

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE SAN FRANCISCO AIRPORT COMMISSION GUARANTEEING REVENUE FOR CHILDCARE FACILITIES

FIRST OPTION YEAR

(JULY 1, 2004 – JUNE 30, 2005)

This First Option Year of the Agreement between the **COUNTY OF SAN MATEO** (“County”), a political subdivision of the State of California, and the **CITY AND COUNTY OF SAN FRANCISCO** (“City”), a municipal corporation and political subdivision of the State of California, acting by and through its Airport Commission (“Commission”), is dated as of July 1, 2004.

RECITALS

1. The Commission manages and operates the San Francisco Airport (“Airport”).
2. The County presently owns the building (“the Building”) located at 945 California Drive in Burlingame.
3. The County leases the Building to a non-profit provider of childcare services (“Palcare”) for extended hour childcare services.
4. For the benefit of Airport employees, the Commission subsidizes extended hour childcare costs for the children of Airport-based employees at Palcare.
5. The Commission wishes that the funds already provided to the County under previous agreements continue to be used for Palcare’s services. (Palcare Fund)
6. Under the July 1, 2003 Agreement Between the County of San Mateo and the San Francisco Airport Commission Guaranteeing Revenue for Childcare Facilities, the Commission provided a subsidy not to exceed \$250,000 for Fiscal Year 2003-04, reserving four annual options, in its discretion, to renew this subsidy.
7. On August 3, 2004, the Commission, by Resolution No. 04-0161, exercised the first of the four one-year options to extend the Agreement for one year to June 30, 2005 in an amount not to exceed \$250,000.

THEREFORE, THE COUNTY AND THE COMMISSION AGREE as follows:

1. Funding

The Commission made payments to the County for subsidy of Airport-based employee childcare costs at Palcare not to exceed \$250,000 for verifiable subsidy costs incurred between July 1, 2003 and June 30, 2004.

As of June 30, 2003, the sum of \$56,312 remained in the Palcare fund from prior years. These funds were used by Palcare in 2003/2004 in addition to the \$250,000 annual Commission commitment for the ongoing childcare subsidy purposes described herein.

Under the First Option Year of the Agreement, the Commission will make payments to the County to subsidize Airport-based employee childcare costs at Palcare not to exceed \$250,000 for verifiable subsidy costs incurred between July 1, 2004 and June 30, 2005.

All Airport employee families receive a discount and preferential enrollment funded by the Airport Commission in the following ways:

- A. Flexible Schedule Discount: Airport employee families schedule and pay for only those hours and days they specifically need versus the standard 10-hour, 5-day per week full-time cost.
- B. Scholarships for Airport-based employees of low income.
- C. Fee Waivers for registration, materials and wait list fees normally charged to non-Airport families.
- D. Preferential Priority Enrollment for 100 Airport-based employee families annually.

2. Payments to Palcare

During FY 2004-05, the County will require Palcare to provide the Commission and County within 30 days of the end of each month, documentation of actual cost billed per the agreement. The Commission will pay County the monthly amounts required under this Agreement based upon monthly invoices submitted by Palcare to the County not to exceed \$30,000 monthly, or \$250,000 annually. The Commission reserves the right to make adjustments to amounts due to County if documentation of costs does not substantiate amounts billed.

3. Limitation on Payments to Palcare

Monthly payments to Palcare from the Commission shall be specified by the County based upon the Commission's advice as to the appropriate sum; provided, however, that no monthly payment shall exceed \$30,000 and total payments shall not exceed \$250,000 in the First Option Year. Level of service and annual cap shall be re-evaluated for any option years.

4. Definitions of Terms in this Section

"Airport-based Employee" is defined as a person employed by the Airport Commission or an employer based at the San Francisco International Airport.

“Flexible Schedule Discount” is a unique service available to Airport families that discounts their childcare tuition by 20% by permitting them to schedule and pay for only those hours and days they specifically need, and to change their schedules every month.

“Airport Scholarship Program” is a 2-tiered system.

- A. Airport-based employee families whose income falls at or below 75% of the State Median income may be partially subsidized by California Department of Education funds, according to the funding terms and conditions of Palcare’s contract with the California Department of Education, Child Development Division. The Airport will subsidize the remainder.
- B. Airport-based families whose income falls between 75% and 100% of the State Median income qualify for spaces 100% subsidized by Airport, contingent upon the annual appropriation of funds.

