report all uses of force.
- d. LCJ shall ensure that use of force reports will:
  - (1) be written in specific terms in order to capture the details of the incident;
  - (2) contain an accurate account of the events leading to the use of force incident;
  - (3) include a description of the weapon or instrument(s) of restraint, if any, and the manner in which it was used;
  - (4) be accompanied with the inmate disciplinary report that prompted the use of force incident, if applicable;
  - (5) state the nature and extent of injuries sustained both by the inmate and staff member;
  - (6) contain the date and time medical attention was actually provided;
  - (7) describe, in factual terms, the type and amount of force used and precise actions taken in a particular incident and avoid use of "boiler plate" descriptions for describing force, such as, "inmate taken to the ground with the force that was necessary;" and



- (8) note whether a use of force was videotaped. If the use of force is not videotaped, the reporting correctional officer and supervisor will provide an explanation as to why it was not videotaped.
- e. LCJ shall require prompt administrative review of use of force reports. Such reviews shall include case-by-case review of individual incidents of use of force as well as more systemic review in order to identify patterns of incidents. LCJ shall incorporate such information into quality management practices and take necessary corrective action.
- f. LCJ shall ensure that Qualified Medical Staff request that inmates sign a release of medical records for the limited purpose of administrative and investigative review of any incident involving an inmate injury. Qualified Medical Staff will document the request and the inmate's response. LCJ will ensure that inmates receive adequate medical care regardless of whether they consent to release their medical records.
- g. LCJ shall ensure that management review of use of force reports and inmate grievances alleging excessive or inappropriate uses of force includes a timely review of medical documentation of inmate injuries as reported by Qualified Medical Staff, including documentation surrounding the initial medical encounter, an anatomical drawing that depicts the areas of sustained injury, and information regarding any further medical care.
- h. LCJ shall establish criteria that trigger referral for use of force investigations, including but not limited to, injuries that are extensive or serious; injuries involving fractures or head trauma; injuries of a suspicious nature (including black eyes, broken teeth, injuries to the genitals, etc.); injuries that require treatment at outside hospitals; and reports of events by staff and inmates that are inconsistent.
- i. LCJ shall develop and implement a system to track all incidents of use of force that, at a minimum, includes the following information:
  - (1) a tracking number;
  - (2) the inmate(s) name;
  - (3) housing assignment;
  - (4) date;
  - (5) type of incident;
  - (6) injuries (if applicable);
  - (7) if medical care is provided;
  - (8) primary and secondary staff involved;
  - (9) reviewing supervisor;
  - (10) external reviews and results (if applicable);
  - (11) remedy taken (if appropriate); and
  - (12) administrative sign-off.
- j. LCJ shall ensure that as part of a use of force incident package, security supervisors shall ensure that photographs are taken of any and all reported injuries sustained by

inmates and staff promptly following a use of force incident. The photographs will become evidence and be made part of the use of force package and if, applicable, used for investigatory purposes.

- k. LCJ shall establish an "early warning system" that will document and track correctional officers who regularly employ force on inmates and any complaints related to the excessive use of force, in order to alert LCJ administration to any potential need for retraining, problematic policies, or supervision lapses. Appropriate LCJ leadership, supervisors, and investigative staff shall have access to this information and monitor the occurrences.
- l. LCJ shall ensure that a supervisor is present during all planned uses of force.
- m. Where there is evidence of staff misconduct related to inappropriate or unnecessary force against inmates, LCJ shall initiate appropriate personnel actions and systemic remedies, as appropriate. LCJ shall discipline appropriately any correctional officer found to have:
  - (1) engaged in use of unnecessary or excessive force;
  - (2) failed to report or report accurately the use of force;
  - (3) retaliated against an inmate or other staff member for reporting the use of excessive force; or
  - (4) interfered or failed to cooperate with an internal investigation regarding use of force.
- n. LCJ shall develop and implement accountability policies and procedures for the effective and accurate maintenance, inventory and assignment of chemical and other security equipment.
- o. Use of Force Training:
  - (1) LCJ shall develop an effective and comprehensive training program in the appropriate use of force.
  - (2) LCJ shall ensure that correctional officers receive adequate training in LCJ's use of force policies and procedures.
  - (3) LCJ shall ensure that correctional officers receive adequate training in use of force and defensive tactics.
  - (4) LCJ shall ensure that correctional officers receive pre-service and in-service training on reporting use of force and completing use of force reports.
- p. LCJ shall ensure that inmates may report allegations of the use of excessive force orally to any LCJ staff member, who shall reduce such reports to writing.

- q. LCJ shall ensure that Qualified Medical Staff question, outside the hearing of other inmates or correctional officers if appropriate, each inmate who reports for medical care with an injury, regarding the cause of the injury. If, in the course of the inmate's medical encounter, a health care provider suspects staff-on-inmate abuse, that health care provider shall immediately:
  - (1) take all appropriate steps to preserve evidence of the injury (e.g., photograph the injury and any other physical evidence);
  - (2) report the suspected abuse to the appropriate LCJ administrator;
  - (3) adequately document the matter in the inmate's medical record; and
  - (4) complete an incident report.
- r. LCJ shall develop, assign, and train a team of specialized use of force investigators that will be charged with conducting investigations of use of force incidents. These use of force investigators shall receive at the outset of their assignment, specialized training in investigating use of force incidents and allegations.
- s. LCJ shall ensure that incident reports, use of force reports and inmate grievances are screened for allegations of staff misconduct and, if the incident or allegation meets established criteria, that it is referred for investigation.

#### **IV. REPORTING REQUIREMENTS AND RIGHT OF ACCESS**

1. LCJ shall submit a bi-annual compliance report to DOJ and the Liaison, the first of which shall be filed within 120 days of the date of this Agreement. Thereafter, the bi-annual reports shall be filed 30 days prior to the Liaison's bi-annual compliance tour until the Agreement is terminated.
2. Each compliance report shall describe the actions LCJ has taken during the reporting period to implement this Agreement and shall make specific reference to the Agreement provisions being implemented.
3. LCJ shall maintain sufficient records to document that the requirements of this Agreement are being properly implemented and shall make such records available to the DOJ at all reasonable times for inspection and copying. In addition, LCJ shall maintain and submit upon request records or other documents to verify that they have taken such actions as described in their compliance reports (e.g., census summaries, policies, procedures, protocols, training materials and incident reports) and will also provide all documents reasonably requested by DOJ.
4. DOJ and its attorneys, consultants, and agents shall have unrestricted access to LCJ, LCJ inmates, LCJ staff (including staff from any other outside medical or mental health services provider) and documents as is reasonably necessary to address issues affected by this Agreement.

5. Excluding on-site tours, within 30 days of receipt of written questions from DOJ concerning LCJ's compliance with the requirements of this Agreement, LCJ shall provide DOJ with written answers and any requested documents.

## **V. CONSTRUCTION, IMPLEMENTATION AND TERMINATION**

1. DOJ Liaison.
  - a. LCJ shall implement all reforms necessary to effectuate this Agreement. The implementation of this Agreement will begin immediately upon the effective date.
  - b. The DOJ shall appoint a Liaison to ensure implementation of and substantial compliance with the terms and conditions of this settlement Agreement by Lake County.
  - c. The DOJ may hire or consult, at the DOJ's expense, with such additional qualified staff as necessary to fulfill the duties required by the Agreement ("Liaison Team"). The Liaison is ultimately responsible for the findings of the Liaison Team. The DOJ Liaison Team will be subject to all the same access rights and confidentiality limitations, listed below, as the Liaison.
  - d. The Liaison shall have full and complete access to the LCJ, all facility records, inmate medical records, staff, and inmates. LCJ shall direct all employees to cooperate fully with the Liaison. The Liaison shall maintain all medical records and non-public information in a confidential manner.
  - e. The Liaison shall be permitted to initiate and receive ex parte communications with all parties and the Court.
  - f. The Liaison shall file with the Court and provide the parties with reports describing the steps taken by LCJ to implement this Agreement and evaluate the extent to which LCJ have complied with each substantive provision of the Agreement. The Liaison shall issue an initial report four months after the effective date of this Agreement, and then every six months thereafter, unless both parties otherwise agree in writing. The reports shall be provided to the parties in draft form for comment at least two weeks prior to their issuance. These reports shall be written with due regard for the privacy interests of individual inmates and staff and the interest of LCJ in protecting against disclosure of non-public information.
  - g. In each Liaison's report, the Liaison shall evaluate the status of compliance for each provision of the Agreement using the following standards: (1) Substantial Compliance; (2) Partial Compliance, and (3) Non-compliance. In order to assess compliance, the Liaison shall review a sufficient number of pertinent documents to accurately assess current conditions; interview all pertinent staff; and interview a sufficient number of inmates to accurately assess current conditions. The Liaison shall be responsible for independently verifying representations from LCJ regarding



progress toward compliance, examining supporting documentation where applicable. Each Liaison's report shall describe the steps taken to analyze conditions and assess compliance, including documents reviewed and individuals interviewed, and the factual basis for each of the Liaison's findings.

- h. The Liaison shall provide LCJ with technical assistance as requested by LCJ.
- i. Throughout the duration of this Agreement, the DOJ and its expert consultants and agents shall maintain the confidentiality of all information provided pursuant to this Agreement consistent with federal law.
- j. Except as required or authorized by the terms of this Agreement or the parties acting together, the Liaison shall not: make any public statements (at a conference or otherwise) or issue findings with regard to any act or omission of Defendants or their agents, representatives or employees, or disclose nonpublic information provided to the Liaison pursuant to this Agreement. Any press statement made by the Liaison regarding his or her employment must first be approved in writing by all parties. The Liaison shall not testify in any other litigation or proceeding with regard to any act or omission of Defendants, LCJ, or any of its agents, representatives, or employees related to this Agreement, nor testify regarding any matter or subject that he or she may have learned as a result of his or her performance under this Agreement. Reports issued by the Liaison shall not be admissible against Defendants in any proceeding other than a proceeding involving this case. Unless such conflict is waived by the parties, the Liaison shall not accept employment or provide consulting services that would present a conflict of interest with the Liaison's responsibilities under this Agreement, including being retained (on a paid or unpaid basis) by any current or future litigant or claimant, or such litigant's or claimant's attorney, in connection with a claim or suit against Defendants, their departments, officers, agents or employees. The Liaison is not a State/County or local agency or an agent thereof, and accordingly the records maintained by the Liaison shall not be deemed public records subject to public inspection. Neither the Liaison nor any person or entity hired or otherwise retained by the Liaison to assist in furthering any provision of this Agreement shall be liable for any claim, lawsuit, or demand arising out of the Liaison's performance pursuant to this Agreement. This provision does not apply to any proceeding before a court related to performance of contracts or subcontracts for monitoring this Agreement.

2. Professional Corrections Administrator ("PCA").

- a. In accordance with the National Institute of Corrections' Technical Assistance Report 10J1047 dated March 1, 2010, Lake County shall, within 180 days of the effective date of this Agreement, initiate a search for and employ a Professional Corrections Administrator ("PCA") to serve as the warden of the LC Jail and oversee the day-to-day operations of the jail during the term of this Agreement.

- b. The PCA shall be selected by the Sheriff of Lake County but said selection shall not be made by the Sheriff prior to January 5, 2011.
- c. The PCA shall have a minimum of: (i) a Bachelor's degree in criminal justice or other closely related field; (ii) 5 years experience in supervising a large correctional facility or an equivalent combination of education and experience; and (iii) knowledge of and experience in applying modern correctional standards.

