

**HEALTH SERVICES AGREEMENT**

THIS AGREEMENT between the County of El Paso, Texas a political subdivision of the State of Texas (hereinafter referred to as "County"), and Prison Health Services, Inc., a Delaware corporation qualified to do business in the State of Texas, (hereinafter referred to as "PHS"), is entered into as of the 31 day of December, 2004.

**WITNESSETH:**

**WHEREAS**, the County is charged by law with the responsibility for obtaining and providing reasonably necessary medical care for inmates of the El Paso County Downtown Detention Facility and Jail Annex which together comprise the El Paso County Detention System (hereinafter referred to as "Facility" or "System") which is under the supervision and control of the Sheriff of the County of El Paso ("Sheriff"); and

**WHEREAS**, the County desires to provide for health care to inmates in accordance with applicable law; and

**WHEREAS**, El Paso County issued a Request for Proposals ("RFP") #04-061 and PHS submitted a proposal in response to the RFP;

**WHEREAS**, PHS is in the business of providing correctional health care services and desires to provide such services for the County under the terms and conditions hereof; and

**WHEREAS**, the PHS is qualified to provide these services, PHS is interested in contracting with the County for these services, and the contract was awarded by the El Paso County Commissioners to PHS on September 27, 2004.

**NOW, THEREFORE**, in consideration of the covenants and promises hereinafter made, the parties hereto agree as follows:

**ARTICLE I: HEALTH CARE SERVICES**

**1.1 General Engagement.** The County hereby contracts with PHS to provide for the delivery of reasonably necessary medical care to individuals under the custody and control of the El Paso County Detention System (except those described in Section 1.5), and PHS enters in to this Agreement according to the terms and provisions hereof. Services under this Agreement shall commence on November 1, 2004, and shall continue for a period of two (2) years, in accordance with Section 8.1.

**1.2 Scope of General Services.** PHS shall perform services for the Facility as identified in the County's Request for Proposals regarding RFP#04-061 Comprehensive Health Services for



occurred prior or subsequent to the individual's incarceration at the Facility. An inmate shall be considered medically stabilized when the medical condition no longer requires immediate emergency medical care or outside hospitalization so that the inmate can be reasonably housed within the Facility.

PHS shall not be financially responsible for significant changes in treatment standards, including those associated with the approval of new drug classes, new diagnostic tests or new surgical procedures if such costs are expected to exceed two percent (2%) of the contract amount exclusive of population increases.

PHS shall not be responsible for medical costs associated with the medical care of any infants born to inmates. PHS shall provide health care services to pregnant inmates, but health care services provided to an infant following birth will not be the responsibility of PHS. PHS shall not be responsible for the costs or furnishing of any abortions unless medically necessary.

\* PHS will not be responsible for any medical testing or obtaining samples which are forensic in nature.

PHS shall be responsible for the cost of three-day release medications for federal inmates, but only to the extent such inmates bring three days of medication with them, when committed to the facility. However, in that regard, PHS's responsibility is predicated upon the United States Marshal's Service giving written notification, to PHS, forty-eight (48) hours in advance thereof. To the extent such federal inmates do not have such medications with them, at the time of commitment, PHS shall bill the County for the cost of such three-day medication, if such lack of medications, upon commitment, becomes a chronic situation.

**1.5 Inmates Outside the Facilities.** Health care services are intended only for those inmates in the actual physical custody of the Sheriff, including inmates under guard in outside hospitals, about whom PHS has been notified. Such inmates will be included in the daily population count. No other inmates, including those in outside hospitals who are not under guard, shall be the responsibility of PHS, nor shall such inmates be included in the daily population count.

Inmates on any sort of temporary release, including, but not limited to, inmates temporarily released for the purpose of attending funerals or other family emergencies, inmates on escape status, inmates on pass, parole or supervised custody who do not sleep in the Facility at night, will not be included in the daily population count, and will not be the responsibility of PHS with respect to the payment or furnishing of health care services. The cost of medical services provided to inmates who become ill or are injured while on temporary release will not be the financial responsibility of PHS following their return to the Facility. This relates solely to the costs relating to the particular illness or injury incurred while on such temporary release; the costs of medical services for illnesses and injuries of inmates while in the Facility will be the responsibility of PHS.

