



July 7, 2021

Sheriff Jeffery Smith
Montgomery County Sheriff's Office
200 Clark Drive
Fultonville, NY 12072

Re: Montgomery County Correctional Facility – Medical Clinic 2 Year Contract Renewal

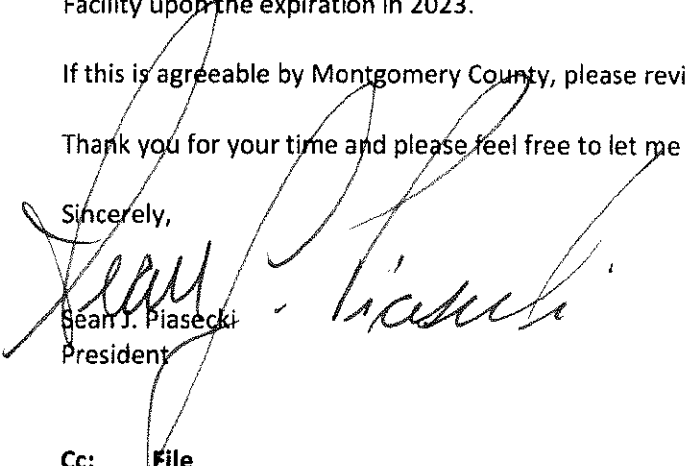
Dear Sheriff Smith:

I hope this letter finds you in good health. As a follow up to our earlier discussion, I'm forwarding to you for your review and approval, Eastern Medical Support's renewal contract. The contract covers 2022 and 2023. Additionally, it will allow for a 1-year extension to continue the medical coverage of the health care at the Montgomery County Correctional Facility upon the expiration in 2023.

If this is agreeable by Montgomery County, please review, sign and forward to me a fully executed agreement.

Thank you for your time and please feel free to let me know if you have any questions or concerns.

Sincerely,


Sean J. Piasecki
President

Cc: File

Enclosures

Eastern Medical Support, LLC.
401 New Karner Road, Suite 101 Albany, NY 12205
Phone/Fax: (518) 217-4004



AGREEMENT FOR SERVICES

AGREEMENT made as of the 7th day of July, 2021, by and between the **COUNTY OF MONTGOMERY**, located at 20 Park Street, Fonda, New York 12068 New York and the **MONTGOMERY COUNTY CORRECTIONAL FACILITY**, located at 200 Clark Drive, Fultonville, New York 12072 (united hereinafter as "County"), parties of the first part, and **EASTERN MEDICAL SUPPORT, LLC.** (hereinafter "EMS") with principal office at 401 New Karner Road, Suite 101, Albany, NY 12205, party of the second part.

WITNESSETH

WHEREAS, EMS agrees to provide the County with certain qualified part-time health care providers (physician/physician assistant/nurse practitioner) to service the medical unit at the MONTGOMERY COUNTY CORRECTIONAL FACILITY ("MCCF").

WHEREAS, the County wishes to engage EMS to provide it with said services as an independent contractor; and

WHEREAS, the Parties have elected to enter into this Agreement to memorialize their agreement with respect to the provisions of services by EMS to the County.

NOW THEREFORE, the parties agree as follows:

1. SCOPE OF SERVICES TO BE SUPPLIED BY EMS:

EMS will provide a licensed and currently registered medical provider [(physician assistant (PA) / nurse practitioner (NP)] who shall be responsible for the provision of the medical services for up to 163 inmates at MCCF, in addition to the Medical Director, who will oversee the administration of the facility medical unit, excluding psychiatric medical services, for which EMS shall not be responsible for providing to the County. EMS's medical services will include, but not be limited to the following, which will be provided by PA or NP:

1. EMS's medical providers will oversee and work collaboratively with MCCF's nursing staff;
2. Provide service to inmate population utilizing current standards of medical practice;
3. Services to be provided on scheduled work days and times at the MCCF with a minimum of 14 hours per week to complete medical sick calls and discuss specific cases with MCCF medical staff;
4. Prescribe medications and approve special diets as necessary to meet the community standard of care;
5. Prepare reports to document examinations, treatments and orders and to ensure their completeness;
6. As medical provider for the MCCF, EMS will provide the Sheriff (or his/her designee) with direction in management of the MCCF medical unit and attend administrative meetings (conference calls if needed) with the Sheriff, Undersheriff or MCCF Administrator as needed, be involved in a Quality Improvement program and review current policies and procedures. Upon reviewing the current policies, make recommendation to the Sheriff regarding the operation of the medical unit to ensure compliance with current medical standards and the NYS Commission of Corrections;
7. Provide an evaluation and recommend treatment on all admissions consistent with NYS Commission of Corrections standards including those on medication;
8. Authorize inmate hospitalization, consultation with specialist, review laboratory work, nursing care and other specialized treatment;

