

AGREEMENT

BETWEEN THE COUNTY OF SAN MATEO AND DMJM H&N, INC.

THIS AGREEMENT, entered into this ___ day of _____, 2006, by and between the **COUNTY OF SAN MATEO**, her called "County," and **DMJM H&H, INC.**, hereinafter called "Contractor";

WITNESSETH:

WHEREAS, it is necessary and desirable that Contractor be engaged by County for the purpose of performing the professional services hereinafter described as developing a comprehensive jail needs assessment study and program plan; and

WHEREAS, pursuant to Government Code Section 31000, County may contract with independent contractors for the furnishing of special services to or for County or any Department thereof; and

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. EXHIBITS.

The following exhibits are attached hereto and incorporated by reference herein:

Exhibit A - Services

Exhibit B - Payments and rates

2. SERVICES TO BE PERFORMED BY CONTRACTOR.

In consideration of the payments set forth herein and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit A.

3. PAYMENTS.

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed **ONE HUNDRED THIRTY THOUSAND DOLLARS, [\$130,000]**.

4. TERM AND TERMINATION.

Contractor shall complete workplan, defined in Exhibit A, within 24 weeks, not including allowance for review and approval of each project phase by County.

Subject to compliance with all terms and conditions, the term of this Agreement shall be from **JULY 1, 2006 through JUNE 30, 2007.**

This Agreement may be terminated by Contractor, the Sheriff or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. AVAILABILITY OF FUNDS.

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the county learns of said unavailability of outside funding.

6. RELATIONSHIP OF PARTIES.

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. HOLD HARMLESS.

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. ASSIGNABILITY AND SUBCONTRACTING.

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. INSURANCE.

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such issuance and to obtain such approval. The Contractor shall furnish the Department/Division with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement on Contractor's Comprehensive General Liability coverage and Motor Vehicle Liability coverage extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement to which this insurance applies. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the Department/Division of any pending change in the limits of liability or of any cancellation or modification of the policy.

- A. Worker's Compensation and Employer's Liability Insurance. The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.
- B. Liability Insurance. The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

1) Comprehensive General Liability	<u>\$1,000,000</u>
2) Motor Vehicle Liability	<u>\$1,000,000</u>
3) Professional Liability	<u>\$1,000,000</u>

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance other than Professional Liability insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. COMPLIANCE WITH LAWS; PAYMENT OF PERMITS/LICENSES.

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and

attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. NON-DISCRIMINATION.

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:
 - 1) termination of this Agreement;
 - 2) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - 3) liquidated damages of \$2,500 per violation;
 - 4) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the

name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor 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.
- F. The Contractor 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.
- G. *Compliance with Contractor Employee Jury Service Ordinance.* Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees regular pay the fees received for jury service.

12. RETENTION OF RECORDS.

Contractor shall maintain all required records for three (3) years after the County makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

13. MERGER CLAUSE.

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

14. CONTROLLING LAW.

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

15. NOTICES.

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of County, to:
San Mateo County Sheriff's Office
ATTN: Sheriff
400 County Center
Redwood City, CA 94063

In the case of Contractor, to:
DMJM H&N, Inc.
ATTN: Andrew Cupples, Principle in Charge
405 Howard Street, Suite 400
San Francisco, CA 94105

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

*A Political Sub-division of the
State of California*

By: _____
President, Board of Supervisors

Date: _____

ATTEST:

By: _____
Clerk of Said Board

DMJM H&N, Inc.

By: _____
(SIGNATURE)

(PRINTED NAME)

Date: _____

EXHIBIT A SERVICES

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND DMJM H&N, INC.

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

This Agreement will be administered utilizing a series of Project Phases. Project Phases include the tasks which are listed, work necessary to complete those tasks and work necessary to complete the Project Phase. Subsequent Project Phases shall not commence until County and/or designated County Project Manager has issued written approval of preceding Project Phases and authorization to proceed.

I. PHASE I – NEEDS ASSESSMENT.

A. Initial analysis phase of the study to set the foundation for the ultimate solution.

Primary Deliverable: Determine probable capacity needs based on historic data, factors impacting population growth, and the inmate profile.

Key tasks to be accomplished include:

- Analysis of the current and historic population – analyze demographic, arrests, jail, pre-trial, probation, parole, alternatives to custody and gender-specific trends to serve as a basis for future projections for jail facilities and for alternative to jail.
- Identification of factors affecting the growth of the in-custody population.
- Analysis of the inmate profile.
- Projection of future capacity needs.
- Initial research into national best practice and evidence based programs related to female offenders.
 - Gather profile data, obtain qualitative data from focus group interviews with women inmates and conduct a national literature review to identify innovative programs for women in jails in other jurisdictions.
 - To facilitate the further development of the Sheriff's Family Preservation Initiative, Contractor will conduct a profile analysis of the risk and needs of women inmates. Contractor will gather information through files and supplemented by interviews.
 - Conduct focus groups with women inmates will obtain information about the women's treatment needs that need to be addressed by the Jail and by community agencies prior to and after release.
 - Conduct a Logic Model Evaluation of the existing programs offered to women and determine the extent to which these programs meet the needs of the women housed in the jail, whether they are evidence-based and consistent with jail reentry best practices promoted by the U.S. Department of Justice Reentry Initiative. Contractor will supplement this analysis with a "gap analysis" to determine the elements of the gender-specific program that might be missing or not as effective as it should be.
 - Conduct a survey of similar size jails and of jails noted nationally to operate effective gender-specific jail programs, including pre-trial and sentencing alternatives to jail. Contractor will seek out examples of jail programs that focus program elements which are integral to women's programs.
 - Develop written profiles on jail programs and present these programs at a