Inmates in the custody of other police agencies (including, but not limited to, the United States Marshal's Service) outside the Facilities, or in the custody of other penal jurisdictions

permitted in the Facility by the Sheriff, are likewise excluded from the population count and PHS is not responsible for furnishing or payment of health care services for such inmates.

1.6 Elective Medical Care. PHS will not be responsible for providing elective medical care to inmates. For purposes of this Agreement, "elective medical care" means medical care which, if not provided, would not, in the opinion of the PHS Medical Director, cause the inmate's health to deteriorate or cause definite harm to the inmate's well-being. Such decisions concerning medical care shall be consistent with general NCCHC standards. Any referral of inmates for elective medical care must be reviewed by the Sheriff/Facility Commander prior to provision of such services.

1.7 Transportation Services. To the extent any inmate requires off-site non-emergency health care treatment, Sheriff/Facility Commander will, upon prior request by PHS, its agents, employees or contractors, provide transportation as reasonably available, provided that such transportation is scheduled in advance. The County shall be financially responsible for all transportation costs.

1.8 Medicaid/Medicare. PHS will not seek, direct or assist in Medicaid/Medicare reimbursement. PHS will use its best efforts to inform each provider utilized by PHS where billing should be directed. Should PHS become aware that a provider utilized by PHS is billing Medicaid/Medicare, that provider will be promptly notified not to bill Medicaid/Medicare and then directed to bill PHS, the County or other allowable third-party payer.

## ARTICLE II: PERSONNEL

2.1 Staffing. PHS shall recruit, interview, hire, train and supervise all medical, technical and support personnel as necessary for the rendering of health care services to inmates at the Facility as described in and required by this Agreement. The chart attached as Exhibit A includes the agreed-upon staffing plan necessary to provide the health care services required by the Facility for inmate population of 2400 inmates. All persons (whether PHS employees or PHS contractors) providing services under this Agreement shall submit to a background investigation and be approved by the Sheriff/Facility Commander.

The staffing plan is based on the assumption that there will be no more than 2400 inmates. Should the inmate population increase to a level greater than 2400 inmates for a period of 30 days or longer, health care staff in addition to those included in Exhibit A may be needed. Should a sustained increase occur, PHS shall propose a revised staffing plan and contract price to County and the County and PHS, by written amendment to this Agreement, shall make necessary adjustments in staffing and compensation in order to accommodate any additional staff positions which may be needed to serve the increased inmate population.

If the population decreases to less than 2000 inmates, for a period of three (3) consecutive months, PHS will propose a decrease in staffing until population is back to 2400, if such decrease can occur without a reduction in the level of service to the remaining population. The County and

PHS, by written amendment, shall decrease staffing to an appropriate level for the population and adjust the compensation under this Agreement accordingly.

PHS and County agree that if there is a staff position vacant for more than 30 days, PHS shall reimburse the County 130% of that vacant position's salary for every day beyond the 30 days. This reimbursement shall also be made to the County if PHS assigns temporary agency personnel to cover vacant positions for more than 8% of the staffing plan for more than 30 days. PHS and the County agree that this 30-day period shall only apply to the presentation of candidates, by PHS to the County, for such staff positions, but does not include the time necessary for the County to obtain security clearance for such candidates.

**2.2 Licensure, Certification and Registration of Personnel.** All personnel provided or made available by PHS to render services hereunder shall be licensed, certified or registered, as appropriate, in their respective areas of expertise as required by applicable Texas law.

