

**NORTH CAROLINA
CHATHAM COUNTY**

AGREEMENT FOR GOODS AND/OR SERVICES

THIS AGREEMENT FOR GOODS AND/OR SERVICES (this "Agreement"), made and entered into by and between Chatham County ("County"), and American Correctional Association ("Contractor"). Either the County or the Contractor may be referred to herein as a "Party" or collectively as the "Parties."

WHEREAS, the Contractor has agreed to provide goods and/or services as hereinafter set forth in a professional manner in accordance with the standards of the Contractor's business and industry; and

WHEREAS, the County wishes to enter into an Agreement with the Contractor to provide the goods and/or services specified in Appendix 1, attached hereto and incorporated herein by reference and made an integral part of this Agreement.

NOW THEREFORE, in consideration of the premises and the mutual agreement described below, the Parties agree as follows:

1. **Term of Agreement:** The term of this Agreement shall commence 1 December 2022, or upon signing by the Contractor, whichever is later, and shall remain in full force until the earlier of three (3) years after accreditation is granted or the Agreement is terminated as hereinafter set forth.
2. **Scope of Service:** The Contractor shall provide to the County the goods and/or services (the "Services") set forth in Appendix 1 attached hereto.
3. **Compensation:** As compensation for the Services to be provided by Contractor, the County shall pay the Contractor a sum not to exceed \$29,600.00, payable within thirty (30) days from receipt of proper invoice(s), or as otherwise set forth in Appendix 1.
4. **Insurance:** The Contractor shall maintain insurance policies at all times with minimum limits as follows:

<u>Worker's Compensation</u>	<u>General /Professional Liability</u>
	\$100,000 bodily injury per person
	\$500,000 bodily injury per occurrence
	\$100,000 property damage

All insurance policies shall be issued by companies authorized to do business under the laws of the State of North Carolina and shall be rated not less than "A" by A.M. Best and Company. The Contractor shall furnish Certificates of Insurance to the County, naming the County as an additional insured, prior to the commencement of operations. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this paragraph and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Compliance with the foregoing requirements shall not relieve the Contractor from any liability or obligations under this Agreement.

5. **Confidentiality:** All proprietary data and information, if any, furnished to the Contractor by the County shall be regarded as confidential, shall remain the sole property of the County and shall be held in confidence and safekeeping by the Contractor for the sole use of the County and the Contractor under the terms of this Agreement. The Contractor agrees that its officers, employees, and agents will not disclose to any person, firm, or entity other than the County or its designated legal counsel, accountants, or practice management consultants any confidential information about the County. The Contractor agrees to carry out its obligations to the County in compliance with all privacy and security regulations required by law.

6. **Intellectual Property Owned by the Contractor:** This Agreement is subject to the North Carolina public records law and may be released upon request. Not all "Trade Secrets" will qualify as protected under N.C.G.S. §132-1.2 and 66-152. The Contractor should consult legal counsel before signing this document if the Contractor is unsure of its intellectual property status under these statutes.

7. Status of Parties: Nothing contained in this Agreement shall be construed as establishing a partnership or joint venture relationship between the Contractor and the County. The Contractor and its employees and representatives are independent contractors, solely responsible for its or their performance under this Agreement and shall have no legal authority to bind the County.

8. Assignment and Subcontracting: Neither this Agreement nor any rights or obligations hereunder shall be subcontracted, assigned, or delegated by the Contractor without prior written consent of the County, which consent may be withheld in the County's sole discretion.

9. Binding Effect: This Agreement shall be binding upon the Parties hereto, their heirs, administrators, executors, successors and assigns, if such assignment has been approved by the County.

10. Notices: Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been given on the date delivered personally or deposited in the United States Postal Service, certified mail, return receipt requested, with adequate postage affixed, addressed as follows:

Chatham County
Attn: County Manager
Post Office Box 1809
Pittsboro, North Carolina 27312
919.542.8200

American Correctional Association
Attn: Executive Director
Standards & Accreditation Department
206 N Washington Street, Suite 200
Alexandria, Virginia 22314-2528
703.224.0015

Either Party may change its address for notices under this Agreement by giving written notice of such change to the other Party in accordance with the provisions of this paragraph.