workshop of key jail and community stakeholders. Once a consensus is reached on the program components to be provided, Contractor will project the spatial needs of these program elements.

- Initial identification of siting alternatives.
- Definition of evaluative criteria.
- Evaluation of existing facilities.

B. Workshop #1.

Primarily with the Jail Planning Team to explore thoughts and ideas related to mission, goals and objectives. Additionally as part of this work, initiate data collection activities related to the population, and create a facility data base regarding current space utilization and critical facility needs. Meet with County Planning and Public Works regarding siting options and initiate discussions with Redwood City.

II. PHASE II – PROGRAMMING AND SITE EVALUATION.

A. Beginning of the synthesis of a solution.

Primary Deliverable: An operational and architectural program and determination of the preferred site.

Key tasks include:

- Refinement of the population and bed distribution analysis.
- Development of an operational program related to all required services and desired programs.
- Development of a space program.
- Development of an idealized staffing plan.
- Analysis of alternate housing configurations.
- Site tests relative to programmatic requirements.
- Interface with Redwood City and other communities as appropriate to the evaluation of siting alternative.
- Comparative analysis of implementation issues (e.g. temporary facilities) related to the evaluation of siting alternatives.
- Analysis of other related actions (e.g. homeless shelter, Transition Housing, Work Program, etc.).
- Subjective (ratings) and Objective (cost, area, etc.) comparative evaluation of siting alternatives.

B. Workshop #2.

Presentation and review of the results of the needs assessment study related to total capacity needs and capacity needs by classification. Additionally, it will include an initial overview of evidence national practices that may want to be considered in programming and conceptual design and a review of siting alternatives. In addition to working with the jail Planning Team, Contractor suggests that this would be an appropriate benchmark for an initial presentation to the Sheriff and the Jail Crowding and Facilities Task Force to familiarize them with the probable size of the facility and potential programs to be included.

C. Workshop #3.

Intended as a mid-point review of the operational and architectural program and preliminary site evaluation information. As such, in addition to a workshop with the Jail Planning Team, Contractor anticipates a series of meetings with other local agencies such as Redwood City or other municipalities (if any) that may be under consideration for siting to explore local concerns so that they can be taken into account in the evaluation of sites, including potential actions required to mitigate local concerns. It may also be appropriate at this time to have a public information session again as a means of gauging public reaction prior to coming to (and announcing) a recommended siting alternative.

III. PHASE III – CONCEPTUAL DESIGN.

A. Continue the synthesis of the program into a recommended solution.

Primary Deliverable: A draft conceptual Master Plan for the phased development of facilities to meet the projected 20 year need for facilities for female offenders.

Key tasks include:

- Development of:
 - Comprehensive site plan.
 - Floor Plans.
 - Site mass studies.
- Preliminary determination of construction and engineering systems.
- Validation of staffing plan.
- Analysis of how architectural design and development can enhance programmatic goals.
- Illustrative model and elevation / rendering studies for community review.
- Development of preliminary capital and operational budget including temporary facilities (if needed).
- Identification of required corollary actions such as immediate or future relocation of functions to accommodate growth (e.g. transition housing, homeless shelter).
- Preliminary review with the Board of Corrections.

B. Workshop #4.

Include a presentation of the recommended program, site and initial estimate of probable capital requirements based solely on the program and site. Additionally, the workshop will include a discussion build-out alternatives as a basis for eventually exploring phasing opportunities. In addition, to the internal Jail Planning Team workshops this may be an appropriate time to provide an update to the Sheriff and the Jail Crowding and Facilities Task Force to familiarize them with program and siting recommendations.

IV. PHASE IV – IMPLEMENTATION PLAN.

Based on comments received regarding the draft Master Plan, during this phase, the planning team will refine the Master Plan and develop a specific implementation plan and schedule.

Primary Deliverable: Refined Master Plan and developed specific Implementation Plan and Schedule.

A. Workshop #5.

Focus on a review of the recommended approach to site and facility design and development. Major components such as housing will be developed in detail, and other areas will be indicated as block area allocations. Given community concern over the appearance of similar facilities (such as the recently developed Juvenile Detention Center), the workshop will also include a review of massing models and illustrations of architectural character as envisioned in the Master Plan. Again, in addition to the internal jail Planning team workshop this may be an appropriate time to provide an update to the Sheriff and the Jail Crowding and facilities Task Force to familiarize them with program and siting recommendations, and depending on the selected site an additional public

informational sessions may be advisable.