**2.3 Sheriff/Facility Commander's Satisfaction with Health Care Personnel.** If the Sheriff/Facility Commander becomes dissatisfied with any health care personnel provided by PHS hereunder, or by any independent contractor, subcontractors or assignee, PHS, in recognition of the sensitive nature of correctional services, shall, following receipt of written notice from the Sheriff/Facility Commander of the grounds for such dissatisfaction and in consideration of the reasons therefor, shall exercise its best efforts to resolve the problem. If the problem is not resolved to the satisfaction of the Sheriff/Facility Commander, PHS shall remove or shall cause any independent contractor, subcontractor, or assignee to remove the individual about whom the Sheriff/Facility Commander has expressed dissatisfaction. Should removal of an individual become necessary, PHS will be allowed reasonable time, prior to removal, to find an acceptable replacement, without penalty or any prejudice to the interests of PHS.

**2.4 Use of Inmates in the Provision of Health Care Services.** Inmates shall not be employed or otherwise engaged by either PHS or the Sheriff/Facility Commander in the direct rendering of any health care services. Upon prior written approval of the Sheriff/Facility Commander, inmates may be used in positions not involving the rendering of health care services directly to inmates.

**2.5 Subcontracting and Delegation.** In order to discharge its obligations hereunder, PHS will engage certain health care professionals as independent contractors rather than as employees. The Sheriff/Facility Commander shall have the right to conduct a background investigation and approve such professionals, but approval will not be unreasonably withheld. Subject to the approval described above, the Sheriff/Facility Commander consents to such subcontracting or delegation. As the relationship between PHS and these health care professionals will be that of independent contractor, PHS will not be considered or deemed to be engaged in the practice of medicine or other professions practiced by these professionals. PHS will not exercise control over the manner or means by which these independent contractors perform their professional medical duties. However, PHS shall exercise administrative supervision over such professionals necessary to ensure the strict fulfillment of the obligations contained in this Agreement.

PHS will require such independent contractors providing health care services to comply with the provisions of Article V below. PHS shall also require that such independent contractors agree to execute any supplemental agreement regarding the confidentiality or security of Protected Health Information ("PHI") as required to comply or support County's compliance with applicable state or federal laws, rules, and or regulations, including HIPAA.

For each agent and subcontractor, including all medical professionals, physicians, dentists and nurses performing duties as agents or independent contractors of PHS under this Agreement, PHS shall provide the Sheriff/Facility Commander proof, if requested, that there is in effect a professional liability or medical malpractice insurance policy, as the case may be, in an amount of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) general aggregate.

**2.6 Discrimination.** During the performance of this Agreement, PHS and Sheriff, its employees, agents, subcontractors, and assignees agree as follows:

- (a) No one will discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. Each will agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (b) In all solicitations or advertisements for employees, each will state that it is an equal opportunity employer.
- (c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

### **ARTICLE III: ACCREDITATION**

**3.1 Obligation of PHS.** PHS' services shall meet the standards promulgated by the NCCHC and ACA. PHS will immediately meet and maintain ACA Accreditation standards and will work with County to obtain NCCHC accreditation. This obligation shall include the providing of written reports, on-site reviews, preparation of forms and applications and attendance at meetings as required by the Sheriff/Facility Commander. PHS shall not be responsible for NCCHC requirements not under PHS' direct control or within the scope of PHS services.

### **ARTICLE IV: EDUCATION**

**9.1 Base Compensation.** The County will pay to PHS the base price sum of \$4,968,294.00 for the first twelve months of this Agreement, payable in equal monthly installments of \$414,024.50 each. PHS will invoice the County thirty (30) days prior to the month in which services are to be provided. The County agrees to pay PHS on the first (1st) day of the month in which services are rendered. In the event this Agreement should commence or terminate on a date other than the first or last day of any calendar month, compensation to PHS will be prorated accordingly for the shortened month. The County shall pay interest to PHS on all undisputed payments that are not paid when due. Interest shall accrue from the date the original payment was due at a rate of 1% per month until the payment is made in full in accordance with Texas Government Code, Title 10 (General Government), Subtitle F (State and Local Contracts and Fund Management), Chapter 2251 (Payment for Goods and Services), which governs the County of El Paso as a subdivision of the State of Texas.

