

EXHIBIT A-2

FACILITY OPERATION AND MANAGEMENT AGREEMENT

(96 bed facility)

This Facility Operation and Management Agreement (hereinafter "Agreement") is entered into by and between **FANNIN COUNTY, TEXAS** (hereinafter "County") and _____, (hereinafter called "Operator") to become effective on the date signed, but the term of which shall begin, and all obligation of both parties to perform hereunder shall first begin, on the first day that prisoners are housed at the facility operated and managed hereunder.

WHEREAS, the County is the Owner of that certain Facility known as the "Fannin County Jail" located on County Road 4200 (hereinafter "Facility"); and

WHEREAS, the Facility includes **96** inmate beds for secure detention; and

WHEREAS, the parties hereto desire to enter into an agreement for the operation and management of the Facility;

WHEREAS, the entering into this Agreement is found to be in the best interests of the parties, the efficient and safe operation of the Facility, and the public as it will serve the public purpose of providing space for incarceration of law violators and will provide economic development and economic benefits to the local economy; and

WHEREAS, the County desires to contract for the operation and management of the Facility concurrently with the operation and management of the 432 bed Fannin County Detention Facility being financed by the Fannin County Public Facility Corporation ("Fannin County PFC") Lease Revenue Bonds, Series 2014 under the terms of a Sublease Agreement between the Fannin County PFC (also referred to as "Issuer") and the County (hereinafter "Sublease");

NOW, THEREFORE, in consideration of the mutual rights, benefits and obligations herein exchanged, the parties do covenant, agree and bind themselves as follows:

I. PURPOSES

1.01 Operator agrees to operate, manage and supervise the Facility on behalf of and for the County, and to receive, detain and care for all properly classified prisoners for which the Facility is approved that may be assigned to the Facility from:

- (a) The County Sheriff of the County (the "Sheriff");
- (b) The County Sheriff of any other Texas county, pursuant to an Interlocal Cooperation Contract with the County;
- (c) The Texas Department of Criminal Justice ("T.D.C.J.") pursuant to an agreement between T.D.C.J. and the County; or

- (d) The United States Government or any agency thereof, pursuant to an agreement between the County and the United States or any agency thereof.

Operator is acting as an Independent Contractor for the County, and is not a partner or joint venturer of the County. All prisoner housing contracts must be between the County and the jurisdiction or agency seeking the services. Only prisoners under such contracts shall be housed at the Facility.

1.02 Operation and management of the Facility must be in accordance with the applicable standards of the Texas Commission on Jail Standards, applicable requirements of the American Corrections Association, and applicable requirements of prisoner housing contracts.

1.03 Operator is an independent operator engaged for the public purpose of operating a detention center on behalf of the County. No property interest or right in the Facility or grounds is granted to the Operator by this Agreement, nor is any interest in the revenues therefrom, including Project Revenues (as defined herein), granted to the Operator.

II. TERM

2.01 The term of this Agreement shall begin **June 19, 2018** and end on **September 30, 2019** ("Primary Term") with the option of up to two (2) five-year renewal periods which can be exercised by the mutual agreement of the County and the Operator. The Initial Term shall include a term beginning **June 19, 2018** and end on **September 30, 2019** (1 year, 3 months, and 11 days). The Renewal terms shall be from **September 30, 2019** to **September 30, 2024** and from **September 30, 2024** to **September 30, 2029**.

III. OPERATOR'S COMPENSATION

3.01 For purposes of this Article, the term "Project Revenues" shall have the meaning and be defined as said term is defined and used in the Sublease.

3.02 For purposes of this Article, the term "Operating Account" shall have the meaning such term is given in the Sublease. The term "Operator's Compensation" shall mean the amount payable to the Operator under Section 3.04 below.

3.03 Anything to the contrary herein notwithstanding, the Operator's Compensation shall be paid solely from and to the extent monies are available therefor in the Operating Account. The Operating Account is funded by Project Revenues as set forth in the Trust Indenture and Sublease.