11. Governing Law: This Agreement and the rights and obligations to the Parties hereunder shall be construed and governed by the laws of the State of North Carolina and venue for any proceedings arising hereunder shall be in the state court of appropriate jurisdiction located in Chatham County, North Carolina.

12. Modifications: This Agreement may be amended or modified only by the mutual written consent of the Parties. A modification is not enforceable against the County unless it is signed by the County Manager, Purchasing Agent, or other duly authorized official.

13. Entire Agreement: This Agreement contains the entire agreement between the Parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties or understandings, written or oral, expressed or implied, between the Parties, other than as set forth or referenced in this Agreement.

14. Waiver: A waiver of any provision of this Agreement must be in writing, designated as such, and signed by the Party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach thereof.

15. Termination: Either Party may terminate this Agreement upon 30 days written notice to the other Party. The Contractor's decision of termination may be appealed by the County within 30 day of notification of the decision. The County may terminate the Agreement as follows:

- (i) Cause: If the services provided by Contractor under this Agreement are not performed as specified herein, this Agreement may be terminated by the County for cause. Grounds for termination for cause shall include, but not be limited to, the following:
 - (a) Failure to respond to reasonable requests from the County to provide the Services covered by this Agreement.
 - (b) Failure to keep and maintain any equipment required for the performance of this Agreement in good working order and in compliance and with all laws.

- (c) Failure to properly recycle any electronic equipment as specified in Article 9, Chapter 130A of the North Carolina General Statute, or failure to comply with any statutory requirement included in the formal bid request, as provided in the bid packet, which bid packet is incorporated herein by reference.
 - (d) Failure to maintain the insurance required by this Agreement.
 - (e) Charging rates or fees in excess of those permitted under in this Agreement.
 - (f) Inefficient, or unsafe practices in providing Services.
 - (g) The material breach of any provision of this Agreement\
- (ii) Convenience: The County reserves the right to terminate this Agreement upon thirty (30) days prior written notice to Contractor for any reason deemed by the County to serve the public interest. This termination for convenience will not be made when termination is authorized under any other provision of this Agreement. In the event of such termination the County shall pay the Contractor its costs directly attributable to those Services received by the County prior to termination that meet the requirements of this Agreement. Provided, however, that no costs will be paid to the Contractor which are recoverable in the Contractor's normal course of doing business. The County is not liable for the loss of any profits anticipated to be made hereunder, nor for any special, consequential or similar damage.

16. Annual Appropriations and Funding: This Agreement is subject to the annual appropriation of funds by the Chatham County Board of Commissioners. Notwithstanding any provision herein to the contrary, in the event that funds are not appropriated for this Agreement, the County shall be entitled to immediately terminate this Agreement, without penalty or liability, except the payment for all Service satisfactorily provided under this Agreement up to and through the Contractor's receipt of notice of termination.

17. Indemnity: The Contractor agrees to indemnify and hold harmless the County, its officers, agents, servants, and employees from all claims, actions, lawsuits, losses, damages, expenses, judgments, or liabilities of any kind whatsoever (including without limitation, cost of defense and attorney fees) suffered by the County and proximately caused by an act or omission of the Contractor, its subcontractors, agents, or employees.

18. County Policy: The County opposes discrimination based on race and sex and requires all of its contractors to provide a fair opportunity for minorities and women to participate in their work force and as subcontractors and vendors under County contracts.

19. State and Federal Requirements; County Terms and Conditions: By signing this Agreement, the Contractor certifies that (if applicable) the Contractor, and any of the Contractor's subcontractors are in compliance with State and Federal laws, including any divestment list by the NC State Treasurer, and Federal or State debarment or suspension lists. The County Terms and Conditions are incorporated herein and made an integral part of this Agreement and may be found at the County's web site: <http://www.chathamcountync.gov/finance>. A hard copy of the Terms and Conditions is available upon request.

20. Controlling Document: In the event of any conflict between this Agreement and any document, instrument, or other agreement prepared or provided by the Contractor (including, without limitation, Contractor's purchase orders, invoices and warranties), the terms of this Agreement shall control.