3. Termination - Compliance.

- a. This Agreement shall terminate when LCJ has achieved substantial compliance with the substantive provisions of this Agreement and has maintained that substantial compliance for one (1) year. If LCJ demonstrates substantial compliance, the one year period for maintenance of substantial compliance may include periods of continued substantial compliance which commenced prior to the effective date of this Agreement.
- b. Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, shall not constitute failure by the LCJ to maintain substantial compliance. However, intermittent compliance during a period of sustained noncompliance shall not constitute substantial compliance. The DOJ, in its good faith discretion, will determine whether Lake County has maintained substantial compliance for the one year period and any finding of substantial compliance may not be unreasonably withheld.
- c. Subsections of this Agreement pertaining to specific subject matter areas, such as staffing and training, screening and treatment, access to care, chronic disease care, medication administration and management, emergency care, mental health care, and suicide prevention, may be terminated separately and independently from the provisions of the Agreement that have not yet reached substantial compliance, if Lake County reaches substantial compliance in these areas and maintains substantial compliance for one (1) year.
- d. The burden shall be on Lake County to demonstrate it has achieved substantial compliance with a particular section of this Agreement, and the DOJ, in its good faith discretion, will determine whether Lake County has maintained substantial compliance in a specific subject matter area for the one (1) year period.
- e. A finding of substantial compliance may not be unreasonably withheld by the DOJ. The DOJ may also release Lake County from the obligations of any specific provision of this Agreement if it concludes, in its good faith discretion, that Lake County has achieved a sufficient sustainable level of compliance with the provision.
- f. If DOJ believes that Lake County has failed to substantially comply with any obligation under this Agreement, DOJ will, prior to seeking judicial action to enforce the terms of this Agreement, give written notice of the failure to Lake County. The Parties shall conduct good-faith discussions to resolve the dispute. If the Parties are

unable to resolve the dispute within thirty (30) days of the DOJ's notice of failure, then:

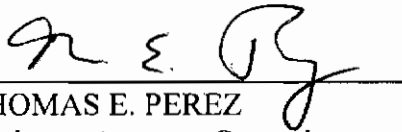
- (1) the parties may mutually agree to submit the issue(s) to mediation before an independent mediator selected by Agreement of the DOJ and the County; or
  - (2) Either party may move to invoke the jurisdiction of the U.S. District Court for the Northern District of Indiana, Hammond Division, to enforce or resolve the provisions of this settlement Agreement in dispute between the parties.
- g. Failure by either party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of its right to enforce other deadlines or provisions of this Agreement.
- h. If any unforeseen circumstance occurs that causes a failure to timely carry-out any requirements of this Agreement, LCJ shall notify DOJ in writing within 20 calendar days after LCJ becomes aware of the unforeseen circumstance and its impact on the LCJ's ability to perform under the Agreement. The notice shall describe the cause of the failure to perform and the measures taken to prevent or minimize the failure. LCJ shall implement all reasonable measures to avoid or minimize any such failure.
- i. The Agreement shall be applicable to, and binding upon, all parties, elected officials and their respective officers, agents, employees, assigns, and their successors in office.
- j. In the event that any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, said finding shall not affect the remaining provisions of this Agreement.

## **VI. STIPULATION PURSUANT TO THE PRISON LITIGATION REFORM ACT, 18 U.S.C. § 3626**

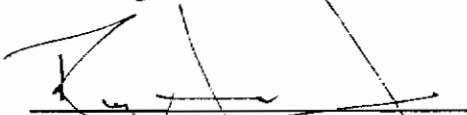
1. The parties stipulate that this Agreement complies in all respects with the provisions of 18 U.S.C. § 3626(a). The parties further stipulate that the prospective relief in this Agreement is narrowly drawn, extends no further than necessary to correct the violations of federal rights regarding suicide prevention, medical and mental health care, environmental safety, and protection from harm/use of force, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the parties agree and represent that this Agreement complies in all respects with the provisions of 18 U.S.C. § 3626(a).
2. The issue of liability has not been litigated.

3. The parties do not intend for this Agreement to have any preclusive effect except between the parties. Should the issue of the preclusive effect of this Agreement be raised, the parties agree to certify that they intended for this Agreement to have no such preclusive effect.

**FOR THE UNITED STATES:**



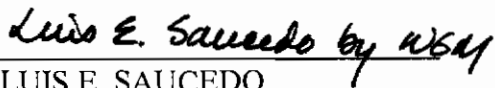
THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division



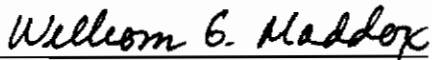
ROY L. AUSTIN, JR.  
Deputy Assistant Attorney General  
Civil Rights Division



JUDY C. PRESTON  
Deputy Chief  
Special Litigation Section



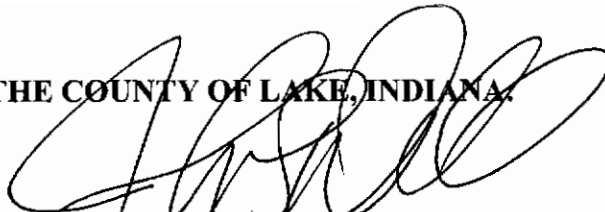
LUIS E. SAUCEDO  
Acting Deputy Chief  
Special Litigation Section



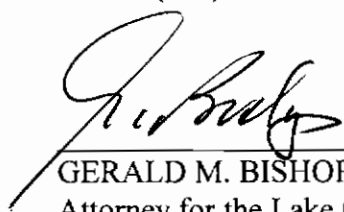
WILLIAM G. MADDOX  
MATTHEW J. DONNELLY  
Attorneys  
U.S. Department of Justice  
Civil Rights Division  
Special Litigation Section  
950 Pennsylvania Avenue, NW  
PHB Room 5028  
Washington, D.C. 20530  
(202) 514-6255



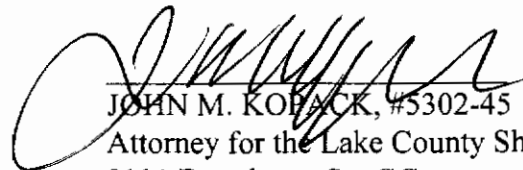
**FOR THE COUNTY OF LAKE, INDIANA.**



\_\_\_\_\_  
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Fax: (219) 648-6138

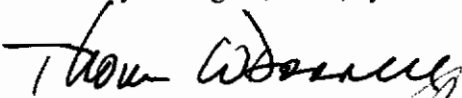


\_\_\_\_\_  
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Phone: (219) 738-2400  
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Email: [gmb@bishop-law.com](mailto:gmb@bishop-law.com)

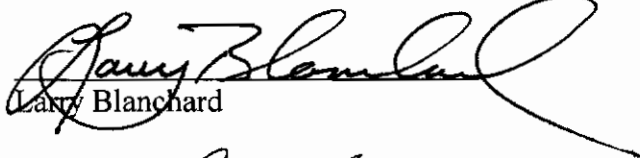


\_\_\_\_\_  
JOHN M. KOPACK, #5302-45  
Attorney for the Lake County Sheriff  
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P.O. Box 10607  
Merrillville, IN 46411  
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Fax: (219) 738-2818  
email: [jmklaw@sbcglobal.net](mailto:jmklaw@sbcglobal.net)

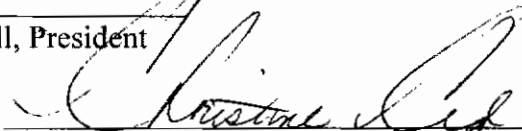
**APPROVED and ADOPTED** this 18th day of August, 2010, by the **LAKE COUNTY COUNCIL**.



Thomas O'Donnell, President



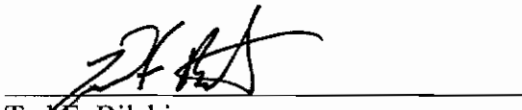
Larry Blanchard



Christine Cid



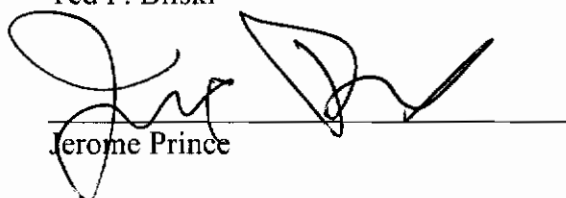
Ernie Dillan



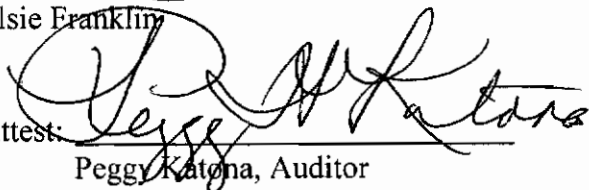
Ted F. Bilski



Elsie Franklin



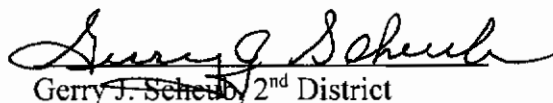
Jerome Prince

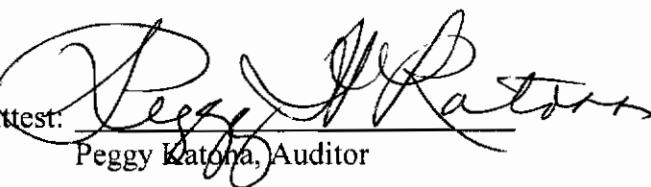
Attest: 

Peggy Katona, Auditor

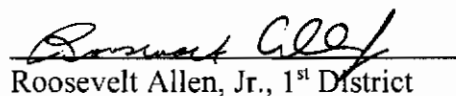
**APPROVED and ADOPTED** this 18<sup>th</sup> day of August, 2010, by the  
**LAKE COUNTY COMMISSIONERS**.

\_\_\_\_\_  
Frances DuPey, President

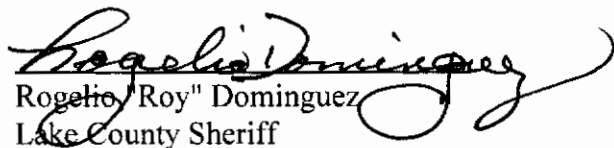
  
Gerry J. Scheub, 2<sup>nd</sup> District

Attest: 

Peggy Katona, Auditor

  
Roosevelt Allen, Jr., 1<sup>st</sup> District

**APPROVED and ADOPTED** this 18th day of August, 2010, by the **LAKE COUNTY SHERIFF**.

  
Rogelio "Roy" Dominguez  
Lake County Sheriff

# Exhibit 3



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	CAUSE NO.: 2:10-CV-476-TLS
	)	
LAKE COUNTY, INDIANA;	)	
ROGELIO "ROY" DOMINGUEZ, LAKE	)	
COUNTY SHERIFF, in his official capacity only;	)	
FRANCES DUPEY, President, Lake County	)	
Board of Commissioners, in her official capacity	)	
only; THOMAS C. O'DONNELL, President,	)	
Lake County Council, in his official capacity only;	)	
LAKE COUNTY BOARD OF	)	
COMMISSIONERS, in their official capacity	)	
only; LAKE COUNTY COUNCIL, in their	)	
official capacity only,	)	
	)	
Defendants.	)	

**ORDER**

This matter is before the Court on the parties' Joint Motion to Terminate Subsection A, Medical Care, and Subsection C, Suicide Prevent, of Settlement Agreement [ECF No. 59], filed on August 10, 2017. The Court approved the parties' Settlement Agreement on December 20, 2010 [ECF. No. 12.] The Government and the Defendants have informed the Court that "Subsection A, Medical Care, and Subsection C, Suicide Prevention, of the Settlement Agreement have reached and maintained substantial compliance for at least one (1) year and have achieved sustained compliance." [ECF No. 59, ¶ 5.] The Court, being duly advised, GRANTS the parties' Joint Motion. [ECF No. 59.]

SO ORDERED on August 31, 2017.

s/ Theresa L. Springmann  
CHIEF JUDGE THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT  
FORT WAYNE DIVISION

# Exhibit 4

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LAKE COUNTY, INDIANA, et al.,

Defendants.

CAUSE NO.: 2:10-CV-476-TLS

**ORDER**

This matter is before the Court on the Joint Motion to Terminate Settlement Agreement and For Final Dismissal [ECF No. 74], filed on December 17, 2019. For the reasons stated below, the Court grants this request.

On December 3, 2010, the United States of America filed a Complaint [ECF No. 1] in which it alleged that the Defendants were deliberately indifferent to the health and safety of inmates at the Lake County Jail (LCJ). *See* Compl. ¶ 26. On December 20, 2010, the Court (1) approved a Joint Settlement Agreement [ECF No. 9] which established guidelines for the Defendants to follow and (2) retained jurisdiction to ensure the timely and proper implementation of the agreement. Order, ECF No. 12. The agreement provided that it “shall terminate when LCJ has achieved substantial compliance with the substantive provisions of this Agreement and has maintained that substantial compliance for one (1) year.” Settlement Agreement, p. 28, ECF No. 9.

On December 17, 2019, the parties filed the instant Joint Motion to Terminate Settlement Agreement in which they agreed that “Lake County has reached substantial compliance with the terms of the Agreement in its entirety and termination is appropriate under Section V.3.(a) of the

Agreement.” Joint Mot. to Terminate Settlement Agreement, p. 6. The Court has reviewed the record and finds that the requested relief is appropriate. Therefore, the parties’ joint motion is granted.

### **CONCLUSION**

For the reasons stated above, the Court GRANTS the Joint Motion to Terminate Settlement Agreement and For Final Dismissal [ECF No. 74]. The Court ORDERS that the Settlement Agreement [ECF No. 9] is TERMINATED. The Court RELINQUISHES its continuing jurisdiction and DISMISSES this case.

SO ORDERED on December 18, 2019.

s/ Theresa L. Springmann

CHIEF JUDGE THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT

# Exhibit 5

**LAKE COUNTY JAIL  
2022 HEALTH CARE SERVICES AGREEMENT WITH  
CORRECTIONAL HEALTH INDIANA, INC.**

This agreement, made and entered into October 28, 2021, by and between Correctional Health Indiana, Inc. (hereinafter “Provider” or “CHI”) and the Lake County Sheriff (hereinafter “Client” or “Sheriff”) is approved by Lake County Board of Commissioners on behalf of the County of Lake, on the date indicated below.