9. Visit MCCF when specific inmates need a medical provider's evaluation other than on normal visit days;
10. Be accessible 24 hours a day, seven days per week, facility emergency decisions and consultation;
11. Develop and monitor inmate chronic care plans;
12. Coordinate response to any infectious disease incidents or exposures in the facility;
13. Be part of inmate discharge plans as needed;
14. EMS will ensure medical provider coverage during any time that the scheduled medical provider is on vacation or otherwise unavailable to provide services; and
15. The Medical Director shall be a New York State licensed medical doctor.

2. **TERM OF AGREEMENT:**

The Agreement will be effective from January 1, 2022 until December 31, 2023 (**Per Resolution No.:** _____).

3. **PAYMENT FOR SERVICES:**

For the term, hereof and as compensation for work performed, the County agrees to pay EMS the annual rates as follows:

- a. The rate for 2022 will be \$240,959.20. The payment structure will be \$30,000.00 due and payable on the first and second month (January and February) of the calendar year, and \$18,095.92 due and payable per month for the remaining 10 months of 2022.
- b. The rate for 2023 will be \$246,983.18. The payment structure will be \$30,000.00 due and payable on the first and second month (January and February) of the calendar year, and \$18,698.31 due and payable per month for the remaining 10 months of 2023.

The compensation set forth above will be based upon EMS providing fourteen (14) hours of services per week. Should the County require and request additional services at MCCF beyond EMS's regularly scheduled clinic hours of 14 hours per week, said services will be billed at Two Hundred Dollars (\$200.00) per hour for on-site services. The County will pay EMS on a thirty (45) day net for said services.

EMS shall submit to the County invoices on a form acceptable to County. If not otherwise specified, EMS may submit such invoices on the first of each month or at the completion of services, but in any event, not later than thirty (45) days after completion of services. The invoice shall set forth the amounts claimed by EMS for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as County may require. The County or his/her designee shall certify the invoice; either in the requested amount or in such other amount as County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County's Auditor-Controller shall pay the amount certified within thirty (45) days.

4. **PERFORMANCE STANDARDS:**

EMS warrants that EMS and EMS's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of County, or immediate family of an employee of County. EMS, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable law and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements. Same such laws shall be followed by County licensed medical providers. EMS shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

5. **TERMINATION:**

During the term of this Agreement, either party may terminate the Agreement for any reason by giving written notice of termination to either party at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the

effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination. Either party may cancel and terminate this Agreement for good cause effective immediately upon written notice to the other party. "Good Cause" includes the failure to perform the required services at the time and in the manner provided under this Agreement, and the failure to pay for services as required in this Agreement. If County terminates this Agreement for good cause, County may be relieved of the payment of any consideration to EMS, and County may proceed with the work in any manner that County deems proper.

6. INDEMNIFICATION

EMS shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorney's fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the EMS's performance of this Agreement, *unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County and its employees*, "EMS's performance" includes EMS action or inaction of EMS's officers, employees, agents and subcontractors, or those County employees that are under "control" of EMS.

The parties understand and agree that, as part of its services, EMS medical providers shall provide the County and its staff with certain medical advice and/or directions for testing or treatment of patients. All said advice or directives of EMS shall be followed by the County and its staff to the extent practicable. The County shall hold harmless EMS, its officers, agents, and employees, from any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorney's fees) that arises out of the sole negligence or willful misconduct of the County.

7. EVIDENCE OF COVERAGE:

Prior to commencement of this Agreement, EMS shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, EMS upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. EMS may not proceed with the work under this Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the EMS.

All coverage, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by County's purchasing manager.

8. INSURANCE COVERAGE REQUIREMENTS:

Without limiting EMS's duty to indemnify, EMS shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$3,000,000 per occurrence.

Worker's Compensation Insurance, if EMS employs others in the performance of this Agreement, in accordance with New York Law and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional Liability Insurance. For the professional services being provided (e.g., those persons authorized by a license to engage in a business or profession regulated by the NY medical license, in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, EMS shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for one (1) year following the expiration or earlier termination of this Agreement.

9. **OTHER INSURANCE REQUIREMENTS:**

All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact insurance business in the State of New York. Unless otherwise specified by the Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of one (1) year following the date EMS completes its performance of services under this Agreement.