- Signature Page Follows -

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

Chatham County

By: _____

Dan LaMontagne, County Manager

Contractor

By: *Roy Lynch*

Name: *James A. Goulet Sr.*

Title: *Executive Director*

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Roy Lynch, Finance Director

APPENDIX 1

1. OBLIGATIONS: In consideration of the mutual covenants and conditions, the Parties hereby agree as follows:

a) The County shall:

- 1) Accept the standards and criteria for accreditation, including subsequent modifications or amendments thereto.
- 2) Have statutory and/or other legal authority to enter this Contract with reference to its decision to seek accreditation for: The Chatham County Detention Center.
- 3) Adhere to the policies and procedures of the Commission and the Association with reference to the accreditation process as stated in the Agency Manual of Accreditation Policy and Procedure, and other documents supplied by the Association.
- 4) Strive at all times to achieve and/or maintain the accreditation status, as specified in the Agency Manual of Accreditation Policy and Procedure.

b) The Contractor shall:

- 1) Use only standards approved by the American Correctional Association in the accreditation process, making judgments of compliance based on written documentation, visual confirmation or both.
- 2) Provide information on the accreditation program and process, and the participation of the agency, facility, or program therein, to the County's governing and/or contract authority.
- 3) Conduct an orientation to the accreditation program and process, if requested, at the County's expense.
- 4) Cooperate with the County, its Administrator, Accreditation Manager, and staff in requests for assistance, information, and materials required in the implementation and conduct of the accreditation process.
- 5) Appoint all auditors/consultants based upon their experience and demonstrated knowledge.
- 6) Conduct reconsideration hearings using procedures approved by the Association and the Board of Commissioners.
- 7) Agree that all materials provided, and information gathered, will be held in strict confidence consistent with the professional contractor/client relationship. Accreditation information will be shared among the Commission, officers, auditors and staff on a need-to-know basis.
- 8) Provide to the agency, facility or program if awarded accreditation, a Certificate of Accreditation; this certificate shall identify the agency, facility or program and the year in which accreditation is awarded; the certificate and all copies and facsimiles remain the property of the American Correctional Association and shall be returned to the Association upon the expiration or loss, for any reason, of accreditation.

9) Publish the name of the accredited agency, facility or program in an annual summary.

2. PAYMENT TERMS:

- a) The County hereby covenants and agrees to pay an accreditation fee in the amount of \$12,600.00 payable without deduction or refund as stipulated in the following schedule.
- b) In consideration of preparation, planning and activating the accreditation process for the herein named County, facility or program which involves staff time and other expenses, 50% of the total accreditation fee \$6,300.00 shall be payable within 30 days from the commencement of this contract.
- c) In consideration of completion of the standards compliance audit, the remaining 50% of the total accreditation fee \$6,300.00 shall be due 30 days after completion of the audit. The total fee has to be paid in full to receive certificate of accreditation.
- d) The Contractor will pay the County for travel, lodging, and meals for two County employees to appear before the Commission panel as follows: conference registration; round trip supersaver airfare; airport or hotel parking; two nights lodging (not to exceed the lowest, single ACA rate for the headquarter hotel); per diem of \$40.00 per day; \$8.00 for breakfast, \$12.00 for lunch, and \$20.00 for dinner (up to 2.5 days); and miscellaneous expenses totaling \$25.00.
- e) The County hereby agrees to pay, in addition to the accreditation fee provided for above, \$4,500.00 for any re-audit necessary to verify required minimum levels of compliance with standards and/or compliance with life-health-safety standards found in non-compliance at the time of the standards compliance audit or monitoring visit.
- f) If such services are requested by the County, the County agrees to pay; in addition to the other accreditation fees provided above, for the cost of field consultation services to the facility or program \$4,500.00 for technical assistance and \$6,500.00 for a mock audit.
- g) In the event that the County requests a postponement of a scheduled audit, and such request is made less than 90 days before the date of the scheduled audit, the County agrees to pay an audit re-scheduling fee of \$1,500. This postponement fee covers auditor rebooking fees and administrative costs.
- h) All accreditation, administrative, and other fees due as of the effective date of termination, shall remain an obligation of the County. All fees paid are non-refundable.