**I. RECITALS**

A. The Provider is a qualified health care Provider and Indiana Corporation, licensed under the laws of the State of Indiana, engaged in the business of providing qualified health care services and staffing for the Client. The Client has the constitutional duty and responsibility to operate the Lake County Jail and to ensure that inmates housed in said facility are provided health care services at a standard of care that meets or exceeds constitutional requirement and community standards for the delivery of health care services. The Client, therefore, enters into this agreement for the purpose of ensuring that inmates are provided proper care while incarcerated In the Lake County Jail. The Client desires to and hereby retains Provider as an independent contractor to deliver qualified, competent health services to inmates in the Lake County Jail by licensed and qualified medical professionals for the aforementioned purposes.

B. Provider hereby agrees to provide qualified health care professionals at adequate staffing levels shown on the included staffing matrix that will adequately meet the health care needs of jail inmates and the jail’s health care program and other qualified staff as mutually determined and agreed are needed by the parties to meet required health care standards of medical care.

C. Therefore, it is mutually agreed by the parties that the Provider will provide services to the Client under the terms and conditions specifically set forth in this agreement.

D. The Provider agrees and understands that the Client, at its discretion and expense, may maintain qualified outside monitoring of this contract and the health care services provided for under this agreement or any subsequent agreement. The Provider agrees to fully cooperate and collaborate with any qualified outside compliance monitor appointed by the Client.

**II. TERM OF AGREEMENT**

The term of this agreement shall be from January 1, 2022 to December 31, 2022, subject to the right of the parties to extend the term of this agreement by mutual written agreement.

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### III. FURNISHING OF SERVICES

A The Provider shall provide qualified staff to deliver adequate jail health care services consistent with Lake County jail health policies, procedures, protocols, and guidelines, and in accordance with appropriate state and national standards, the professional standards published by the National Commission on Correctional Health Care, Centers for Disease Control and Prevention, constitutional requirements, and community standards. The requirements set forth in the 2010 Department of Justice Settlement Agreement shall serve as supporting guidelines for the development and/or revision to policies and procedures, provision of assessment and care, and quality assurance. The number of staff in specific designations and work hours of health care staff has been determined solely by Client and its consultants in a manner consistent with needs of the jail health care program and with the intent to comply with the above cited specifications. It is understood that the staffing numbers shown below include Personal Time Off calculations for eligible staff. Minimum staffing and staff levels of services shall be as follows:

<b>Staff Categories</b>	<b>Hours Per Week</b>
1. Med Director/Staffing MD	60
2. Prescriber on Call	Daily/PRN
3. Health Service Administrator	40
4. NP/PA (Nurse Practitioner/Physician Assistant)	120
5. Director of Nursing	40
6. RN (Registered Nurse)	615
7. Med Assistant/Med Tech	800
8. Medical Records/Data/Secretarial/Utilization	220
9. Transportation/Utilization	40
<b>TOTALS</b>	<b>1935</b>

Provider understands that all Provider staff working in the jail may be barred from entering the jail if their performance and/or behavior could cause risk or harm to the health care program.

Provider will participate and assist Client in the development of policies, procedures, protocols, guidelines, quality assurance and improvement processes and reports, health care services and resource utilization processes and reports as needed to ensure effective and efficient delivery of jail medical and health care services.

B. Provider shall maintain personnel files for all staff that includes current licensures, certifications, resume, records of continuing education and mandatory training. Mandatory training includes: CPR/First Aid, AED, Suicide Prevention Course provided by Client, blood borne pathogen training, and correctional orientation training. All staff shall complete mandatory training within 120 days of the date of their employment Provider also agrees to train staff in other subjects required for adequate provision of assessment and care, and otherwise as mutually agreed between the parties.

D. The Provider agrees to provide appropriately trained and qualified infectious disease and chronic disease programs. The positions shall be credentialed at the RN level at a minimum.

E. The Provider agrees to provide sufficient number of RNs to conduct timely and complete jail intake health screenings on all inmates entering the jail.

F. Provider, in collaboration with Client, shall develop and maintain an appropriate and adequate professional development and ongoing jail health care training program for staff.

G. Provider understands it shall use the Lake County Jail electronic health records system for creating and maintaining inmate health records. Provider further agrees and acknowledges that all health records established shall be the sole and proprietary property of the Client and shall in no way be construed as the property of the Provider or any of its staff or employees.

H. The Provider shall, in conjunction with this Agreement and the scope of staffing herein, provide additional medical services requested by Client from time to time. The Client's request shall not exceed the scope of Provider's practice, or the practice of other clinical support staff.

I. The Client shall provide adequate workspace, equipment, computers, electronic health records systems, and supplies required for the delivery of the contracted services. Additionally, the Client shall provide sufficient security and other staff needed to accomplish required and contracted responsibilities of the Provider. The Client shall also provide other support resources that may be required as mutually agreed.

J. Provider agrees to cooperatively participate in ongoing quality improvement and assurance processes involving evaluation of structural, process, utilization and clinical outcome performance. This process shall include routine clinical and management data and information collection and reporting, special studies, and continuous quality improvement/assurance programs and processes.

#### IV. COMPENSATION AND BILLING

A. Provider Responsibilities. The Provider shall be responsible for the following in regards to compensation and billing:

1. Provider agrees to provide the services to the Client pursuant to the staffing plan and compensation schedule incorporated herein.

2. Provider agrees to prepare and submit detailed semi-monthly invoices that include all staffing expenditures incurred within the billing period and to cooperate with designated Client staff for the purpose of reconciling each invoice.

3. Provider shall punctually complete and submit all claim forms required by the Client, the Indiana State Board of Accounts and Lake County prior to any pre or post-payment being provided to Provider, all subject to sufficient appropriation by the County fiscal body.

4. The Provider shall make no additional charges to Client's patients or other third-party payors for services rendered during regularly scheduled hours or for any services for which the Client has paid the Provider. The amounts paid by Client under this agreement shall represent Provider's full compensation for all medical services rendered under this agreement.

5. The Provider understands that only its full-time employees will be provided up to 30 days per year of paid personal time off. For the purposes of this provision, full-time employees shall be defined as those employees who are employed by the Provider and schedule to work a forty-hour (40 hr.) work week. The Client agrees to compensate Provider for up to 30 days per year per eligible employee for paid time off which costs are already included in the budgets as submitted by Provider per the Provider's employee policies and procedures. All paid and non-paid time off shall be documented on Provider's invoices for transparent and accurate accounting purposes. Scheduling paid time off shall be at the sole discretion of the Provider but in no case shall the scheduling of paid time off unduly interfere with, limit, impair, or otherwise debilitate the delivery of the jail medical services required under this agreement.

6. Provider shall specifically list and deduct all appropriate costs for unfilled positions and non-paid time off from each invoice. The Client shall not compensate Provider for unfilled positions and non-paid time off. Appropriate costs shall include salaries and related benefits.

7. All personnel furnished by Provider are considered employees of the Provider and not employees of the Client. Provider shall have the sole responsibility of paying the salaries, social security, insurance, other taxes, and all other expenses related to each employee of the Provider unless otherwise specifically stated herein.

B. Client Responsibilities. Except as otherwise authorized in this agreement, Client agrees to pay the amounts contained in the Pre-Reconciled Payment Schedule below in 2022. Provider understands a lesser amount may be paid if it is determined by the parties by reconciled invoice that a lesser amount is due. However, the reconciliation process shall not unreasonably delay payment to the Provider. Client agrees to compensate Provider on a semi- monthly basis.

**2022 PRE-RECONCILED BUDGET AND SEMIMONTHLY PAYMENTS**

YEAR	2022
TOTAL COST	\$6,094,854
24 PAYMENTS	\$253,952

1. Client shall make payments due hereunder, notwithstanding any other provision in this agreement, to the Provider pursuant to the customary and normal procedures for the processing and payment of claims by municipalities under Indiana Law. Payments shall be made payable to "Correctional Health Indiana, Inc."

2. The Client shall accept as complete and accurate all reconciled invoices and compensate the agreed reconciled amount. Client may prescribe payment forms to be used or approved by Client, the Indiana State Board of Accounts and/or Lake County prior to any payment being due, all subject to annual funding and appropriation by the County Fiscal Body.

3. Should Client terminate this Agreement as provided herein, Client agrees it will still pay any and all ongoing costs of the liability and extended reporting period coverage insurances, if any, that Provider may incur from the insurance carrier regardless of the termination of the services portion of the contract. The parties also understand and agree that some premium payments are made in advance and may be non-refundable by the insurance carrier in the event of a cancellation of this Agreement, and that the cost of the insurance premiums for liability and extended reporting coverages will remain with the Client regardless of the termination of this Agreement.

## V. HIRING AND MANAGING PROVIDER STAFF AND EMPLOYEES

A. The Client acknowledges the special nature of the relationship that exists between the Provider and the staff and employees that Provider will recruit, employ and retain to meet the conditions of this agreement. The Client acknowledges that the recruitment, training, supervision, management, administration and maintenance of staff and staffing is the primary responsibility of Provider, but the Client agrees to provide mutually agreed levels of support as needed to ensure program success.

B. Provider understands that all its applicants and employees shall successfully complete all selection requirements and processes prior to working in the jail. At no time shall Provider authorize its employees to enter and/or work in the jail without written authorization by the Sheriff of Lake County or his designee.

C. Provider affirms that all its employees are properly licensed and credentialed by the State of Indiana in their respective scope of practice and have taken and successfully completed a pre-employment drug screen. Provider also affirms all its employees have sufficient years of qualified experience to perform the duties required under this agreement.

D. Provider affirms that all medical and health care providers supplied by Provider shall meet all local, state, and federal laws, rules, and regulations related to personnel supplying medical services and care to inmates of a county jail.

E. Client shall not unreasonably interfere with, impair, or otherwise inhibit the recruiting or management relationships between Provider and its employees.

## VI. INSURANCE

A. The Provider shall purchase and maintain in full force and effect at all times during the term of this Agreement all appropriate policies of insurance, specifically including Liability Insurance as follows:

**Professional Liability:** Limits in the sum of One Million Two Hundred Fifty Thousand (\$1,250,000.00) Dollars of coverage per claim and Three Million (\$3,000,000.00) Dollars of aggregate coverage;

**General Liability:** Limits as set forth below:

\$ 2,000,000 Each Claim Limit

\$ 2,000,000 General Aggregate  
\$ 2,000,000 Products/Completed Operations Aggregate  
\$ 2,000,000 Personal and Advertising Injury  
\$ 50,000 Damage to Premises Rented to You  
\$ 5,000 Medical Expense – Each Person

**Abuse Molestation** Limits as set forth below:

\$1,000,000 per claim  
\$1,000,000 aggregate

**Policy Aggregate:**

\$ 5,000,000 Limit of Insurance for All Coverages, All Insureds and All Locations

These coverages, in these amounts are intended to provide insurance, indemnity, and all appropriate defenses to protect the Provider in any suit, demand, claim, or action of any nature, including but not limited to general, medical care or professional liability actions, inmate actions regarding the deprivation of protected rights, and premises liability claims and pay any claims settled or judgments if rendered against the Provider in its official or personal capacity with coverage effective for claims during the time of the contract period, including for the period commencing January 1, 2012 until December 31, 2022.

The Client shall pay as incurred by Provider the payment of any and all deductible/retention obligations that may be incurred and owed during all periods of coverage under all policies of insurance subject to this Agreement. The parties understand and agree that the deductible responsibility set forth in the GenStar policy of insurance requires a deductible/retention of Fifty Thousand Dollars \$50,000.00 per claim. As the number of claims that may be incurred under the policy is unknown, the parties agree to have the Client pay such deductible/retention requirements only as they are incurred and presented to the Provider by the insurer or the insurer's designated representative.

Provider shall provide an affidavit of coverage to the Client demonstrating the insurance coverage described above prior to January 1, 2022, and through the term of this contract. As the coverages provided are on a claims made basis, the parties agree that claims may arise after the period of coverage ends on December 31, 2022, requiring extended reporting coverage to provide insurance for claims that are made after this policy ends, yet that arise during the period of this contract and not made until a later date after the end of the contract but before all applicable statutes of limitation have expired.

B. The Provider shall also furnish at its own expense and will maintain in full force and effect at all times during the term of this agreement the following:

1. Worker's Compensation Insurance as required by the State of Indiana.
2. The Provider shall provide, maintain and keep current a certificate and proof of Insurance by filing these with the Sheriff of Lake County, or his/her designee, and the Lake County Commissioners who shall make them a matter of record at a public meeting.