**9.2 Pharmacy Savings Option.** PHS has projected in its proposal that it will spend \$548,000 for pharmaceutical costs. If PHS does not spend \$548,000 in the first contract year, within 30 days of the end of the first contract year, it will issue to the County a refund of 100% of the unspent amount for pharmaceutical costs. The County may request that PHS submit documentation satisfactory to the County that substantiates such pharmaceutical cost expenditures.

**9.3 Increases in Inmate Population.** The parties agree that the annual base price is calculated based upon an average daily inmate population of up to 2400. The average daily inmate resident population shall be calculated by adding the population or head count totals taken during the day and dividing by the number of counts taken. If the inmate population grows significantly and if the population increase is sustained, PHS reserves the right to request an increase to its staffing complement and an adjustment to its contract price in order to continue to provide services to the increased number of inmates and maintain the quality of care.

**9.4 Change in Standard of Care or Scope of Services.** The compensation under this Agreement reflects the Scope of Services outlined collectively in this Agreement, the RFP and the PHS proposal and the current community standard of care with regard to health care services. In the event of any change or modification in the standards of care (e.g. change in HIV/AIDS therapy, Hepatitis B therapy, etc.) or the scope of services, either party may request a renegotiation of the costs related to such change or modification. If the parties are unable to reach a mutual agreement within thirty (30) days from either party's written request to negotiate, either party may terminate this Agreement by providing the party with notice to cancel as set forth in Section 8.

**9.5 Compensation Escalator.** The compensation (i.e., annual base price and per diem rate as defined in Sections 9.1 and 9.2, respectively) to PHS for succeeding twelve (12) month periods (after the first twelve months of the Agreement) shall be increased by the percentage increase of the U.S. Department of Labor Consumer Price Index – All Urban Consumers, (CPI-U) U.S. City Average, Professional Medical Care Services (1982-84=100) not seasonally adjusted. The CPI adjustment for each successive twelve (12) month period shall be determined by comparing the CPI for the most recent period of the current contract year with the CPI for the same period of the prior year. The resultant percentage increase shall be multiplied by the annual base price to determine the subsequent annual price.

9.6 Inmates from Other Jurisdictions. Medical care rendered within the Facility to inmates from other jurisdictions housed in the Facility pursuant to contracts between the County and such other jurisdictions will be the responsibility of PHS, as limited by Section 1.5. Medical care that cannot be rendered in the Facility will be arranged by PHS, but PHS shall have no financial responsibility for such services.

9.7 Responsibility for Work Release Inmates. Notwithstanding any other provisions of this Agreement to the contrary, both parties agree that County inmates assigned to Work Release are personally responsible for the costs of any medical services provided to them. PHS may assist with arranging the necessary transportation for Work Release inmates to obtain medical care.

## **ARTICLE X: LIABILITY AND RISK MANAGEMENT**

10.1 Insurance. At all times during this Agreement, PHS shall maintain general liability and professional liability insurance covering PHS, its employees and its officers in the minimum amount of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) general aggregate. The professional liability policy may be on a "claims made" basis, provided, however that, in lieu of the "tail coverage" required by the RFP, PHS agrees that, following termination or expiration of this Agreement, it shall maintain its professional liability policy, with the limits specified herein, for a period of five (5) years. In the event that there are coverage changes, PHS shall immediately notify the Sheriff in writing (with a copy to the Facility Commander and the County Risk Manager). PHS shall also notify the County or the Sheriff (with a copy to the Facility Commander and the County Risk Manager), in writing, of any reduction in policy amounts or cancellation of insurance coverage. PHS shall add the County as additional insured on its policies.

