

AMENDMENT #1
TO
HEALTH SERVICES AGREEMENT

This AMENDMENT #1, to Health Services Agreement dated August 8, 2016, between Tyler County, Texas (hereinafter referred to as "County", and Southern Health Partners, Inc., d/b/a Vista Health Management, Inc., a Delaware Corporation, (hereinafter referred to as "SHP"), with services commencing September 1, 2016, is entered into as of this __ day of _____, 2023.

WITNESSETH:

WHEREAS, County and SHP desire to amend the Health Services Agreement dated August 8, 2016, between County and SHP.

NOW THEREFORE, in consideration of the covenants and promises hereinafter made, the parties hereto agree as follows:

Section 1.1 is hereby amended and replaced in its entirety by the following:

1.1 General Engagement. County acknowledges its non-delegable duty under applicable federal and state law to obtain and provide for reasonably necessary medical care for inmates or detainees of the Jail, and further that this Agreement does not result in the assumption of a non-delegable duty by SHP. County specifically retains the duty and obligation to obtain and provide for the reasonably necessary medical care for inmates or detainees of the Jail.

County hereby contracts with SHP to provide for the delivery of medical, basic dental and basic mental health services to inmates of Jail to the extent set forth herein. This care is to be delivered to individuals under the custody and control of County at the Jail, and SHP enters into this Agreement according to the terms and provisions hereof. Basic dental services shall mean the starting point of dental services whereby SHP medical staff will triage patients based on signs/symptoms, provide pain relief medication if needed, and treat any infection prior to scheduling dental services with an outside provider. Basic mental health services shall mean the starting point of mental health services whereby SHP medical staff will continue, to the extent practicable, any prior mental health treatment plan a now-incarcerated patient had in place, or, upon identification of a mental health service need, may have an on-site provider(s) prescribe a low-level mental health medication until patient can be scheduled and seen by an outside mental health professional, if needed.

Section 1.2 is hereby amended and replaced in its entirety by the following:

1.2 Scope of General Services. The responsibility of SHP for care of an inmate commences no earlier than the booking and physical placement of said inmate into the Jail and notification to a member of the SHP medical staff of the same and to the extent SHP medical staff is on-site. The health care services provided by SHP shall be for all persons committed to the custody of the Jail, except those identified in Section No. 1.6. SHP shall provide and/or arrange for professional medical, dental, mental health and related health care services for the inmates, regularly scheduled sick call, nursing care, regular physician care, medical specialty services, emergency medical care, emergency ambulance services when medically necessary, medical records management, pharmacy services management, administrative support services, and other

services, all as more specifically described herein. As more fully explained in Section No. 1.4 herein, none of the services to be provided by SHP as described herein shall alter or eliminate the duty and ability of the County, through its employees, to arrange for emergency medical care at any time.

SHP shall be financially responsible for the costs of SHP physician, mid-level provider and nurse staffing, over-the-counter medications, medical supplies, on-site clinical lab procedures, medically-generated hazardous waste disposal, office supplies, and administrative services. County acknowledges that certain costs associated with providing medical care to inmates are excluded from this Agreement and shall be the financial responsibility of County, including, but not limited to, the costs of prescription medications, biological products used to prevent, diagnose or treat diseases and medical conditions (including, but not limited to the costs of PPD solution for inmate Tuberculosis testing), renal dialysis and other major chronic care, off-site clinical lab procedures, x-ray procedures (inside and outside the Jail), dental services (inside and outside the Jail) and all medical and mental health services rendered outside the Jail, and further, that such costs shall not otherwise be the financial responsibility of SHP. The costs of emergency kits and restocking of emergency kit supplies and any necessary license or permit fees are excluded from this Agreement, the charges for which shall be paid by SHP on the County's behalf and thereafter invoiced to County for one-hundred percent (100%) reimbursement to SHP, payable by County within thirty days of the SHP invoice date.

SHP may not provide and/or shall not pay for any services, supplies, equipment or other items not specifically contained in this Agreement. Arrangements may be made in agreement with the County for SHP to purchase items or provide services, outside of this Agreement, and by mutual agreement between the County and SHP. Any such agreements shall be in writing.

Should new legislation require substantial or new medical directives to SHP in the provision of services under this Agreement, SHP shall not be financially responsible for changes to its program, rather SHP would have the ability to seek from the County any additional monies to fund such directives.

Section 1.4 is hereby amended and replaced in its entirety by the following:

1.4 Emergency Services. When on-site, SHP staff shall be a resource for providing on-site emergency medical care, as medically necessary, to inmates, or for arranging for emergency ambulance transportation of inmates for off-site care. The costs of emergency ambulance transportation shall either be billed directly to County by the provider or placed in the annual cost pool, at the County's election. County acknowledges that, whether or not an SHP staff member is on-site, in the event of a medical emergency, Jail staff shall retain the right and ability to contact an ambulance provider directly for the transportation of an inmate for emergency medical services outside the Jail or to arrange for the transport of an inmate for emergency medical services, and further that, in no event shall Jail staff be required to contact SHP medical staff prior to initiating life-saving measures, contacting the local 911 service or other third-party calling programs, or otherwise seeking the highest priority emergency medical attention, as reasonable and appropriate, for any inmate Jail staff believes to be in need of immediate medical care.