C. The Provider shall promptly notify the Sheriff and the Lake County Commissioners or their designees of any change to its insurers, policy limits, and all notices of cancellation of any required policy of insurance. All policies of insurance obtained or maintained by the Provider to meet the requirements of this agreement shall include the "County of Lake, Indiana, Its elected officials and appointed officials, agents and employees" as an additional named Insured during the full term of this or any subsequent agreement.

## VII. INDEPENDENT CONTRACTOR

A. This agreement shall not prohibit the Provider from performing services for others as approved by the Client and the Provider shall be paid only on the basis of services the Provider actually performs and provides to the Client

B. It is expressly acknowledged by the parties that Provider is an "Independent Contractor" and nothing in this agreement is intended nor shall be construed to create an employer/employee relationship or a joint venture relationship or to allow the Client, in its own capacity or through its agents, consultants, or other related third parties, to exercise control or direction over the Provider's business and health care operations or outside business opportunities or relationships.

C. The Provider and its staff and personnel understand they shall not be treated as an employee of Client for any purpose, including federal and state taxes, Social Security, unemployment insurance, health insurance or any other withholding pursuant to any law or requirement of any governmental body related to the employees of Provider or make available any of the benefits afforded to employees of the Client because all of such payments, withholdings and any other benefits, if any, are the sole responsibility of Provider and the Provider agrees to and shall indemnify and hold the Client harmless on any and all loss or liability arising with respect to such employee payments and benefits, if any.

D. In the event that the Indiana Department of Revenue, Federal Internal Revenue Service or any other government agency should question or challenge the "independent contractor" status of the Provider or its employees with respect to the Client, the parties hereby mutually agree that both the Provider and the Client shall have the right to participate in any discussions or negotiations occurring with such agency or agencies, irrespective of whom or by who such discussions or negotiations are initiated. The Provider shall provide all documentations showing the appropriate withholdings have been made and paid to the appropriate governmental agencies upon request of the Client.

## VIII. COMPLIANCE WITH STATUTES, ORDINANCES AND REGULATIONS

A. Client and the Provider shall operate their respective services at all times in compliance with applicable federal, state, and local laws, rules and regulations, the policies, rules, and professional standards of care, Provider bylaws, and all currently accepted and approved methods and practices of each area of service. Notwithstanding any unanticipated effect of any provision of the Agreement, neither party will intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 USC Sec. 1395 (b) and 1396 (b) or any subsequent revisions or amendments.



B. The Provider agrees and warrants the medical services and levels thereof provided to the Client will meet and continue to meet all constitutional standards and all minimum federal and state laws or regulations, and national standards, related to the delivery of medical services and to medical services provided to jail inmates.

C. All health care records and patient information shall be and remain confidential in accordance with HIPAA regulations and ethical standards of patient care. All this information shall be the property of the Client and the Provider and its staff and employees shall each execute confidentiality agreements and comply with all state, federal, and HIPAA laws and regulations concerning or related to the collection, recording, storage, and release of any and all health care records and/or information.

D. Equal Opportunity and Affirmative Action. The Provider agrees by the execution of this agreement that in regard to its operations it will fully comply with Lake County Ordinances and Policies providing:

1. No person shall, on the grounds of race, color, national origin, sex, or sexual orientation (LGBT or lesbian, gay, bisexual or transgender) be excluded from participation, be denied the benefits of, or be subject to discrimination.

2. The principles of equal opportunity in employment of delivery of services are applicable and commits to a policy and practice of nondiscrimination and affirmative action based upon age, military service, ancestry, color, national origin, physical handicap, political affiliation, race, religion, and sex or sexual orientation (LGBT or lesbian, gay, bisexual or transgender) .

3. The provisions of the Affirmative Action Program adopted by the Board of Commissioners of the County of Lake on May 31, 1977, and as amended, as applicable are Incorporated by reference as part of this agreement.

4. The provisions of all Federal Civil Rights laws and the Indiana Civil Rights law as applicable are incorporated by reference as part of this agreement.

5. Breach of any of the equal opportunity and/or nondiscrimination provisions of the agreement may result in any remedy available to the County in respect to such breach or default.

6. Where applicable, non-discriminatory clauses and affirmative action clauses shall be made a part of any agreement, contract, or lease between the Consultant and any organization, corporation, subcontractor, or other legal entity that benefits from the funds paid to the Consultant by this agreement.

7. The Provider has an internal policy and provision to provide its employees a 401(K) retirement plan as part of the employment package offered to its employees, consistent with past requirements of the Client. Eligibility for the Provider to continue to offer this benefit shall be In compliance with Section 135(a) of the Revenue Act of 1978, Pub. L No. 96-600,92S stat. 2763, 278S (Nov. 6, 1978) or as amended in compliance with applicable federal and state law.

8. The Provider has an internal policy and provision to provide its employees with health care benefits. Employee eligibility will be in compliance with the patient Protection and Affordable Care Act of 2010 as amended.

E. Information that is the property of Client shall be made available in accordance with the Indiana Open Records Law, I.C. S-15-5.1-1 et seq. Client recognizes and acknowledges that in some course of performing the services provided hereunder it may have access to certain confidential or proprietary information of the Provider and the Provider's business and computer operations. Client hereby agrees that it will not, at any time during or after the term of this agreement, disclose any such confidential or proprietary information to any person unless required by law upon obtaining the prior written consent of the Provider.

#### IX. EXECUTION AND APPLICABLE LAW

This Contract Agreement has been executed In Indiana and shall be governed in accordance with the laws of the State of Indiana in every respect. In the event of a dispute over any term and/or condition herein, the Issue shall be first mediated before a mediator selected by agreement of the parties prior to any court proceeding being initiated or filed. If any portion of said Contract is found legally unenforceable, the balance of said Contract shall remain in full force and effect.

#### X. NOTICE REQUIREMENTS

Any notices required hereunder may be hand delivered to the Provider's authorized representative onsite or to the business address of Provider. Other normal means of written communication such as certified mail, telegram, fax, in-hand personal delivery, and/or electronic mail (EMAIL) shall also constitute an acceptable method of giving notice or communicating official Information.

#### XI. TERMINATION

A. This agreement shall terminate upon any material breach or default by either party in the performance of any obligation hereunder which is not or cannot be cured within thirty (30) days after written notice to the breaching or defaulting party of the existence of such breach or default.

B. Upon termination of this agreement as hereinabove provided, neither party shall have any further obligation hereunder, except obligations accruing prior to the date of the termination and obligations, promises or covenants contained herein which are expressly made to extend beyond the term of this Agreement Including, without limitation to the cost of various insurances required under this Agreement, confidentiality of information, indemnities and releases.

C. In the event the Client, through its Fiscal Body, fails to, provide sufficient funding through its fiscal process to compensate Provider for continued services under this Contract, such failure shall constitute an immediate breach of a material component of this Contract, and such failure creates the basis for the immediate termination of the Contract by the Provider. The Provider may, at its sole option, choose to cease providing medical services hereunder upon receiving notice of such failure. Should Provider, however, choose to provide any medical services for any period of time after it receives notice of such, the services provided for any

period of time shall not constitute a waiver of the Provider's reserved right to terminate providing services based upon such failure.

D. This contract may be terminated without cause by either party upon formal written notice provided in person or via certified U.S. Mail to the Chief Executive Officer or other authorized official. Services will thereafter terminate ninety (90) days following receipt of termination. Should this provision be exercised, the obligation to defray any and all remaining and outstanding costs of liability or extended reporting insurance coverages as set forth in Section VI of this Contract shall survive the termination of the contract and remain solely the responsibility of the Client to pay, if any, as those costs are incurred by the Provider. Upon termination the Provider shall take all reasonable steps to cancel the insurances set forth herein in order to mitigate the cost to the Client upon termination, however, the cost of the extended reporting coverage shall remain with the Provider upon termination and continue for the time period set forth herein. In such event, Provider will present the actual costs of the ongoing insurance obligation to Client for continued payment until all such sums and obligations for that insurance are fulfilled.

## XII. EXTENSION

The parties agree they have the option to extend this contract if the parties mutually agree to such extension by written agreement. The option to extend the Agreement beyond December 31, 2022 must be exercised before September 1, 2022 to automatically renew the contract at a 5% base increase for 2023.

## XIII. INDEMNIFICATION

The Provider agrees to indemnify and hold harmless the Client, Lake County, and their respective elected and appointed officials, officers, agents and employees against any and all claims, causes of action, costs, attorney fees and any other expenses relating to the medical and other services provided by its agents, servants, staff, personnel and employees should the claim or cause of action result in a finding of responsibility by Provider. It is agreed that each party to this Agreement shall be responsible for its own acts and/or omissions and are not responsible for the acts and/or omissions of the other party. Each party shall immediately notify the other of any causes of action initiated or commenced by any third party that may relate to the services provided by the Provider to any Inmate and the parties further agree to cooperate and assist the other in defending causes of actions related to the services provided herein.

The parties agree that at various times Provider may require that medical services for inmates will be necessary by community referrals for specialist care or other outside care during the term of this Agreement. Further, Client agrees to indemnify Provider against all claims, actions, demands, suits and the like that may arise from inmates or related parties which may be occasioned as a result of the loss of community referrals in the event the County of Lake fails to pay for these community referrals as determined necessary by Provider.

#### XIV. AGENCY INFORMATION

- A. Provider shall provide and keep current a listing of the name and necessary contact information of all health care providers of the Provider who provide health care services to the Client for the purpose of contacting each if required to provide any information relating to the health care of any inmate.
- B. Provider and its staff, personnel, and employees shall adhere to and be bound by all rules and regulations of the Lake County Jail and Sheriff's Department and shall keep confidential and secure any and all passwords, security information and protocols related to the security of the Lake County Jail.
- C. All staff, personnel, and employees of the Provider shall agree to and be subject to random drug screen and alcohol testing conducted by the Client and shall be subject to criminal background checks by the Client before and during any services to the Client. Client retains the right to notify the Provider of any personnel problems or issues that may arise with any Provider staff, personnel, and employee or health care Provider under the Provider's direction and upon such notice the Provider agrees to Immediately rectify the problem after consultation with the Client and/or replace the Provider employee or staff person with another qualified and acceptable person of the Provider.

#### XV. PROVIDER RELATIONSHIP

- A. Nothing in this contract shall be deemed to create a partnership or agency relationship between the Provider and the Client. Further, the Provider shall not be responsible for any actions of the employees of the Client
- B. Provider shall maintain and provide for the Client's inspection all documents pursuant to law and health care regulations as they pertain to all health care Providers furnished to the Client hereunder.
- C. Provider will assist the Client in reviewing all policies and procedures applicable to providing services herein to inmates and shall participate in ongoing quality improvement, quality assurance, and quality management activities. The Provider also agrees to assist Client related to resource utilization and risk management.

#### XVI. ADDITIONAL

- A. CHANGES: The Client may, from time to time, require changes in the scope of the services provided by Provider performed hereunder. Any such changes that are mutually agreed upon by and between the parties shall be incorporated in a written amendment to this agreement.
- B. MATTERS TO BE DISREGARDED: The titles of several sections, subsections and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

C. COMPLETENESS OF CONTRACT: This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto.

D. PROVIDER VERIFICATION / E-Verify.

1. No person shall, on the grounds of race, color, national origin, sex, or sexual orientation (LGBT or lesbian, gay, bisexual or transgender) be excluded from participation, be denied the benefits of, or be subject to discrimination.

2. Provider shall enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program and sign an affidavit affirming it does not knowingly employ any unauthorized alien. If Provider uses a subcontractor to provide services, the subcontractor shall certify to the Provider in a manner consistent with federal law that the subcontractor (1) does not knowingly employ or contract with any unauthorized alien and (2) has enrolled and is participating in the E-Verify Program.

## XVII. ENTIRE AGREEMENT

A. This Contract contains all of the terms and conditions agreed upon by the parties with respect to the Independent contract relationship contained herein and supersedes all prior agreements, arrangements and communications, if any, between the parties concerning the subject matter contained herein whether written or oral.

B. The parties agree this Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement.

C. Delivery of a signed copy of this Agreement via fax transmission or email in portable document format (.pdf) shall have the same effect as the physical delivery of a paper document bearing an original signature.

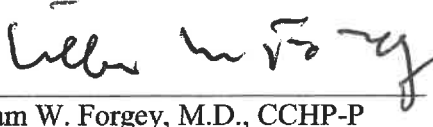
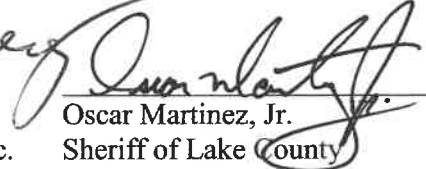
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IN WITNESS WHEREOF, Provider and Client have executed this agreement as of and/or effective on October 28, 2021.