10.2 Lawsuits Against the Sheriff or County. In the event that any lawsuit (whether frivolous or otherwise) is filed against either the Sheriff or the County, its elected officials, employees and/or agents based on or containing allegations concerning medical care of inmates or on the performance of PHS's employees, agents, subcontractors or assignees, the parties agree that PHS, its employees, agents, subcontractors, assignees or independent contractors, as the case may be, may be joined as parties defendant in any such lawsuit and shall be responsible for their own defense and any judgments rendered against them. Nothing herein shall prohibit any of the parties to this Agreement from joining the remaining parties hereto as defendants in lawsuits filed by third parties.

10.3 Hold Harmless. PHS agrees to indemnify and hold harmless the County, its agents, servants and employees from any and all claims, actions, lawsuits, damages, judgments or liabilities of any kind whatsoever arising solely out of the operation and maintenance of the aforesaid program of health care services as conducted by PHS employees or agents, it being the express understanding of the parties hereto that PHS shall provide the actual health care services, and have complete responsibility for such health care services provided by its employees or agents and any lawsuit arising solely out of such delivery of healthcare. The Sheriff shall immediately notify PHS of any incident, claim or lawsuit of which the Sheriff becomes aware and shall fully



cooperate in the defense of such claim, but PHS shall retain sole control of its defense while the action is pending.

## ARTICLE XI: MISCELLANEOUS

11.1 Independent Contractor Status. The parties acknowledge that PHS is an independent contractor. Nothing in this Agreement is intended nor shall be construed to create an agency relationship, an employer/employee relationship, or a joint venture relationship among the parties.

11.2 Assignment and Subcontracting. Except to a wholly-owned subsidiary, affiliate or successor to PHS, but only after prior, written notification to County of any such assignment, PHS shall not assign this Agreement to any other corporation without the express written consent of the County, which consent shall not be unreasonably withheld. Any such assignment or subcontract shall include the obligations contained in this Agreement. Any assignment or subcontract shall not relieve PHS of its independent obligation to provide the services and be bound by the requirements of this Agreement.

11.3 Notice. Unless otherwise provided herein, all notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand or sent by certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at the following address or to any other person at any other address as may be designated in writing by the parties:

(a) County: County Judge  
County of El Paso, Texas  
500 E. San Antonio  
El Paso, Texas 79901

Sheriff Leo Samaniego  
El Paso County Sheriff's Department  
800 E. Overland  
El Paso, Texas 79901

(b) PHS President  
Prison Health Services, Inc.  
105 Westpark Drive, Suite 300  
Brentwood, Tennessee 37027

With a copy to:

General Counsel  
America Service Group Inc.  
105 West Park Drive, Suite 300  
Brentwood, Tennessee 37027

Notices shall be effective upon receipt.

11.4 Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, except as specifically noted. Venue shall lie in El Paso County, Texas. This paragraph shall not be construed to limit any rights a party may have to intervene in any action arising from this Agreement, wherever pending, in which the other is a party.

11.5 Entire Agreement. This Agreement constitutes the entire agreement of the parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions and agreements that have been made in connection with the subject matter hereof. No modifications or amendments to this Agreement shall be binding upon the parties, unless the same is in writing and signed by the respective parties hereto. All prior negotiations, agreements and understandings with respect to the subject matter of this Agreement are superseded hereby.

11.6 Amendment/Extension of Term. This Agreement may be amended, extended or revised only in writing and signed by all parties. In the event the parties desire to extend the term of the Agreement for successive term(s), the extension shall be subject to the requirement that PHS provide a performance bond as required by the RFP or the County may agree to accept a performance guaranty in lieu of the bond provided that PHS performance under this Agreement is satisfactory and PHS is not in default, and that the guarantor can demonstrate its credit worthiness and financial stability to the satisfaction of the County.

11.7 Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

11.8 Third-Party Beneficiaries. The parties agree that they have not entered into this Agreement for the benefit of any third person or persons, and it is their express intention that the Agreement is intended to be for their respective benefit only and not for the benefit of others who might otherwise be deemed to constitute third-party beneficiaries hereof.

11.9 Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.