In both A & B families pay a portion of the childcare tuition according to their gross income and the number of children in their family using the Family Eligibility and Fee scale created by the California Department of Education, Child Development Division.

“Fee Waivers” is defined as the waiving of the Annual Registration and Materials Fee of \$150 normally charged to all non-airport families.

“Priority Enrollment” is defined as preferential enrollment for an Airport-based employee, ahead of persons from the general community, for an available full or part time childcare space, up to 100 full time equivalent spaces at an annual cost of \$1,000 per space.

“Full Time Equivalent Child” is defined as a child receiving childcare services at least 10 hours per day, 21 days per month.

5. Budgetary and Financial Reports

Commission, at its own expense and upon reasonable notice, shall have the right to inspect the books, records, and other data of the County and Palcare relating to the direct operating costs of Palcare. The County shall require Palcare to provide the Commission with a copy of an audit report of the direct operating costs of Palcare and the allocation of such costs to the Airport within six (6) months of the end of Fiscal Year 2004-05.

6. Term of the Agreement

This First Year Option Agreement shall become effective July 1, 2004 and will terminate on June 30, 2005. The Commission may exercise up to three additional one-year options to renew the Agreement, contingent upon the availability of funding, and an evaluation of service requirements. The option may be exercised by giving notice in writing of the intent to exercise the option no later than 30 days before the end of the term; provided, however, the failure to give such 30-day notice to County will not result in Commission's losing its right to exercise the option.

7. Termination of the Agreement

The Commission may terminate this Agreement without cause or penalty upon at least thirty (30) days' prior written notice to the County.

8. Compliance with Laws

The County will require Palcare at all times comply with all laws applicable to the operation of a childcare facility.

9. Budget and Fiscal Provisions

This Agreement is subject to the budget and fiscal provisions of the San Francisco Charter.

10. Hold Harmless

County shall require Palcare to defend, indemnify, and hold harmless City, including its officers, employees and agents from any and all damages, claims, demands, obligations, suits, judgments, penalties, causes of action, losses or liabilities at any time received, incurred or accrued by the City as a result of or arising out of the acts, omissions, use, or operations of Palcare at the Building.

If either party to this Agreement receives a claim, demand, suit, or judgment for which the City is entitled to the benefits of the preceding paragraph, the party receiving such claim, demand, suit or judgment shall promptly notify the other party.

11. Commission Access to Records

In its Agreement with Palcare at the Building, County shall require that (a) Palcare maintains books and records showing all expenses incurred and fees received and (b) Commission shall have the right, at its own expense and upon reasonable notice, to inspect and audit such books and records.

12. Notices and Communications

Any notice, request demand or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United States mail, postage prepaid, addressed:

- 1) In the case of the County, to:

County Manager
County of San Mateo
400 County Center
Redwood City, CA 94063

Or to such person or address as County may, from time to time furnish to Commission.

- 2) In the case of Commission or City, to:

Airport Director
Administrative Offices
International Terminal
San Francisco International Airport
P.O. Box 8097, San Francisco, CA 94128

13. Insurance

A. Without in any way limiting County liability pursuant to Section 8 "Hold Harmless," of this Agreement, County will require Palcare to maintain in force, during the full term of this Agreement, insurance in the following amounts and coverages:

- 1) Workers Compensation with Employer's Liability limits not less than \$1,000,000 each accident.
- 2) Comprehensive General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Commercial Liability, Personal Injury, Products, and Completed Operations.
- 3) Comprehensive Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.
- 4) Excess Liability Insurance with limits not less than \$4,000,000 each occurrence Umbrella Form.

B. Comprehensive General Liability and Comprehensive Liability and Excess Liability Insurance policies shall be endorsed to provide the following:

- 1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents and Employees.
- 2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of the contract, and that insurance applies separately to each insured against whom claim is made or suit is brought.

C. All policies shall be endorsed to provide:

Thirty (30) days advance written notice to City of cancellations, non-renewal or reduction in coverage, mailed to the following addresses:

San Francisco International Airport
Financial Services
P.O. Box 8097
San Francisco, CA 94128

and

Controller
City and County of San Francisco
City Hall, Room 109
San Francisco, CA 94102-4694

- D. Should any of the required insurance be provided under a claims-made form, Palcare shall maintain such coverage continuously throughout the term of this contract and without lapse, for a period of three years beyond the contract expiration, to the effect that should occurrences during the term give rise to claims made after expiration of the contract, such claims shall be covered by such claims-made policy.
- E. Should any of the required insurance be provided under a form of coverage that included a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.
- F. Certificates of insurance, in form and with insurers satisfactory to City evidencing all coverage above shall be furnished to City before commencing any operations under this contract, with complete copies of policies promptly upon City request.
- G. Approval of the insurance by City shall not relieve or decrease liability of Palcare hereunder.
- H. The Agreement shall terminate immediately, without notice to County, upon lapse of required insurance coverage.