By:    
William W. Forgey, M.D., CCHP-P Oscar Martinez, Jr.  
President, Correctional Health Indiana, Inc. Sheriff of Lake County

APPROVED: By the Lake County Board of Commissioners on behalf of the County of  
Lake on the \_\_\_\_ day of \_\_\_\_, 2021.

\_\_\_\_\_  
Michael C. Repay, President

\_\_\_\_\_  
Kyle W. Allen Sr., Commissioner

\_\_\_\_\_  
Jerry Tippy, Commissioner

ATTEST: \_\_\_\_\_  
Lake County Auditor



# **Exhibit 6**

STATE OF INDIANA  
COUNTY OF LAKE

IN THE LAKE SUPERIOR COURT  
CIVIL DIVISION ROOM ONE  
HAMMOND, INDIANA

CASE NO. 45D01-2011-MI-766

LAKE COUNTY COUNCIL,  
Plaintiff,

v.

LAKE COUNTY COMMISSIONERS,  
Defendant.

**Filed in Open Court**

**APR 16 2021**

*Lorenzo Arredondo*  
CLERK LAKE SUPERIOR COURT

**ORDER GRANTING RELIEF REQUESTED BY LAKE COUNTY  
COUNCIL AND DENYING RELIEF REQUESTED BY LAKE COUNTY  
COMMISSIONERS**

The plaintiff, Lake County Council, appears by Attorney Ray Szarmach and Attorney Derek Molter, and the defendant, Lake County Commissioners, appears by Attorney Matthew Fech and Attorney Joseph Chapelle for hearing on all motions and issues raised by the Complaints for Declaratory Judgment, responses and Motions for Summary Judgment filed by each.

The Council has statutory authority to pass all ordinances for governing Lake County, Indiana while the Commissioners have the authority to implement the ordinances so enacted as the County executive. In addition, the Commissioners may, pursuant to I.C. 36-2-3.5-4(c)(2):

approve or veto ordinances passed by the legislative body, in the manner prescribed by I.C. 36-2-4-8.

Prior to July 1, 2019, I.C. 36-2-4-8(c)(1) provided as follows:

(1) An ordinance or resolution passed by the legislative body of a county subject to IC 36-2-2.5 or IC 36-2-3.5 is considered adopted only if it is:

(A) approved by signature of a majority of the county executive (in the case of a county subject to IC 36-2-3.5) or by signature of the single county executive (in the case of a county subject to IC 36-2-2.5);

(B) neither approved nor vetoed by a majority of the executive (in the case of a county subject to IC 36-2-3.5) or by the single county executive (in the case of a county subject to IC 36-2-2.5), within ten (10) days after passage by the legislative body; or

(C) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

Effective July 1, 2019, the Indiana General Assembly amended I.C. 36-2-4-8 (c) to eliminate all of the language cited above.<sup>1</sup>

In October, 2020, the Council passed two ordinances, one, 1451B, establishing the Council as the Lake County Purchasing Agency and the other, 1451M, establishing a Lake County Data Processing Agency. On October 30, 2020, the Commissioners vetoed both Ordinances. The Council subsequently overrode the vetoes.

The Council argues that the elimination of the veto and override language of I.C. 36-2-4-8(c) by the Indiana General Assembly effectively leaves the Commissioners with no authority to veto the October, 2020 ordinances passed by the Lake County Council, citing I.C. 36-2-4-2:

A county executive or county fiscal body adopting an ordinance, order, resolution, or motion for the government of the county or the transaction of county business must comply with this chapter.

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<sup>1</sup> Senate Bill 35, which restores the language of I.C. 36-2-4-8(c)(1), was signed by the Governor into law on April 8, 2021. Its intent, according to its authors and its language, was to be retroactive.



The Commissioners respond that the Council has no authority to sue the Commissioners as it is not a "person" as defined by I.C. 34-14-1-2 of the Indiana Declaratory Judgment Act. Furthermore, no statutory authority exists for the Council to file a lawsuit under I.C. 36-2-3.5-5. Finally, the Commissioners assert that because I.C. 36-2-3.5-4(c) (2) grants the Commissioners the authority to veto ordinances passed by the Council, the only effect that the elimination of the veto and override language of I.C. 36-2-4-8 has upon this case is to take away the right of the Council to override the Commissioner's veto.

Does the Council have authority to bring a declaratory judgment action against the Commissioners? I.C. 34-14-1-13 of the IDJA provides:

The word "person" wherever used in this chapter shall be construed to mean any person, partnership, limited liability company, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.

Indiana Appellate Courts have never decided the issue of whether or not a county council is a "person" under the IDJA. Indiana state agencies and officials lack standing to bring declaratory judgment actions, *Ind. Fireworks Distribs. Ass'n v. Boatwright*, 764 N.E.2d 208 (Ind. 2002); *Indiana Wholesale Wine & Liquor Co. v. State ex rel. Indiana Alcoholic Bev. Comm'n* 695 N.E.2d 99 (Ind. 1998). However, the rationale behind this finding is the state officials and agencies involved have the:

...authority to protect public safety without the prerequisite of a declaratory judgment, *Boatwright, id.*, at 710, 711.

A county surveyor, however, was found to fit the definition of a "person" under the statute, although the defendant drainage board made no argument otherwise and waived the issue on appeal, *Clark County Drainage Bd. V. Isgrigg*, 963 N.E.2d 9 (Ind. Ct. App. 2012), *affirmed on rehearing* 963 N.E.2d 678 (Ind. Ct. App. 2012). Some time ago, Judge James J. Richards's dismissal of a declaratory judgment action by the Lake County Plan Commission against the Lake County Council on the grounds that the Plan Commission had no personal stake in the outcome was affirmed by the Indiana Court of Appeals, *Lake County Plan Comm'n v. County Council*, 706

N.E.2d 601 (Ind. Ct. App. 1999). No finding was made as to whether or not the Plan Commission was a "person" under the IDJA.

I.C. 36-2-3-2 establishes a seven-member elected county council in all Indiana counties without a consolidated city and having a population of less than 250,000 but more than 270,000. Lake County has no consolidated city and has a population greater than 270,000. The statute establishes the Council as an entity separate from the other branches of government. It is uniquely legislative and has no enforcement functions under I.C. 36-2-3.5-2. Its stake in the outcome of the litigation at hand is the very efficacy of the ordinances it enacts. The words "...or municipal or other corporation of any character whatsoever...", broadly interpreted, grants the Council standing under the IDJA.

The question then becomes: Does I.C. 36-2-3.5-5 preclude the Council from bringing this action? Again, the Council was created by the legislature as a separate entity. Clearly, pursuant to I.C. 36-2-3.5-4, the Commissioners are the sole county governmental body authorized as executive of the county to bring lawsuits on behalf of the county. The Council does not have this authority under I.C. 36-2-3.5-5. However, this case was not filed by the Council on behalf of Lake County. It was filed only on its own behalf, as a governmental entity created by the legislature. Nothing in I.C. 36-2-3.5-5 would prohibit the Council from instituting litigation on its own behalf against the Commissioners.

Now, the dilemma: If the Court adopts the Council's position, the Commissioners have no veto power over the ordinances it enacts; if the Court adopts the Commissioner's position, the Council has no power to override its veto.<sup>2</sup>

As learned counsel has no doubt studied over the years, from civics and social studies classes in high school to the weighty philosophical discussions in constitutional law class in law school, the power of veto in the executive and the power to override that veto by the legislature is

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<sup>2</sup> Notwithstanding the intent and language of Senate Bill 35 regarding its retroactivity, the Court wishes to avoid the risk of running its ship onto the shoals of a constitutional question as to the efficacy of the retroactive application of a statute.



critical to efficient operation of government.<sup>3</sup> In words which eclipse any poor prose this judicial officer could conjure:

The propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments, has been already suggested and repeated; the insufficiency of a mere parchment delineation of the boundaries of each, has also been remarked upon; and the necessity of furnishing each with constitutional arms for its own defense, has been inferred and proved. From these clear and indubitable principles results the propriety of a negative, either absolute or qualified, in the Executive, upon the acts of the legislative branches. Without the one or the other, the former would be absolutely unable to defend himself against the depredations of the latter. He might gradually be stripped of his authorities by successive resolutions, or annihilated by a single vote. And in the one mode or the other, the legislative and executive powers might speedily come to be blended in the same hands. If even no propensity had ever discovered itself in the legislative body to invade the rights of the Executive, the rules of just reasoning and theoretic propriety would of themselves teach us, that the one ought not to be left to the mercy of the other, but ought to possess a constitutional and effectual power of self-defense.

But the power in question has a further use. It not only serves as a shield to the Executive, but it furnishes an additional security against the enactment of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body.

The propriety of a negative has, upon some occasions, been combated by an observation, that it was not to be presumed a single man would possess more virtue and wisdom than a number of men; and that

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<sup>3</sup> Even though *State v. Buncich*, 51 N.E.2d 136, 144 (Ind. 2016) holds that the constitutional separation of powers relates solely to state government and does not apply to local officers, the Indiana General Assembly through its enactment of statutes pertaining to local government, has created a process for veto and override which is essential to the efficient operation of county government. This process obviously has its roots in the separation of powers doctrine.



unless this presumption should be entertained, it would be improper to give the executive magistrate any species of control over the legislative body.

But this observation, when examined, will appear rather specious than solid. The propriety of the thing does not turn upon the supposition of superior wisdom or virtue in the Executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer (*sic*) reflexion (*sic*), would condemn. The primary inducement to conferring the power in question upon the Executive is, to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design. The oftener the measure is brought under examination, the greater the diversity in the situations of those who are to examine it, the less must be the danger of those errors which flow from want of due deliberation, or of those missteps which proceed from the contagion of some common passion or interest. It is far less probable, that culpable views of any kind should infect all the parts of the government at the same moment and in relation to the same object, than that they should by turns govern and mislead every one of them. *The Federalist Papers: No. 73* (Hamilton, 1788).

Or, as stated more succinctly by the Illinois Supreme Court as the Civil War raged:

The convention which framed our Constitution designed to provide for the enactment and enforcement of salutary laws in the mode best calculated to promote the general welfare. They supposed, as one of the means of best attaining this end that the executive of the State should not only be intrusted (*sic*) with the enforcement of all laws, but should also be vested with a voice in their adoption. In distributing the powers of government, they could, if they had



chosen to do so, have authorized the general assembly to adopt laws independent of all executive action. But to prevent the evils of hasty, illy (*sic*) considered legislation, they conferred upon the governor the power to arrest the passage of a bill until his objections could be heard, and the bill be again considered and adopted, *People ex rel. Harless v. Hatch*, 33 Ill. 9, 136 (1863).

The right of the Commissioners to veto and the right of the Council to override are essential to the proper and efficient statutory functioning of government in Lake County, Indiana. For reasons unknown, the Indiana General Assembly chose to eliminate that part of I.C. 36-2-4-8 that set forth the process for veto by the Commissioners and override by the Council. Notwithstanding the retroactive restoration of the statutory right to veto and override by the Indiana General Assembly, it is still necessary for the courts to step in to redress this two-year elimination of a necessary process.

Pursuant to I.C. 33-33-45-7, 8 and 9 and I.C. 33-28-1-5, the Lake Superior Court has the power and authority to:

...make all proper judgments, sentences, decrees, orders and injunctions, issue all processes and do other acts as may be proper to carry into effect the same, in conformity with Indiana laws and Constitution of the State of Indiana.

The complete elimination of those processes in legislation does not eliminate the statutory requirement that they be utilized. If Superior Courts have the authority to make such orders to a county as to maintain a road, *Cass County v. Gotshall*, 681 N.E.2d 227, 230 (Ind. Ct. App. 1977); to secure quarters for judicial functions, *State ex rel Wineholt v. LaPorte Superior Court*, 249 Ind. 152, 155 (Ind. 1967); to mandate funds, *In re Ripley Cir. Ct.* (1986), *Ind.*, 495 N.E.2d 696; *Vigo Cty. Council, supra*; *Lake Co. v. Lake Co. Ct.* (1977), 266 Ind. 25, 359 N.E.2d 918, *Allen County Council v. Allen Circuit Court, 38th Judicial Dist.*, 549 N.E.2d 364 (Ind. 1990); to release prisoners from a county jail, *Fox v. Rice*, 936 N.E.2d 316, 320 (Ind. Ct. App. 2010); how much more so does the Superior Court have the authority to craft a procedure for a county council and county commissioners to follow to secure one of the most fundamental statutory governing principles.

The Council and the Commissioners followed the proper statutory procedure in dealing with Ordinances 1451B and 1451M even though that procedure no longer existed in the Indiana Code. The Court sees no reason, particularly in light of the signing of Senate Bill 35 into law, to disturb what has already been accomplished regarding these ordinances.

As to the Ordinances themselves, I.C. 36-2-3.5-4(a) provides:

All powers and duties of the county that are executive or administrative in nature shall be exercised or performed by its executive, except to the extent that these powers and duties are expressly assigned to other elected officers.