11.10 Force Majeure. Neither party shall be held responsible for any delay or failure in performance (other than payment obligations) to the extent that such delay or failure is caused by fire, flood, explosion, war, strike, labor action, terrorism, embargo, government regulation, riot, civil or military authority, act of God, acts or omissions of carriers or other similar causes beyond their control.

11.11 Trial Duty. In the event PHS' personnel are required to devote time with regard to litigation or threatened litigation by or on behalf of County, this shall be part of their service time

pursuant to this Agreement. County shall be responsible for reasonable costs of substitute personnel to fill positions which would be vacant due to such court, trial appearance or other such requirements.

11.12 Effect of This Agreement. This Agreement constitutes the complete understanding between the parties with respect to the terms and conditions set forth herein and supercede all previous written or oral agreements and representations. The terms and conditions of this Agreement shall control over any terms and conditions in any solicitation, request for proposal, proposal, purchase order, acknowledgment, or other written form. This Agreement may be modified only in a writing that expressly references this Agreement and is executed by both of the parties hereto.

11.13 Sheriff's Designee/Liaison. The Sheriff has designated the Facility Commander as his designee under this Agreement and any other employee of the Sheriff's Office may be designated in writing by the Sheriff or Facility Commander as the liaison with PHS.

11.14 Performance Bond/Guaranty. The RFP requires that PHS provide a performance bond for the full amount of the Agreement. PHS proposed that County accept a performance guaranty from its parent corporation, America Service Group in lieu of the bond. The County has agreed to accept the performance guaranty ("Guaranty") for a reduction in the contract's price. PHS agrees that concurrent with the execution of this Agreement, it will cause its parent corporation to execute the Guaranty, in the form attached as Exhibit C.

IN WITNESS WHEREOF, the parties have executed this Agreement in their official capacities with legal authority to do so.

COUNTY OF EL PASO

PRISON HEALTH SERVICES, INC.

By: *Dolores Briones*  
Dolores Briones, County Judge

By: \_\_\_\_\_

Date: 12/13/04

Date: \_\_\_\_\_

\_\_\_\_\_  
Sheriff Leo Samaniego

Date: \_\_\_\_\_

Approved as to form:

*Beate G. Gu...*  
Assistant County Attorney

ATTEST:

By: *Waldemar...*  
County Clerk

**EXHIBIT B**

**AMERICA SERVICES GROUP, INC.**

**PERFORMANCE GUARANTY**

AMERICA SERVICE GROUP, INC.



PERFORMANCE GUARANTY

KNOW ALL MEN BY THESE PRESENTS, that we,

**Prison Health Services, Inc.**

as Principal, hereinafter called Principal, and America Service Group Inc., 105 Westpark Dr., Second Floor Brentwood, TN 37027, a corporation duly organized under the laws of the state of Delaware, hereinafter called Guarantor, hereby absolutely, unconditionally and irrevocably, guarantee unto

THE COUNTY OF EL PASO, TEXAS

as Grantee, hereinafter called Grantee, the sum of \_\_\_\_\_ under the terms and conditions set forth below.

WHEREAS, the Principal has entered into a contract with Grantee for INMATE MEDICAL SERVICES pursuant to the terms and conditions of that certain contract between Principal and Grantee dated December \_\_\_\_\_, 2004 (Contract), and

WHEREAS, the Principal is required to furnish a Performance Guaranty securing the faithful performance of the Contract,

NOW, THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATION ARE SUCH that if said Principal shall well and truly complete all of the work described in the Contract within the time and in the manner therein specified, and shall observe, perform, fulfill, and keep all and every covenant and agreement in the Contract on the part of the Principal to be kept, performed and complied with within the time and in the manner therein specified, and shall truly and fully comply with the Contract, then this obligation shall be null and void, otherwise it shall remain in full force and effect for the term of the Contract.