3.04 Operator shall be paid a fixed fee per prisoner, per day (actual occupancy) for the operation and management services provided hereunder to be paid on a monthly basis from the Operating Account, after the administrative fee/per diem to the County has been paid. The compensation to Operator shall be payable solely out of the Operating Account, and solely on a fixed per diem basis as available from the Operating Account on a monthly basis:

- (a) Categories of Prisoners—

(i) A fixed per prisoner, per diem fee of \$_____ for each U.S. Department of Justice, United States Marshal's Services ("USMS") inmate.

(ii) A fixed per prisoner, per diem fee of \$_____ for Fannin County inmate.

(b). In the event that the Operator is not paid its full compensation as set forth in Section 3.04(a) hereof for any calendar month, the deficiency in such payment shall be carried over to the following months and added to the Operator's Compensation due in following months during the term of this Agreement. On the termination of this Agreement, the unpaid compensation due and owing to the Operator shall be paid solely to the extent that monies are available therefor in the Operating Account, but only after all other Operation and Management Costs (as defined in the Trust Indenture), and any Operator Fee (Cost Plus) (as defined in the Trust Indenture) has been paid.

3.05 For the purposes of this Agreement, a "day" shall mean a twenty-four (24) hour time period beginning with twelve (12) o'clock midnight and ending twenty-four (24) hours later.

3.06 Nothing herein shall be a pledge or charge against County tax revenues. The County's obligations under this Agreement are special obligations payable solely from Project Revenues made available for such payment in the Operating Account.

IV. DUTIES OF OPERATOR

4.01 Operator shall manage, operate and provide at its sole cost and expense:

- (a) all necessary furniture, fixtures and equipment not currently provided at the Facility including but not limited to computers, fax and copy equipment, radios, televisions, uniforms and linens and basic office furniture and administrative phone systems, which are necessary or prudent for operation and management of the Facility and the housing of prisoners;
- (b) intake facilities and prisoner accounting which shall encompass booking, record-keeping, billing, system of controls, identification systems and records, computerized communication interface with law enforcement agencies, and such statistical records as may be required by law or are generally accepted prisoner-locator practices;
- (c) attendants to control ingress and egress at the Facility, in addition to attendants necessary for the requisite level of security internally within the Facility and those required to monitor the activities of prisoners confined within the Facility;
- (d) food and beverage services;

- (e) clothing and uniforms;
- (f) engineering and maintenance;
- (g) procurement and purchasing;
- (h) recreational, vocational, counseling, education and exercise programs, and other program requirements required by law or prisoner housing contracts;
- (i) bookkeeping and financial accounting;
- (j) routine medical care/sick call, and access to non-routine care;
- (k) training of jailers to be employed at the Facility and all start up costs of operations;
- (l) all repair, upkeep and ordinary maintenance (to the extent set forth below), required for the Facility;
- (m) necessary utilities and refuse services;
- (n) all other services necessary or proper for the efficient and safe operation of the Facility, and secure custody, care and housing of inmates, in compliance with all applicable federal, state and local laws and regulations, including the applicable standards of the Texas Commission on Jail Standards, and applicable standards of the A.C.A.; and
- (o) Transportation and security services for the transportation of the County's own inmates to and from the local Fannin County district and county court proceedings.

In regard to 4.01(l) above, the County agrees to assign to Operator, when necessary and appropriate, any warranties or guarantees it might have or be entitled to with regard to the Facility in order to effect repairs on the Facility, or to give Operator the right to pursue the manufacturer, builder, or other supplier who gave such warranties or guaranties, to seek reimbursement for monies expended by Operator to meet its repair, upkeep and maintenance obligations under this Agreement to the extent that those expenditures relate specifically to work covered by the subject warranty or guaranty.

4.02 Operator shall prepare and furnish such reports as may be required by law to be submitted to the County and the Sheriff with respect to the operation of the Facility or the prisoners detained therein and, in addition, such other reports as may be required by a Texas state agency or any agency of the United States Government, or by any state or political subdivision thereof from which prisoners have been assigned to the Facility.