I.C. 36-1-3.5-5 provides:

(a) This section applies to Lake County.

(b) Jurisdiction over the following local matters, which before the 1981 regular session of the general assembly have been subjects of statutory concern, is transferred to the legislative body of the county:

(1) Frequency of salary payments (formerly governed by IC 17-3-73-2).

(2) Mileage allowances for deputy county auditors (formerly governed by IC 17-3-29-1).

(3) County purchasing agency (formerly governed by IC 17-2-77).

(4) County data processing agency (formerly governed by IC 17-2-74).

The goal of construing a statute is to determine and give effect to the intent of the legislature, *Uhlman v. Panares*, 908 N.E.2d 650 (Ind. Ct. App. 2009). The first place to look for evidence of the intent and meaning of a statute is the language of the statute itself, to give its words their plain and ordinary meaning, *Cooper Indus. LLC v. City of South Bend*, 899 N.E.2d 1274, 1283 (Ind. 2009).



A reading of both statutes, giving their words a plain and ordinary meaning, demonstrates that jurisdiction over the executive and administrative duties of the purchasing agency and the data processing agency in Lake County were "...expressly assigned..." by the Indiana General Assembly through its enactment I.C. 36-1-3.5-5(b)(3) and (4), as permitted by I.C. 36-2-3.5-4(a), to Lake County's legislative body, the Lake County Council. The inapplicability of separation of powers to counties as set forth in *Buncich, id.*, renders unpersuasive any arguments urging the harmonization of I.C. 36-1-3.5-5 with other statutes that grant executive authority to the Commissioners.

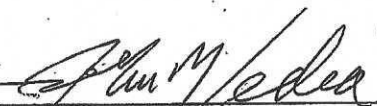
The Council enacted the Ordinances and established a county purchasing agency and a county data processing agency as provided in I.C. 36-1-3.5-5(b)(3) and (4). The Commissioners vetoed the Ordinances, the Council overrode the vetoes. The Ordinances are valid.

IT IS THEREFORE ORDERED AND DECREED by the Court as follows:

1. The passage of ordinances 1451B and 1451M, the veto of them by Commissioners, and the subsequent override of the vetoes by the Council, are affirmed, ratified and shall remain in full force and effect as actions taken by the government of Lake County, Indiana in accordance with fundamental statutory governing principles. The validity of both Ordinances is confirmed pursuant to I.C. 34-14-1.
2. The Lake County Council has jurisdiction over the Lake County Purchasing Agency and the Lake County Data Agency pursuant to I.C. 36-1-3.5-5(b)(3) and (4) and Lake County Ordinances 1451B and 1451M.
3. The Motion for Summary Judgment filed by the plaintiff, Lake County Council is granted. The Motion for Summary Judgment and Counterclaim for declaratory relief filed by the defendant, Lake County Commissioners, are denied.

4. There being no just reason for delay, a final and appealable order is entered in favor of the plaintiff, Lake County Council, and against the defendant, Lake County Commissioners.

Dated April 16, 2021



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JOHN M. SEDIA, JUDGE  
LAKE SUPERIOR COURT  
CIVIL DIVISION ROOM ONE

# **Exhibit 7**



STATE OF INDIANA  
COUNTY OF LAKE

IN THE LAKE SUPERIOR COURT  
CIVIL DIVISION ROOM ONE  
HAMMOND, INDIANA

CASE NO. 45D01-2011-MI-766

LAKE COUNTY COUNCIL,  
Plaintiff,

v.

LAKE COUNTY COMMISSIONERS,  
Defendant.

**Filed in Open Court**

**JUL 23 2021**

*Lorenzo Arredondo*  
CLERK LAKE SUPERIOR COURT

**ORDER DENYING MOTION TO CORRECT ERROR AND  
GRANTING MOTION FOR STAY**

The plaintiff, Lake County Council, appears by Attorney Ray Szarmach and Attorney Derek Molter, and the defendant, Lake County Commissioners, appears by Attorney Matthew Fech, Attorney John Dull and Attorney Joseph Chapelle for hearing on the Commissioner's Motion to Correct Error and Motion to Stay Proceedings.

After consideration of the Memoranda and learned arguments in favor of and in opposition to the Commissioner's Motion to Correct Error, the Court stands firm in its fundamental position that the Lake County Council has jurisdiction over the Lake County Purchasing Agency and the Lake County Data Agency pursuant to I.C. 36-1-3.5-5(b)(3) and (4) and Lake County Ordinances 1451B and 1451M. The Indiana General Assembly had the authority to carve an exception to the general statutory rule that jurisdiction over Data and Purchasing rests with the Commissioners.

Article 3, § 1 of the Indiana Constitution requiring a separation of powers "...relates solely to the state government and officers charged with duties under one of the separate departments of the state; it does not apply to local officers..." *Buncich v. State*, 51 N.E.3d 136, 144 (Ind. 2016). A statutory scheme has been enacted over the years by the Indiana General



Assembly to provide for a separation of governmental powers and functions which does vest executive authority in county government with the Commissioners. For reasons that are difficult to decipher from the mountain of reports and analyses submitted by the parties, our legislature decided to abrogate that scheme specifically for Lake County and bestow upon the Council jurisdiction over purchasing and data processing, two concededly executive functions of county government.

The Council is also correct that the Commissioners never argued in its Motions, memoranda or briefs nor at the hearing prior to the April 16, 2021 Order that the general statutory scheme in Title 36 prohibited the statutory transfer of jurisdiction to the Council and that I.C. 36-1-3.5-5 was effectively repealed in 1983. These issues were never first presented to the Court and relief may not be sought on them in a post-trial Motion to Correct Error or on appeal, *Miller Brewing Co. v. Ind. Dep't of State Revenue*, 836 N.E.2d 498, 499 (Tax Court 2005); *Fillmore LLC v. Fillmore Mach. Tool Co.*, 783 N.E.2d 1169, 1179 (Ind.Ct.App. 2003); *Yater v. Hancock County Board of Health*, 677 N.E.2d 526, 530 (Ind. Ct. App. 1997); *Babinchak v. Town of Chesterton*, 598 N.E.2d 1099, 1103 (Ind. Ct. App. 1992); *Stewart v. Fort Wayne Cmty.Schs.*, 535 N.E.2d 1238, 1239 (Ind. Ct. App. 1989).

Even if these issues weren't waived, the Court finds the arguments that a statutory scheme exists to prohibit the Indiana General Assembly from transferring jurisdiction over data and purchasing from the Commissioners to the Council; and that the legislative history of I.C. 36-1-3.5-5 demonstrates that the General Assembly repealed the statute in 1983, are unpersuasive.

I.C. 36-1-3.5-5 was a legislative act. Any grievance the Commissioners have with its provisions must be remedied by the legislature.

The Commissioners have also petitioned the Court to stay the implementation of its April 16, 2021 Order during the pendency of an appeal. Trial Rule 62(B) of the Indiana Rules of Trial Procedure gives the Court discretion on such conditions that the security of the adverse party are proper to stay proceedings to enforce a judgment pending the filing

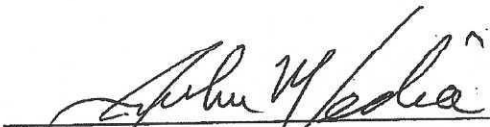
and disposition of an appeal. No bond is required if the stay is granted in favor of a governmental organization under Trial Rule 62(E).

The Commissioners are not challenging the constitutionality of I.C. 36-1-3.5-5(B)(3) and (4) but are questioning its efficacy and applicability to Lake County in the context of a statutory scheme that otherwise vests authority over purchasing and data processing with the Commissioners. Both parties agree that an appeal of this case is imminent. To compel a change in jurisdiction over purchasing and data processing from the Commissioners to the Council and then have the appellate courts reverse and restore these functions to the Commissioners would create chaos in Lake County government.

IT IS THEREFORE ORDERED by the Court as follows:

1. The Motion to Correct Error filed by the defendant Lake County Board of Commissioners is denied.
2. The Motion to Stay Proceedings filed by the defendant Lake County Board of Commissioners is granted. The grant of relief under the terms of this Order is stayed pending the perfection of an appeal by any party, and, if an appeal is so perfected, during the pendency of that appeal.

Dated July 23, 2021

  
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JOHN M. SEDIA, JUDGE  
LAKE SUPERIOR COURT  
CIVIL DIVISION ROOM ONE

# Exhibit 8

**LAKE COUNTY JAIL  
2022 HEALTH CARE SERVICES AGREEMENT WITH  
CORRECTIONAL HEALTH INDIANA, INC.**

This agreement, made and entered into December 20, 2021, by and between Correctional Health Indiana, Inc. (hereinafter “Provider” or “CHI”) and the Lake County Sheriff (hereinafter “Client” or “Sheriff”).

**I. RECITALS**

A. The Provider is a qualified health care Provider and Indiana Corporation, licensed under the laws of the State of Indiana, engaged in the business of providing qualified health care services and staffing for the Client. The Client has the constitutional duty and responsibility to operate the Lake County Jail and to ensure that inmates housed in said facility are provided health care services at a standard of care that meets or exceeds constitutional requirement and community standards for the delivery of health care services. The Client, therefore, enters into this agreement for the purpose of ensuring that inmates are provided proper care while incarcerated In the Lake County Jail. The Client desires to and hereby retains Provider as an independent contractor to deliver qualified, competent health services to inmates in the Lake County Jail by licensed and qualified medical professionals for the aforementioned purposes.

B. Provider hereby agrees to provide qualified health care professionals at adequate staffing levels shown on the included staffing matrix that will adequately meet the health care needs of jail inmates and the jail’s health care program and other qualified staff as mutually determined and agreed are needed by the parties to meet required health care standards of medical care.

C. Therefore, it is mutually agreed by the parties that the Provider will provide services to the Client under the terms and conditions specifically set forth in this agreement.

D. The Provider agrees and understands that the Client, at its discretion and expense, may maintain qualified outside monitoring of this contract and the health care services provided for under this agreement or any subsequent agreement. The Provider agrees to fully cooperate and collaborate with any qualified outside compliance monitor appointed by the Client.

**II. TERM OF AGREEMENT**

The term of this agreement shall be from January 1, 2022 to December 31, 2022, subject to the right of the parties to extend the term of this agreement by mutual written agreement.

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### III. FURNISHING OF SERVICES

A The Provider shall provide qualified staff to deliver adequate jail health care services consistent with Lake County jail health policies, procedures, protocols, and guidelines, and in accordance with appropriate state and national standards, the professional standards published by the National Commission on Correctional Health Care, Centers for Disease Control and Prevention, constitutional requirements, and community standards. The requirements set forth in the 2010 Department of Justice Settlement Agreement shall serve as supporting guidelines for the development and/or revision to policies and procedures, provision of assessment and care, and quality assurance. The number of staff in specific designations and work hours of health care staff has been determined solely by Client and its consultants in a manner consistent with needs of the jail health care program and with the intent to comply with the above cited specifications. It is understood that the staffing numbers shown below include Personal Time Off calculations for eligible staff. Minimum staffing and staff levels of services shall be as follows:

<b>Staff Categories</b>	<b>Hours Per Week</b>
1. Med Director/Staffing MD	60
2. Prescriber on Call	Daily/PRN
3. Health Service Administrator	40
4. NP/PA (Nurse Practitioner/Physician Assistant)	120
5. Director of Nursing	40
6. RN (Registered Nurse)	615
7. Med Assistant/Med Tech	800
8. Medical Records/Data/Secretarial/Utilization	220
9. Transportation/Utilization	40
<b>TOTALS</b>	<b>1935</b>

Provider understands that all Provider staff working in the jail may be barred from entering the jail if their performance and/or behavior could cause risk or harm to the health care program.

Provider will participate and assist Client in the development of policies, procedures, protocols, guidelines, quality assurance and improvement processes and reports, health care services and resource utilization processes and reports as needed to ensure effective and efficient delivery of jail medical and health care services.

B. Provider shall maintain personnel files for all staff that includes current licensures, certifications, resume, records of continuing education and mandatory training. Mandatory training includes: CPR/First Aid, AED, Suicide Prevention Course provided by Client, blood borne pathogen training, and correctional orientation training. All staff shall complete mandatory training within 120 days of the date of their employment. Provider also agrees to train staff in other subjects required for adequate provision of assessment and care, and otherwise as mutually agreed between the parties.

D. The Provider agrees to provide appropriately trained and qualified infectious disease and chronic disease programs. The positions shall be credentialed at the RN level at a minimum.



E. The Provider agrees to provide sufficient number of RNs to conduct timely and complete jail intake health screenings on all inmates entering the jail.

F. Provider, in collaboration with Client, shall develop and maintain an appropriate and adequate professional development and ongoing jail health care training program for staff.