B. Workshop #6.

Final presentation of the recommended Master Plan and implementation approach to all groups.

V. PROJECT MANAGEMENT.

Contractor will document a project specific approach to information documentation, lines of communication, consensus building and lines of approval for various aspects of the project. Contractor will:

- Host an initial kick-off meeting to clearly document County's expectations for this project.
- Conduct periodic review meetings to assess the progress of the project and identify outstanding information or actions affecting progress.
- Create and maintain issues log to track the resolution of items affecting the progress or recommendations of the study.
- Produce monthly status reports that summarize all salient facts related to the project in narrative, tabular and graphic form.
- Identify major milestones and specific deliverables by phase to allow an incremental approach to monitoring the schedule and measuring progress, thereby allowing mid-course corrections without major schedule impacts.
- Inclusion of an Executive Summary with all submissions, outlining progress, summarizing key data and identifying all outstanding issues, actions or decisions impacting project development.
- Use a professional editor for all final reports to assure that they provide a straightforward, readable presentation of findings, conclusions and recommendations.

VI. WORKPLAN SCHEDULE.

Contractor shall perform and complete each Phase in the timeline illustrated below. Contractor estimates that overall, approximately 24 weeks will be required to complete the workplan as outlined, including allowances for review and decision-making by the County.

Issues which may impact the overall schedule include, availability of data, additional analysis required related to Title 24 program funding, time required to coordinate with municipalities or communities.

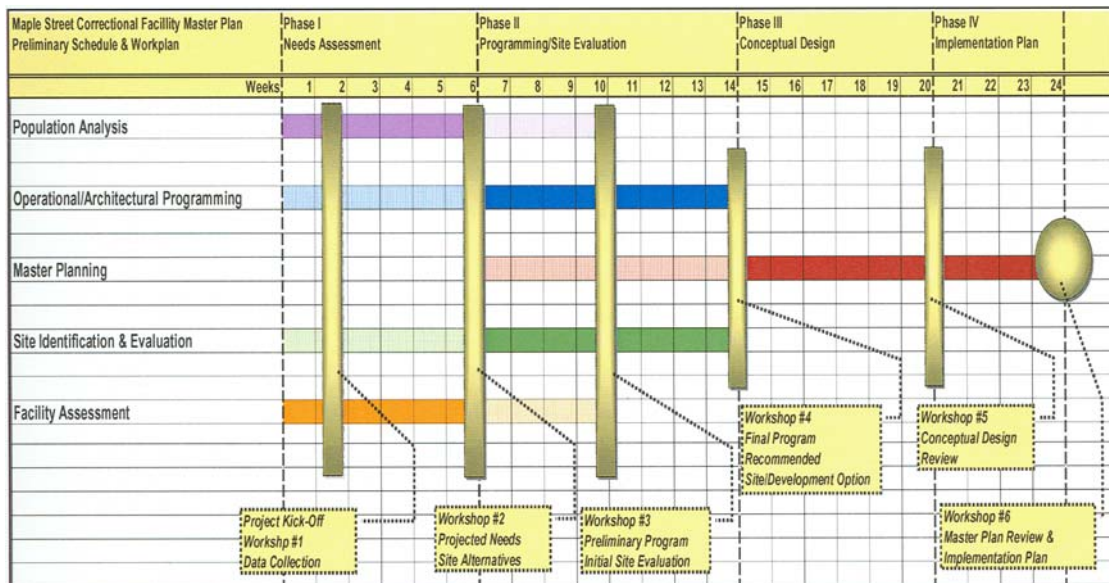


EXHIBIT B

PAYMENT AND RATES

AGREEMENT BETWEEN THE
COUNTY OF SAN MATEO AND DMJM H&N, INC.

In consideration of the services provided by Contractor in Exhibit A, County shall pay Contractor a flat rate based on the following schedule:

I. PAYMENTS / RATES.

A. County shall pay Contractor a flat rate for each completed and accepted Phase as defined below.

<i>DESCRIPTION</i>	<i>RATE</i>
Phase I - Needs Assessment	\$41,220
Phase II - Program Plan/Site Evaluation	\$45,020
Phase III - Conceptual Design	\$14,660
Phase IV - Implementation Plan	\$20,790
PROJECT TOTAL:	\$121,690
<i>Contract Contingency Funds</i>	<i>\$8,310.00</i>
CONTRACT TOTAL	\$130,000

- B. Upon completion of each Project Phase defined in Exhibit A, Contractor shall prepare and submit an invoice for payment of services rendered in accordance with the policies and procedures established by the County Controller's Office. In any event, the total payment for services of Contractor shall **not exceed \$130,000**. County shall have the right to withhold payment if County determines that the quality or quantity of work performed is unacceptable. Payments shall be made within 30 days from the date of the applicable undisputed invoice.
- C. Contractor must receive approval from the County Project Manager, except for Phase I, and shall have submitted a draft report for the prior Phase for County approval, before work may commence on each subsequent Project Phase.