4.03 Operator shall obtain, and thereafter maintain, the proper certification(s) necessary for the Facility to incarcerate federal, state and local prisoners, and shall maintain such certification(s) at all times. After such certifications have been obtained, if Operator is required, by the laws of the State of Texas, other applicable law or the rules and procedures promulgated by the Jail Commission, to implement operational modifications to maintain such certificates, the County and Operator may agree upon temporary increases in the Operator's Per Diem sufficient over a reasonable period of time to reimburse Operator for the cost of such operational modifications.

4.04 Operator will properly incarcerate all prisoners assigned to the Facility for whom there is space available at the Facility within the statutory and regulatory limits of the Facility.

4.05 Notwithstanding anything contained herein to the contrary, the County shall have no liability whatsoever for any employees of Operator, Operator hereby agrees to indemnify and hold County harmless from all costs, claims, expenses, and liabilities (including attorney's fees) whatsoever which may be incurred by County arising from any and all acts done or omitted to be done by Operator, or the employees, agents and assigns of Operator, in connection with services performed or to be performed under this Agreement.

4.06 The interviewing, hiring, training, assignment, control, management, compensation, promotion and termination of all members of the Facility's administration and staff shall be the responsibility and obligation of Operator. Operator will use its best efforts to hire and train local personnel.

4.07 Operator shall use its best efforts to purchase goods and professional services locally when economically feasible.

4.08 Operator shall make available to its employees health care benefits that, at a minimum, are comparable to those provided by the County to its employees.

V. MEDICAL CARE; TRANSPORTATION AND OFFSITE GUARD SERVICE

5.01 The Operator shall provide access to medical, optical, dental and emergency health care services. Basic medical care will be made available by Operator at Operator's cost to all prisoners detained at the Facility. Operator shall provide on-site nurses and medical technicians to handle sick-call and medical assessment and care that does not require a physician or specialist. The Operator shall also contract with a medical doctor to serve as medical consultant for the Facility.

5.02 The cost of hospitalization, prescription drugs, surgical, optical, dental care and all other non-basic medical services for which costs are incurred or charges made (and transportation costs to obtain such care) for a prisoner shall be the obligation of the jurisdiction or agency from which that prisoner was assigned to the Facility. The County shall have no obligation for such costs except to the extent the County was the jurisdiction from which the prisoner was assigned.

5.03 Reimbursement of the Operator's costs incurred for outside medical care if not paid

directly by the jurisdiction or agency from which the inmate was assigned shall be paid directly to the Operator by the obligated jurisdiction, or if paid to the County by the obligated jurisdiction, shall be remitted directly to the Operator. Such reimbursements shall not be Project Revenues.

5.04 All revenues from housing of inmates and billings for transportation mileage charges and hourly guard services for offsite services are Project Revenues to be processed through the Trustee under the 2014 Bond Financing.

VI. COMPLIANCE WITH STANDARDS

6.01 Operator shall prepare and adopt a Procedures Manual for the operation of the Facility so as to assure that the Facility is operated fully in accordance with Texas state law, other applicable law, and rules and procedures promulgated by the Jail Commission. Operator shall make such modifications and corrections in the said Procedures Manual necessary to keep the Facility in compliance with Texas state law, the Prison Rape Elimination Act (PREA) and other applicable law, and the rules and procedures promulgated by the Jail Commission.

6.02 Operator shall assure that all employees at the Facility are adequately trained to perform at standards required by Texas state law, other applicable law, and the rules and procedures promulgated by the Jail Commission.

6.03 Operator shall comply with all standards and requirements of the prisoner housing contracts entered into with other jurisdictions and agencies by the County, and provide all services to be provided by the County under such contracts and pursuant to the terms of such contracts.

6.04 All jailers must be certified by TCLEOSE prior to undertaking jailer duties.

VII. DUTIES OF THE COUNTY

7.01 The County hereby covenants and agrees to transfer to the Facility all prisoners under the jurisdiction of the County from eligible third party transfer sources, and the County covenants and will insure that all incarceration agreements between the County and the third party sources set forth in Section 1.01 of this Agreement will permit such transfer to the Facility.

7.02 The County and the Sheriff shall be solely responsible for the housing, care and control of prisoners, if any, in the existing Fannin County Jail.