G. Provider understands it shall use the Lake County Jail electronic health records system for creating and maintaining inmate health records. Provider further agrees and acknowledges that all health records established shall be the sole and proprietary property of the Client and shall in no way be construed as the property of the Provider or any of its staff or employees.

H. The Provider shall, in conjunction with this Agreement and the scope of staffing herein, provide additional medical services requested by Client from time to time that may be required subject to the Client's payment for any such additional staffing. The Client's request shall not exceed the scope of Provider's practice, or the practice of other clinical support staff.

I. The Client shall provide adequate workspace, equipment, computers, electronic health records systems, and supplies required for the delivery of the contracted services. Additionally, the Client shall provide sufficient security and other staff needed to accomplish required and contracted responsibilities of the Provider. The Client shall also provide other support resources that may be required as mutually agreed.

J. Provider agrees to cooperatively participate in ongoing quality improvement and assurance processes involving evaluation of structural, process, utilization and clinical outcome performance. This process shall include routine clinical and management data and information collection and reporting, special studies, and continuous quality improvement/assurance programs and processes.

#### IV. COMPENSATION AND BILLING

A. Provider Responsibilities. The Provider shall be responsible for the following in regards to compensation and billing:

1. Provider agrees to provide the services to the Client pursuant to the staffing plan and compensation schedule incorporated herein.

2. Provider agrees to prepare and submit detailed semi-monthly invoices that include all staffing expenditures incurred within the billing period and to cooperate with designated Client staff for the purpose of reconciling each invoice.

3. Provider shall punctually complete and submit all claim forms required by the Client, the Indiana State Board of Accounts and Lake County prior to any pre or post-payment being provided to Provider, all subject to sufficient appropriation by the County fiscal body.

4. The Provider shall make no additional charges to Client's patients or other third-party payors for services rendered during regularly scheduled hours or for any services for which the Client has paid the Provider. The amounts paid by Client under this agreement shall represent Provider's full compensation for all medical services rendered under this agreement.



5. The Provider understands that only its full-time employees will be provided up to 30 days per year of paid personal time off. For the purposes of this provision, full-time employees shall be defined as those employees who are employed by the Provider and schedule to work a forty-hour (40 hr.) work week. The Client agrees to compensate Provider for up to 30 days per year per eligible employee for paid time off which costs are already included in the budgets as submitted by Provider per the Provider's employee policies and procedures. All paid and non-paid time off shall be documented on Provider's invoices for transparent and accurate accounting purposes. Scheduling paid time off shall be at the sole discretion of the Provider but in no case shall the scheduling of paid time off unduly interfere with, limit, impair, or otherwise debilitate the delivery of the jail medical services required under this agreement.

6. Provider shall specifically list and deduct all appropriate costs for unfilled positions and non-paid time off from each invoice. The Client shall not compensate Provider for unfilled positions and non-paid time off. Appropriate costs shall include salaries and related benefits.

7. All personnel furnished by Provider are considered employees of the Provider and not employees of the Client. Provider shall have the sole responsibility of paying the salaries, social security, insurance, other taxes, and all other expenses related to each employee of the Provider unless otherwise specifically stated herein.

B. Client Responsibilities. Except as otherwise authorized in this agreement, Client agrees to pay the amounts contained in the Pre-Reconciled Payment Schedule below in 2022. Provider understands a lesser amount may be paid if it is determined by the parties by reconciled invoice that a lesser amount is due. However, the reconciliation process shall not unreasonably delay payment to the Provider. Client agrees to compensate Provider on a semi-monthly basis.

**2022 PRE-RECONCILED BUDGET AND SEMIMONTHLY PAYMENTS**

YEAR	2022
TOTAL COST	\$6,094,854
24 PAYMENTS	\$253,952

1. Client shall make payments due hereunder, notwithstanding any other provision in this agreement, to the Provider pursuant to the customary and normal procedures for the processing and payment of claims by municipalities under Indiana Law. Payments shall be made payable to "Correctional Health Indiana, Inc."

2. The Client shall accept as complete and accurate all reconciled invoices and compensate the agreed reconciled amount. Client may prescribe payment forms to be used or approved by Client, the Indiana State Board of Accounts and/or Lake County prior to any payment being due, all subject to annual funding and appropriation by the County Fiscal Body.

3. Should this Agreement terminate as provided herein, Client agrees it will still pay any and all ongoing costs of the liability and extended reporting period coverage insurances, if any, that Provider may incur from the insurance carrier regardless of the termination of the services portion of the contract. The parties also understand and agree that some premium payments are made in advance and may be non-refundable by the insurance carrier in the event of a cancellation of this Agreement, and that the cost of the insurance premiums for liability and extended reporting coverages will remain with the Client regardless of the termination of this Agreement.

## V. HIRING AND MANAGING PROVIDER STAFF AND EMPLOYEES

A. The Client acknowledges the special nature of the relationship that exists between the Provider and the staff and employees that Provider will recruit, employ and retain to meet the conditions of this agreement. The Client acknowledges that the recruitment, training, supervision, management, administration and maintenance of staff and staffing is the primary responsibility of Provider, but the Client agrees to provide mutually agreed levels of support as needed to ensure program success.

B. Provider understands that all its applicants and employees shall successfully complete all selection requirements and processes prior to working in the jail. At no time shall Provider authorize its employees to enter and/or work in the jail without written authorization by the Sheriff of Lake County or his designee.

C. Provider affirms that all its employees are properly licensed and credentialed by the State of Indiana in their respective scope of practice and have taken and successfully completed a pre-employment drug screen. Provider also affirms all its employees have sufficient years of qualified experience to perform the duties required under this agreement.

D. Provider affirms that all medical and health care providers supplied by Provider shall meet all local, state, and federal laws, rules, and regulations related to personnel supplying medical services and care to inmates of a county jail.

E. Client shall not unreasonably interfere with, impair, or otherwise inhibit the recruiting or management relationships between Provider and its employees.

## VI. INSURANCE

A. The Provider shall purchase and maintain in full force and effect at all times during the term of this Agreement all appropriate policies of insurance, specifically including Liability Insurance as follows:

**Professional Liability:** Limits in the sum of One Million Two Hundred Fifty Thousand (\$1,250,000.00) Dollars of coverage per claim and Three Million (\$3,000,000.00) Dollars of aggregate coverage;

**General Liability:** Limits as set forth below:

\$ 2,000,000 Each Claim Limit  
\$ 2,000,000 General Aggregate  
\$ 2,000,000 Products/Completed Operations Aggregate  
\$ 2,000,000 Personal and Advertising Injury  
\$ 50,000 Damage to Premises Rented to You  
\$ 5,000 Medical Expense – Each Person

**Abuse Molestation** Limits as set forth below:

\$1,000,000 per claim  
\$1,000,000 aggregate

**Policy Aggregate:**

\$ 5,000,000 Limit of Insurance for All Coverages, All Insureds and All Locations

These coverages, in these amounts are intended to provide insurance, indemnity, and all appropriate defenses to protect the Provider in any suit, demand, claim, or action of any nature, including but not limited to general, medical care or professional liability actions, inmate actions regarding the deprivation of protected rights, and premises liability claims and pay any claims settled or judgments if rendered against the Provider in its official or personal capacity with coverage effective for claims during the time of the contract period, including for the period commencing January 1, 2012 until December 31, 2022. It is hereby acknowledged by the parties all claims arising from the coronavirus (Covid-19) Pandemic, and its current and ongoing variations, specifically including the Delta and Omicron variations, are specifically excluded from the commercial liability policy of the Provider. A copy of the Policy and the notice of exclusion have been provided to the Client. It is therefore mutually agreed that any claim that has been made by any detainee of the Client that arises from the Coronavirus (COVID-19) Pandemic will be defended by the Client with the cooperation of the Provider. The indemnity for such a claim will remain exclusively with the Client.

The Client shall pay as incurred by Provider the payment of any and all deductible/retention obligations that may be incurred and owed during all periods of coverage under all policies of insurance subject to this Agreement. The parties understand and agree that the deductible responsibility set forth in the GenStar policy of insurance requires a deductible/retention of Fifty Thousand Dollars \$50,000.00 per claim. As the number of claims that may be incurred under the policy is unknown, the parties agree to have the Client pay such deductible/retention requirements only as they are incurred and presented to the Provider by the insurer or the insurer's designated representative.

Provider shall provide an affidavit of coverage to the Client demonstrating the insurance coverage described above prior to January 1, 2022, and through the term of this contract. As the coverages provided are on a claims made basis, the parties agree that claims may arise after the period of coverage ends on December 31, 2022, requiring extended reporting coverage to provide insurance for claims that are made after this policy ends, yet that arise during the period

of this contract and not made until a later date after the end of the contract but before all applicable statutes of limitation have expired.

B. The Provider shall also furnish at its own expense and will maintain in full force and effect at all times during the term of this agreement the following:

1. Worker's Compensation Insurance as required by the State of Indiana.
  2. The Provider shall provide, maintain and keep current a certificate and proof of Insurance by filing these with the Sheriff of Lake County, or his/her designee.
- C. The Provider shall promptly notify the Sheriff or his/her designees of any change to its insurers, policy limits, and all notices of cancellation of any required policy of insurance.

## VII. INDEPENDENT CONTRACTOR

A. This agreement shall not prohibit the Provider from performing services for others as approved by the Client and the Provider shall be paid only on the basis of services the Provider actually performs and provides to the Client

B. It is expressly acknowledged by the parties that Provider is an "Independent Contractor" and nothing in this agreement is intended nor shall be construed to create an employer/employee relationship or a joint venture relationship or to allow the Client, in its own capacity or through its agents, consultants, or other related third parties, to exercise control or direction over the Provider's business and health care operations or outside business opportunities or relationships.

C. The Provider and its staff and personnel understand they shall not be treated as an employee of Client for any purpose, including federal and state taxes, Social Security, unemployment insurance, health insurance or any other withholding pursuant to any law or requirement of any governmental body related to the employees of Provider or make available any of the benefits afforded to employees of the Client because all of such payments, withholdings and any other benefits, if any, are the sole responsibility of Provider and the Provider agrees to and shall indemnify and hold the Client harmless on any and all loss or liability arising with respect to such employee payments and benefits, if any.

D. In the event that the Indiana Department of Revenue, Federal Internal Revenue Service or any other government agency should question or challenge the "independent contractor" status of the Provider or its employees with respect to the Client, the parties hereby mutually agree that both the Provider and the Client shall have the right to participate in any discussions or negotiations occurring with such agency or agencies, irrespective of whom or by who such discussions or negotiations are initiated. The Provider shall provide all documentations showing the appropriate withholdings have been made and paid to the appropriate governmental agencies upon request of the Client.

## VIII. COMPLIANCE WITH STATUTES, ORDINANCES AND REGULATIONS

A. Client and the Provider shall operate their respective services at all times in compliance with applicable federal, state, and local laws, rules and regulations, the policies, rules, and professional standards of care, Provider bylaws, and all currently accepted and approved methods and practices of each area of service. Notwithstanding any unanticipated effect of any provision of the Agreement, neither party will intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 USC Sec. 1395 (b) and 1396 (b) or any subsequent revisions or amendments.

B. The Provider agrees and warrants the medical services and levels thereof provided to the Client will meet and continue to meet all constitutional standards and all minimum federal and state laws or regulations, and national standards, related to the delivery of medical services and to medical services provided to jail inmates.

C. All health care records and patient information shall be and remain confidential in accordance with HIPAA regulations and ethical standards of patient care. All this information shall be the property of the Client and the Provider and its staff and employees shall each execute confidentiality agreements and comply with all state, federal, and HIPAA laws and regulations concerning or related to the collection, recording, storage, and release of any and all health care records and/or information.

D. Equal Opportunity and Affirmative Action. The Provider agrees by the execution of this agreement that in regard to its operations it will fully comply with Lake County Ordinances and Policies providing:

1. No person shall, on the grounds of race, color, national origin, sex, or sexual orientation (LGBT or lesbian, gay, bisexual or transgender) be excluded from participation, be denied the benefits of, or be subject to discrimination.

2. The principles of equal opportunity in employment of delivery of services are applicable and commits to a policy and practice of nondiscrimination and affirmative action based upon age, military service, ancestry, color, national origin, physical handicap, political affiliation, race, religion, and sex or sexual orientation (LGBT or lesbian, gay, bisexual or transgender) .

3. The provisions of the Affirmative Action Program adopted by the County of Lake on May 31, 1977, and as amended, as applicable are incorporated by reference in this agreement.

4. The provisions of all Federal Civil Rights laws and the Indiana Civil Rights law as applicable are incorporated by reference as part of this agreement.

5. Breach of any of the equal opportunity and/or nondiscrimination provisions of the agreement may result in any remedy available to the County in respect to such breach or default.