The County shall be given notice in writing at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof of each EMS liability policy. Each policy shall provide coverage for EMS and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Both parties shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement. EMS shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Agent. If the certificate is not received by the expiration date, County shall notify EMS and EMS shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by EMS to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10. **RECORDS AND CONFIDENTIALITY:**

Confidentiality. Both parties and their officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. EMS shall not disclose any confidential records or other confidential information received from County or prepared in connection with the performance of this Agreement, unless County specifically permits EMS to disclose such records or information. EMS shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. EMS shall not use any confidential information gained by EMS in the performance of this Agreement except for the sole purpose of carrying out EMS's obligations under this Agreement.

County/MCCF Medical Records. When this Agreement expires or terminates, EMS shall return to County any County records which, EMS used or received from County to perform services under this Agreement.

Maintenance of Records. EMS shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and county rules and regulations related to services performed under this Agreement. EMS shall maintain such records for a period of at least three (3) years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three (3) year period, then EMS shall retain said records until such action is resolved.

At no time shall any records generated or created or maintained at the County facility be removed from the facility. All such records shall be maintained in the regular course of business in the medical records area of the Montgomery County Correctional Facility.

11. **NON-DISCRIMINATION:**

During the performance of this Agreement, EMS, and its subcontractors, shall not unlawfully discriminate against any person because of race, creed, color, sex, or national origin.

12. **INVENTORY AND SUPPLIES:**

County shall provide EMS with such office and medical inventory and supplies ("Supplies") as are necessary for patient care and treatment at the MCCF.

13. **EQUIPMENT:**

County shall provide EMS with such office and medical equipment ("Equipment") as are necessary for patient care and treatment at the MCCF. EMS shall be responsible for its own equipment.

14. **NURSING STAFF:**

The parties understand and agree that County has certain health care providers on its staff that is not provided by or through EMS. The County shall ensure that said nursing staff is properly certified, hired, and trained. Said nursing staff is to follow the directions and recommendations of the EMS health care providers to the extent reasonable and practicable. The County shall hold harmless EMS, its officers, agents, and employees, from any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorney's fees) for any and all liability that arises due to the actions of nursing staff and/or MCCF non-medical staff performing nursing duties.

15. **SECURITY FOR EMS:**

County shall provide EMS, its agents and employees with security for its providers as necessary while such agents and employees are present at the County's facility.

16. **NOTICE:**

All notices necessary or proper herein shall be made by delivery or by posting the same in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid and addressed to the Parties as follows:
COUNTY EXECUTIVE, 20 Park Street, Fonda, NY 12068; EASTERN MEDICAL SUPPORT, LLC, 401 New Karner Road, Suite 101, Albany, NY 12205.

The addresses of the Parties may be changed by giving notice thereof, in writing, in the manner set forth in this paragraph for the giving of notice.

17. **INDEPENDENT CONTRACTOR:**

In the performance of work, duties, and obligations under this Agreement, EMS is at all times acting and performing as an independent Contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or any particular County department or agency is intended in any manner, and EMS shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. EMS shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of EMS's performance of this Agreement. In connection therewith, EMS shall defend, indemnify and hold County harmless from any and all liability, which County may incur because of EMS's failure to pay such taxes.

18. **PLACE OF SIGNING AND APPLICABLE LAW:**

This Agreement is executed in the State of New York and the laws of the State of New York shall govern this Agreement. The exclusive means of disposing of any dispute arising under this Agreement shall be decided in a New York State Court of competent jurisdiction located within Montgomery County, New York.

19. **ADMINISTRATIVE MEETINGS:**

Representatives of the County and EMS shall meet as necessary at the discretion of either party to discuss the services provided by EMS pursuant to this Agreement.

20. **FULL AGREEMENT:**

There are no oral agreements or understandings between the parties hereto affecting this Agreement, and this written Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between the parties hereto with respect to the subject matter hereof, and none thereof shall be used to interpret or construe this Agreement. Any amendments to this Agreement must be made in writing, signed by all parties hereto.

AND IT IS MUTUALLY UNDERSTOOD AND AGREED that the covenants and agreements contained in the within Agreement shall be binding upon the Parties hereto and upon their respective successors, heirs, executors, assigns and administrators.

IN WITNESS WHEREOF, the Parties hereto have hereunto executed this Instrument for the purposes herein expressed, the day and year above written. Signed, sealed and delivered in the presence of:

SIGNATURE – COUNTY OF MONTGOMERY

DATE

PRINT NAME: _____



SIGNATURE – EASTERN MEDICAL SUPPORT, LLC

7/7/21
DATE

PRINT NAME: Sean J. Lisecki