7.03 The County and the Sheriff shall cooperate with Operator in all matters of law enforcement, security and communications.

7.04 The County and the Sheriff shall assist Operator in the training, at Operator's expense, of Operator employees to operate the Facility.

7.05 The County and the Sheriff shall assist and cooperate with Operator in providing information needed by Operator in the screening of candidates for employment.

7.06 The County and Operator agree it shall be to their mutual benefit and interest that the Facility be fully utilized by maintaining the maximum prisoner population within statutory or regulatory limits. To this end, and throughout the term of this Agreement, the County and the Operator agree to cooperate in efforts to obtain maximum prisoner population from the sources set forth in Section 1.01 of this Agreement (i.e. County will enter into reasonable and advisable prisoner housing contracts or related agreements, Operator will actively seek to identify potential prisoner sources, etc.). It shall be the responsibility of Operator to assist the County in seeking out sources of prisoners for incarceration at the Facility, and to assist in negotiation and presentation for acceptance by the County contracts for the incarceration of prisoners from sources listed in Section 1.01 of this Agreement.

VIII. LIABILITY AND INDEMNITY

8.01 Operator hereby agrees to defend, hold harmless and indemnify the County, Sublessor (or its assignee) and/or the Trustee, their officers, directors, employees, agents, and representatives (including the County Judge, the County Commissioners, and the Sheriff), from and against any and all claims, damages, demands, losses, costs and expenses, including attorney's fees, incurred or suffered by the County, Sublessor (or its assignee), and/or the Trustee, their officers, directors, employees, agents, or representatives, arising out of or resulting from any negligent or wrongful act or failure to act by Operator pursuant to the provisions of this Agreement.

IX. INSURANCE

9.01 Operator shall obtain and maintain in force, at its sole cost, risk and expense during the term of this Agreement all insurance required to be maintained by the County. The insurance required to be provided by the Operator is generally described in the attached Appendix "A".

X. APPROVAL AND MONITORING BY COUNTY SHERIFF

10.01 The Sheriff signs this Agreement to evidence his approval as required by §351.102, *Local Government Code*.

10.02 The Sheriff shall periodically monitor the operation of the Facility, and, to this end, the Sheriff or his designated representative shall conduct a thorough on-site inspection of the Facility no less than twice during each month throughout the term of this Agreement. Such monitoring shall not create any liability to the County or the Sheriff, and shall not be a basis for release or defense to liability of the Operator.

XI. MAINTENANCE, UPKEEP AND REPAIR

11.01 All ordinary maintenance, upkeep and repair costs for the Facility shall be paid by Operator pursuant to subsection 4.01(l) of this Agreement except as otherwise provided therein. Operator agrees that its negotiated per diem, per prisoner fee has taken this operational expense into account.

XII. TAXES AND GOVERNMENTAL CHARGES

12.01 Operator shall be responsible for any taxes or governmental charges of any kind assessed or incurred after the effective date of this Agreement which are levied or imposed on the Facility and related property. To the extent that such taxes are chargeable against the Facility and found by a final non-appealable judgment of a court of competent jurisdiction to be due and owing. Such amounts are not a responsibility or debt of the County. This Facility is intended to be, and under current law, should be exempt from property taxation. The County is the owner of taxable title to the Facility based on current interpretations and decisions.

XIII. ADDITIONAL PROVISIONS

13.01 Notwithstanding anything to the contrary contained herein, in the event any bankruptcy, reorganization debt arrangement, moratorium, proceeding under any bankruptcy or insolvency law or dissolution or liquidation proceeding is instituted by Operator, or if instituted against Operator, is consented to or acquiesced in by Operator and is not dismissed within sixty (60) days, the Agreement shall be immediately terminated and canceled, and the County shall immediately assume responsibility for the operation, management and supervision of the Facility.

13.02 Either party may terminate this agreement for the failure of the other party to comply with a material provision hereof after sixty (60) days written notice and opportunity to cure.

13.03 The right to contract for inmate telephone service belongs to the County. The operator shall cooperate with the County and its selected vendor for inmate telephone service.