6. Where applicable, non-discriminatory clauses and affirmative action clauses shall be made a part of any agreement, contract, or lease between the Consultant and any organization, corporation, subcontractor, or other legal entity that benefits from the funds paid to the Consultant by this agreement.

7. The Provider has an internal policy and provision to provide its employees a 401(K) retirement plan as part of the employment package offered to its employees, consistent with past requirements of the Client. Eligibility for the Provider to continue to offer this benefit shall be in compliance with Section 135(a) of the Revenue Act of 1978, Pub. L No. 96-600, 92S stat. 2763, 278S (Nov. 6, 1978) or as amended in compliance with applicable federal and state law.

8. The Provider has an internal policy and provision to provide its employees with health care benefits. Employee eligibility will be in compliance with the Patient Protection and Affordable Care Act of 2010 as amended.

E. Information that is the property of Client shall be made available in accordance with the Indiana Open Records Law, I.C. S-15-5.1-1 et seq. Client recognizes and acknowledges that in some course of performing the services provided hereunder it may have access to certain confidential or proprietary information of the Provider and the Provider's business and computer operations. Client hereby agrees that it will not, at any time during or after the term of this agreement, disclose any such confidential or proprietary information to any person unless required by law upon obtaining the prior written consent of the Provider.

#### IX. EXECUTION AND APPLICABLE LAW

This Contract Agreement has been executed in Indiana and shall be governed in accordance with the laws of the State of Indiana in every respect. In the event of a dispute over any term and/or condition herein, the Issue shall be first mediated before a mediator selected by agreement of the parties prior to any court proceeding being initiated or filed. If any portion of said Contract is found legally unenforceable, the balance of said Contract shall remain in full force and effect.

#### X. NOTICE REQUIREMENTS

Any notices required hereunder may be hand delivered to the Provider's authorized representative onsite or to the business address of Provider. Other normal means of written communication such as certified mail, telegram, fax, in-hand personal delivery, and/or electronic mail (EMAIL) shall also constitute an acceptable method of giving notice or communicating official information.

#### XI. TERMINATION

A. This agreement shall terminate upon any material breach or default by either party in the performance of any obligation hereunder, including failure to timely pay any semi-monthly invoice, which is not or cannot be cured within fourteen (14) days after written notice to the breaching or defaulting party of the existence of such breach or default.

B. Upon termination of this agreement as hereinabove provided, neither party shall have any further obligation hereunder, except obligations accruing prior to the date of the termination and obligations, promises or covenants contained herein which are expressly made to extend beyond the term of this Agreement including, without limitation to the cost of various insurances required under this Agreement, confidentiality of information, indemnities and releases.

C. In the event the Client, through its Fiscal Body, fails to, provide sufficient funding through its fiscal process to compensate Provider for continued services under this Contract, such failure shall constitute an immediate breach of a material component of this Contract, and such failure creates the basis for the immediate termination of the Contract by the Provider. The Provider may, at its sole option, choose to cease providing medical services hereunder upon receiving notice of such failure. Should Provider, however, choose to provide any medical services for any period of time after it receives notice of such, the services provided for any period of time shall not constitute a waiver of the Provider's reserved right to terminate providing services based upon such failure.

D. This contract may be terminated without cause by either party upon formal written notice provided in person or via certified U.S. Mail to the Chief Executive Officer or other authorized official. Services will thereafter terminate ninety (90) days following receipt of termination. Should this provision be exercised, the obligation to defray any and all remaining and outstanding costs of liability or extended reporting insurance coverages as set forth in Section VI of this Contract shall survive the termination of the contract and remain solely the responsibility of the Client to pay, if any, as those costs are incurred by the Provider. Upon termination the Provider shall take all reasonable steps to cancel the insurances set forth herein in order to mitigate the cost to the Client upon termination, however, the cost of the extended reporting coverage shall remain with the Provider upon termination and continue for the time period set forth herein. In such event, Provider will present the actual costs of the ongoing insurance obligation to Client for continued payment until all such sums and obligations for that insurance are fulfilled.

## XII. EXTENSION

The parties agree they have the option to extend this contract if the parties mutually agree to such extension by written agreement. The option to extend the Agreement beyond December 31, 2022 must be exercised before September 1, 2022 to automatically renew the contract at a 5% base increase for 2023.

## XIII. INDEMNIFICATION

The Provider agrees to indemnify and hold harmless the Client, Lake County, and their respective elected and appointed officials, officers, agents and employees against any and all claims, causes of action, costs, attorney fees and any other expenses relating to the medical and other services provided by its agents, servants, staff, personnel and employees with exception to any claim that arises from any treatment of a detainee necessitated by the Coronavirus (COVID-19) or any of its present or future variants should any other claim or cause of action result in a finding of responsibility by Provider. It is agreed that each party to this Agreement shall be responsible for its own acts and/or omissions and are not responsible for the acts and/or omissions of the other party. Each party shall immediately notify the other of any causes of action initiated or commenced by any third party that may relate to the services provided by the Provider to any Inmate and the parties further agree to cooperate and assist the other in defending causes of actions related to the services provided herein.



The parties agree that at various times Provider may require that medical services for inmates will be necessary by community referrals for specialist care or other outside care during the term of this Agreement. Further, Client agrees to indemnify Provider against all claims, actions, demands, suits and the like that may arise from inmates or related parties which may be occasioned as a result of the loss of community referrals in the event the County of Lake fails to pay for these community referrals as determined necessary by Provider.

#### XIV. AGENCY INFORMATION

A. Provider shall provide and keep current a listing of the name and necessary contact information of all health care providers of the Provider who provide health care services to the Client for the purpose of contacting each if required to provide any information relating to the health care of any inmate.

B. Provider and its staff, personnel, and employees shall adhere to and be bound by all rules and regulations of the Lake County Jail and Sheriff's Department and shall keep confidential and secure any and all passwords, security information and protocols related to the security of the Lake County Jail.

C. All staff, personnel, and employees of the Provider shall agree to and be subject to random drug screen and alcohol testing conducted by the Client and shall be subject to criminal background checks by the Client before and during any services to the Client. Client retains the right to notify the Provider of any personnel problems or issues that may arise with any Provider staff, personnel, and employee or health care Provider under the Provider's direction and upon such notice the Provider agrees to Immediately rectify the problem after consultation with the Client and/or replace the Provider employee or staff person with another qualified and acceptable person of the Provider.

#### XV. PROVIDER RELATIONSHIP

A. Nothing in this contract shall be deemed to create a partnership or agency relationship between the Provider and the Client. Further, the Provider shall not be responsible for any actions of the employees of the Client

B. Provider shall maintain and provide for the Client's inspection all documents pursuant to law and health care regulations as they pertain to all health care Providers furnished to the Client hereunder.

C. Provider will assist the Client in reviewing all policies and procedures applicable to providing services herein to inmates and shall participate in ongoing quality improvement, quality assurance, and quality management activities. The Provider also agrees to assist Client related to resource utilization and risk management.

## XVI. ADDITIONAL

A. CHANGES: The Client may, from time to time, require changes in the scope of the services provided by Provider performed hereunder. Any such changes that are mutually agreed upon by and between the parties shall be incorporated in a written amendment to this agreement.

B. MATTERS TO BE DISREGARDED: The titles of several sections, subsections and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

C. COMPLETENESS OF CONTRACT: This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto.

D. PROVIDER VERIFICATION / E-Verify.

1. No person shall, on the grounds of race, color, national origin, sex, or sexual orientation (LGBT or lesbian, gay, bisexual or transgender) be excluded from participation, be denied the benefits of, or be subject to discrimination.

2. Provider shall enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program and sign an affidavit affirming it does not knowingly employ any unauthorized alien. If Provider uses a subcontractor to provide services, the subcontractor shall certify to the Provider in a manner consistent with federal law that the subcontractor (1) does not knowingly employ or contract with any unauthorized alien and (2) has enrolled and is participating in the E-Verify Program.

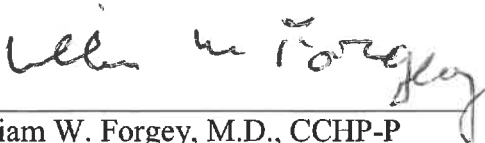
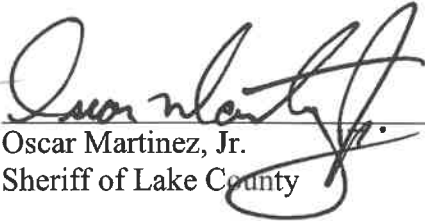
## XVII. ENTIRE AGREEMENT

A. This Contract contains all of the terms and conditions agreed upon by the parties with respect to the Independent contract relationship contained herein and supersedes all prior agreements, arrangements and communications, if any, between the parties concerning the subject matter contained herein whether written or oral.

B. The parties agree this Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement.

C. Delivery of a signed copy of this Agreement via fax transmission or email in portable document format (.pdf) shall have the same effect as the physical delivery of a paper document bearing an original signature.

IN WITNESS WHEREOF, Provider and Client have executed this agreement as of and/or effective on December 20, 2021.

By:    
William W. Forgey, M.D., CCHP-P      Oscar Martinez, Jr.  
President, Correctional Health Indiana, Inc.      Sheriff of Lake County

# Exhibit 9

**LAKE COUNTY**  
CROWN POINT, INDIANA

**PURCHASE ORDER**

THIS NUMBER MUST BE  
SHOWN ON INVOICE, CLAIM  
AND DELIVERY MEMOS  
**4200026-000**

PURCHASE ORDER NO.

ORDER DATE

01/18/22

CONTRACT NO.

PAGE

1

CONFIRMATION	
CONFIRMED TO	
DATE	
TIME	

17224

05000

SHIP VIA	
INSTRUCTIONS	
TERMS	NONE
F.O.B.	
DATE REQUIRED	
F.O.B. DESTINATION UNLESS CITED HEREIN	

**V**  
**E**  
**N**  
**D**  
**O**  
**R**

CORRECTIONAL HEALTH IND INC  
109 E 89TH AVE  
MERRILLVILLE IN 46410

**S**  
**H**  
**I**  
**P**  
**P**  
**O**

LAKE COUNTY SHERIFF  
ATTN: MELANIE DILLON  
2293 NORTH MAIN STREET  
CROWN POINT IN 46307

ITEM	COMMODITY	QUANTITY	UNIT	UNIT COST	ACCOUNT CODE	TOTAL COST
1	JAIL MEDICAL	6094854.0000 EA		1.0000 3100	990103100 43630	6,094,854.00
PC	JAIL MEDICAL	2022			Mainten & Service Cont	
	SE10 Services	IC 5-22-6-1			Other specific professional services -	
	office/dept selects	- submits to			Commissioners at meeting	

SPECIAL INSTRUCTIONS

**TOTAL >**

6,094,854.

I HEREBY CERTIFY THAT THERE IS AN UNOBLIGATED BALANCE IN THIS  
APPROPRIATION SUFFICIENT TO PAY FOR THE ABOVE ORDER.

BILLING ON THIS ORDER MUST BE ACCORDING TO PROCES SHOWN ABOVE

AUDITOR *John Petal*

ORDERED BY \_\_\_\_\_

TITLE LAKE COUNTY SHERIFF

THIS ORDER IS ISSUED IN COMPLIANCE WITH CHAPTER 99, ACTS 1945 AND ACTS  
AMENDATORY THEREOF AND SUPPLEMENT. THERETO.

NOTE: NO CLAIM WILL BE APPROVED FOR PAYMENT UNLESS ORIGINAL COPY OR THIS  
ORDER OR PURCHASE ORDER NUMBER IS MADE A PART OF THE CLAIM.

FEDERAL EXCISE AND INDIANA RETAIL TAX EXEMPT NUMBER  
356000168 003 4

ORIGINAL

VENDOR COPY

BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE

*Brenda Kovalke*  
PURCHASING AGENT



# Invoice

Date	Invoice #
1/16/2022	2038

## Bill to:

Lake County Sheriff  
2293 N. Main Street  
Crown Point IN 46307

Hours billed	Description	Rate	Amount
3870	Medical Services Provided @ Lake County Jail; January 1st-15th, 2022             Hours supplied: 3870 of 3870 supplied		\$253,952.00
<b>Total</b>			<b>253,952.00</b>



# **Exhibit 10**

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**From:** Brenda Koselke  
**Sent:** Wednesday, January 19, 2022 1:02 PM  
**To:** Dillon, Melanie <mdillon@lakecountysheriff.com>  
**Subject:** PO #4200026 Correctional Health Ind

Hi Melanie,

You created purchase order number 4200026 for Correctional Health Ind., Inc. for Jail Medical for the year 2022 in the amount of \$6,094,854.00. I am holding this purchase order because today at the Commissioners meeting the Commissioners approved this but at the 2021 rate for the year 2022. We need to change the grand total dollar amount to match the 2021 rate. If you have any questions, please let me know.

Sincerely yours,  
Brenda