14. Non-Discrimination

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. All parties shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement. All parties shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

15. Equal Benefits

With respect to the provision of employee benefits, all parties shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

IN WITNESS WHEREOF, County and Commission have caused this Agreement to be executed by their duly authorized representatives on the dates as shown below:

COUNTY OF SAN MATEO

Date: _____

BY: _____

County of San Mateo
State of California

ATTEST:

CITY AND COUNTY OF SAN FRANCISCO
AIRPORT COMMISSION

Clerk of said Board

Date: _____

BY: _____

Airport Director

APPROVED AS TO FORM:

AUTHORIZED BY AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

Resolution:

Adopted:

BY: _____
Deputy City Attorney

ATTEST: _____

Certificate of Delivery
(Government Code Section 25103)

I certify that a copy of the original document filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

Clerk of the Board of Supervisors

**FIRST AMENDMENT TO AGREEMENT BETWEEN
THE COUNTY OF SAN MATEO
AND PALCARE GUARANTEEING
REVENUE FOR CHILDCARE FACILITIES**

THIS AMENDMENT to the following agreement is made and entered into this day of 6/10, 2005, between the COUNTY OF SAN MATEO ("County"), a political subdivision of the State of California, and PALCARE ("Palcare"), a non-profit corporation organized under California law.

WITNESSETH

WHEREAS, on February 24, 2004, the Board of Supervisors authorized the County Manager to enter into an agreement with Contractor guaranteeing revenue received from City and County of San Francisco ("City"), through the Airport Commission ("Commission"), for child care services from July 1, 2003 through June 30, 2004, with four annual options to extend;

WHEREAS, on February 24, 2004, the Board of Supervisors authorized the County Manager to enter into an agreement with the Commission in which the Commission guaranteed that it would pay for 100 child care slots to be provided by PALCARE for the term July 1, 2003 through June 30, 2004, with four annual options to extend; and

WHEREAS, on May 31, 2005, the Commission informed the County of San Mateo of its wishes to exercise Option #1 to extend the agreement with the County to continue Airport employee childcare subsidy in the amount of \$250,000 for FY 2004-05.

**NOW THEREFORE, IT IS HEREBY AGREED BY THE PARTIES
HERETO THAT THE FOLLOWING AGREEMENT IS AMENDED AS
FOLLOWS:**

Section 4, paragraph 1, of the Agreement is Amended as follows:

1. Funding

The Commission will make payments to the County for subsidy of Airport-based employee childcare costs at Palcare commencing on July 1, 2003 until June 30, 2004, in an amount not to exceed \$250,000. Option #1 extends the term through June 30, 2005 and increases the contract amount by \$250,000.

Section 5 of the Agreement is Amended as follows:

5. Budgetary and Financial Reports

County and Commission, at their own expense and upon reasonable notice, shall have the right to inspect the books, records, and other data of Palcare relating to the direct operating costs of Palcare. Palcare will be required to provide County and Commission with a copy of an audit report of the direct operating costs of Palcare and the allocation of such costs to the Airport within six (6) months of the end of Fiscal Year in which the audit was prepared.

Section 6 of the Agreement is Amended as follows:

6. Term of Agreement

This Agreement shall become effective July 1, 2003 and will terminate on June 30 fiscal year end of 2005. The Commission may exercise up to three one-year options to renew the Agreement, contingent upon the Commission's availability of funding, and an evaluation of service requirements. The option may be exercised by the Commission giving notice in writing of the intent to exercise the option no later than 30 days before the end of the term; provided, however, the failure to give such 30-day notice to the County and Palcare will not result in the forfeiture of the Commission's right to exercise the option.

IN WITNESS WHEREOF, County and Palcare have caused this Amendment to be executed by their duly authorized representatives on the dates as shown below:

COUNTY OF SAN MATEO

By: _____
Richard Gordon, President
Board of Supervisors

Date: _____

ATTEST:

By: _____
Clerk of Said Board

PALCARE
By: Alvin K. [Signature]
Interim Executive Director

Date: 6/10/05