13.04 Commissary services procurement shall be made in coordination with the Sheriff and in compliance with §351.0415 of the Local Government Code. Commissary proceeds will be placed in a separate account controlled by the Sheriff to be used only for inmate welfare purposes at the Facility in accordance with §351.0415(c), Local Government Code. Inmate welfare purposes shall be items or services beyond what the Operator is required to provide under this Agreement. In no circumstance shall commissary revenues be used to defray the costs of the Operator for services/items that it is already required to provide under this Agreement.

13.05 The Operator and the County each represent that no member of the Commissioners Court of Fannin County, no elected or appointed peace officer who serves in Fannin County, and no employee or Commissioner of the Texas Commission on Jail Standards has a financial interest in the Operator.

XIV. APPLICABLE LAW AND VENUE; LEGAL CONSTRUCTION

14.01 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fannin County, Texas, and venue of any action or dispute shall be in a court of competent jurisdiction in Fannin County, Texas.

14.02 In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

14.03 If for any reason this Agreement shall be held void or voidable, or otherwise be held unlawful, this Agreement shall immediately terminate, and Operator shall have no claim or right of action against the County, its officials, its employees, its agents or its attorneys for any such termination or alleged act or omission related to the same.

XV. NOTICES

15.01 Notices required to be given hereunder by any party to the other shall be in writing and shall be valid if actually received by the party to whom such notice is given or if deposited in the United States Mail, postage prepaid and addressed to the party as herein below specified. Notices to the County shall be delivered or sent as follows:

Fannin County, Texas
Attention: County Judge
Fannin County Courthouse
101 East Sam Rayburn Drive
Bonham, Texas 75418

Notices to Operator shall be delivered or sent as follows:

Notices to the Trustee shall be delivered or sent as follows:

XVI. EXECUTION AUTHORITY

16.01 By his or her signature below, each signatory individual certifies that he or she is the properly authorized agent or officer of the applicable party hereto, and has the necessary authority to execute this Agreement on behalf of such party, and each party hereby certifies to the other that any resolutions necessary to create such authority have been duly passed and are now in full force and effect.

XVII. AMENDMENT

17.01 This Agreement may be amended only by a written instrument specifically purporting to amend this Agreement and executed by all parties hereto.

XVIII. ENTIRE AGREEMENT

18.01 This Agreement constitutes the sole and only Operation and Management Agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

SIGNED this ____ day of _____, 2018.

FANNIN COUNTY, TEXAS

ATTEST:

By _____
CRETA L. CARTER II
County Judge

County Clerk

APPROVED:

Fannin County Sheriff

Operator

By:_____

Print Name:_____

Title:_____

APPENDIX “A”

7.3 Liability Insurance. Operator shall on behalf of the County procure and maintain continuously in effect, with respect to the Facility, insurance against any liability for injuries to or death of any person or injury to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Facility or any part thereof in a minimum amount of \$5,000,000.

7.5 Property Insurance. Operator shall on behalf of the County have and assume and shall bear the risk of loss with respect to the Facility and shall procure and maintain, or cause to be procured and maintained, continuously in effect with respect to the Facility, in a minimum amount equal at least to the value of the Facility, all-risk insurance, including coverage for riots, subject only to the standard exclusions contained in the policy. All policies (or endorsements or riders) evidencing insurance required hereby shall be carried in the name of the County as its interest may appear and shall name the County as loss payee.

7.6 Workers’ Compensation Insurance. If required by State Law, the Operator on behalf of itself and the County shall either (i) carry, or cause to be carried, Workers’ Compensation Insurance, or lawful alternative, covering all employees on, in, near or about the Project, or (ii) be self-insured to cover risks typically covered by Workers’ Compensation Insurance.

7.7 Other Insurance and Requirements for Insurance. All insurance required may be carried under a separate policy or a rider or endorsement; shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States, qualified to do business in the State and having a rating from A. M. Best of A- or higher; shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to both parties before the cancellation or revision becomes effective; and (except for Worker’s Compensation Insurance) shall name County as an insured party. The County shall have no responsibility for the monitoring, renewing, or receiving the insurance or documents pertaining thereto.