If Grantee is considering declaring the Principal to be in default, Grantee shall notify Guarantor in writing of such, and Grantee, prior to Guarantor having any obligation under this Performance Guaranty, shall participate in a conference with Guarantor and Principal, to be held no later than fifteen (15) days after Grantee's written notification is received by Guarantor, to discuss in good faith the resolution to the considered default

When Grantee has satisfied the condition of participating in the conference, and such conference has not resulted in a resolution of Grantee's considered default, Guarantor shall promptly, and at Guarantor's expense, take one of the following actions:

- a. Arrange for Principal, with Grantee's consent, to complete the Contract work; or

- b. Undertake to perform and complete the Contract work through use of qualified agents and/or independent contractors; or
- c. Pay to Grantee the sum set forth above, on condition that payment to Grantee shall completely and fully satisfy all obligations of Guarantor and Principal under the terms of this Performance Guaranty and the Contract, Grantee waiving any and all claims and causes of action Grantee then presently has or may have in the future, that arise out of or in any way relate to Principal's default of the Contract or Guarantor's obligations under this Performance Guaranty.

This Guaranty is unconditional and shall remain in full force and effect on any amendment, assignment, or other modification of such Services Agreement, whether or not Guarantor has any knowledge thereof. The Guarantor waives notice of any changes to the Services Agreement including, without limitation, changes in the contract time, the contract price, or the work to be performed. The Guarantor waives all demands upon and notices to Principal under the Services Agreement, and to the Guarantor other than as provided herein, including demands for performance, notices of non-performance, or proof of notice or demand and any other defense which may otherwise be available under the principles of guaranty or surety law which would operate to impair or diminish the liability under this Guaranty. Guarantor further agrees that Grantee may proceed against the undersigned Guarantor separately or jointly before, after, or simultaneously with proceeding against the Principal.

This Guaranty shall be construed in accordance with the laws of the State of Texas. In the event of any action or proceeding relating to the enforcement of the obligations of the Guarantor by the Grantee, the Guarantor agrees to submit to the jurisdiction of the District Court of Texas in El Paso County.

The Guarantor shall not assign its rights or obligations under this Guaranty.

IN WITNESS WHEREOF this Performance Guaranty has been executed this \_\_\_ day of \_\_\_\_\_ 2004.

(Witness)	(Principal)
(Witness)	(Title)
(Witness)	(Guarantor)
SEAL	(Title)

STATE OF TEXAS )

COUNTY OF EL PASO )

**AMENDMENT NO. 1 TO  
HEALTH SERVICES AGREEMENT  
WITH PRISON HEALTH SERVICES, INC.**

On the 13<sup>th</sup> of December, 2004, THE COUNTY OF EL PASO, a political subdivision of the State of Texas, (hereinafter called "County") and the PRISON HEALTH SERVICES, INC., a Delaware corporation qualified to do business in the State of Texas, hereinafter called "PHS" entered into a Health Services Agreement. The Parties now desire to amend the Agreement to extend the term for two (2) years. All sections of the Agreement not specifically amended herein shall remain in full force and effect.

**AGREEMENT**

NOW THEREFORE, the parties agree as follows:

**1. Section 8.1 of the Agreement is revised to add the following:**


"The term of this Agreement shall be extended for one additional two (2) year term, ending October 31, 2008."

IN WITNESS WHEREOF, the parties hereto execute this agreement this 9<sup>th</sup> of October, 2006.

ATTEST:

**THE COUNTY OF EL PASO**

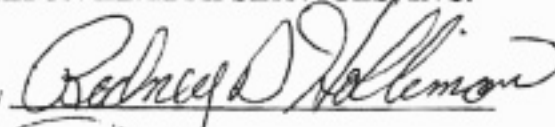
  
Waldo Alarcon

By   
Dolores Briones  
County Judge

APPROVED AS TO FORM

  
Betty A. Smith  
Assistant County Attorney

**PRISON HEALTH SERVICES, INC.**

By   
Rodney D. Helms

APPROVED AS TO FORM  
BY LEGAL DEPT.