Section 1.5 is hereby amended and replaced in its entirety by the following:

1.5 Injuries Incurred Prior to Incarceration; Pregnancy. SHP shall not be financially responsible for the cost of any medical treatment or health care services provided to any inmate prior to the inmate's formal booking and commitment into the Jail.

Furthermore, SHP shall not be financially responsible for the cost of medical treatment or health care services provided outside the Jail to medically stabilize any inmate presented at booking with a life-threatening injury or illness or in immediate need of emergency medical care.

Once an inmate has been medically stabilized and committed to the Jail, SHP shall, upon notification by Jail staff to a member of the SHP medical staff of a medical need and to the extent SHP medical staff is on-site, in accordance with the provisions of Section No. 1.2, provide or arrange for medical treatment and health care services regardless of the nature of the illness or injury or whether or not the illness or injury occurred prior or subsequent to the individual's incarceration at the Jail. An inmate shall be considered medically stabilized when the patient's medical condition no longer requires immediate emergency medical care or outside hospitalization so that the inmate can reasonably be housed inside the Jail. SHP's financial responsibility for such medical treatment and health care services shall be in accordance with, and as limited by, Section Nos 1.2 of this Agreement.

It is expressly understood that SHP shall not be responsible for medical costs associated with the medical care of any infants born to inmates. SHP shall provide and/or arrange for health care services to inmates up to, through, and after the birth process, but health care services provided to an infant following birth, other than those services that may be delivered in the Jail prior to transport to a hospital, shall not be the financial responsibility of SHP. In any event, SHP shall not be responsible for the costs associated with performing or furnishing of abortions of any kind.

Section 1.8 is hereby amended and replaced in its entirety by the following:

1.8 Transportation Services. To the extent any inmate requires off-site non-emergency health care treatment including, but not limited to, hospitalization care and specialty services, for which care and services SHP is obligated to arrange under this Agreement, County shall, upon request by SHP, its agents, employees or contractors, provide transportation as reasonably available provided that such transportation is scheduled in advance.

Section 2.1 is hereby amended and replaced in its entirety by the following:

2.1 Staffing. County acknowledges that, effective January 1, 2024, SHP shall provide an on-site staffing plan consisting of thirty (30) nursing hours per week, according to a regular schedule of six (6) hours per weekday, or otherwise distributed according to a flexible schedule on weekdays, as mutually agreed upon between SHP, its staff and Jail Management. Staffing hours worked in excess of this contracted staffing plan, not to include SHP training hours, may be billed back to the County on a monthly basis, at the actual wage and benefit rate, for staffing services performed on-site at the facility.

- a. Holidays. County acknowledges that SHP shall not provide medical staff on SHP-designated holidays.
- b. Other Absences. For all other staff absences, including but not limited to, paid time off, vacation, and sick time, SHP shall endeavor to provide replacement coverage, to the extent reasonably possible, or shall endeavor to make up any balance of unfilled time within the scheduled workweek or then-current pay period. In the event SHP is unable to provide replacement coverage or make up the balance of unfilled time, SHP shall refund the County the cost of the unfilled staffing hours on the next month's base fee billing or shall otherwise negotiate a mutually agreeable remedy with County. County acknowledges that, any computation of unfilled hours due for refund to County shall be based on the total average of hours that comprise the regular weekly staffing plan and shall not be determined on a per shift or position basis.
- c. Medication Passes. SHP staff shall prepare medications for Jail staff to pass to inmates.
- d. Meal breaks. It is understood and agreed that SHP employees are entitled to unpaid meal breaks when working shifts of eight (8) hours or more. SHP employees shall be allowed to leave the facility during this time, or if a break is taken on-site, are to have uninterrupted time unless called to an emergency response. Such meal breaks are to be usual and customary, and not overly excessive.

It is understood the Professional Provider may be filled by a Physician, or Mid-Level Practitioner. Either shall be duly licensed to practice medicine in the State of Texas, and shall be available to SHP's nursing staff for resource, consultation and direction twenty-four (24) hours per day, seven (7) days per week. Provider visits shall not be scheduled on holidays.

The scheduling of staff shifts may be flexible and adjusted by SHP in order to maintain stability of the program and consistency with staff. Any adjustments or changes to fixed schedules would be made after discussions with the Jail Administrator and other involved County officials. Professional Provider visit times and dates shall be coordinated with Jail Management, and may include the use of telehealth services. Some of the Professional Provider time may be used for phone consults with medical staff and for other administrative duties.

SHP shall make reasonable efforts to supply the staffing levels contained in this section, however, failure to continuously supply all of the required staffing due to labor market demands or other factors outside the control of SHP, after such reasonable efforts have been made, shall not constitute a breach of this Agreement.

Should SHP experience increased staffing requirements or an increase of ten percent (10%) or more in total compensation expenses payable to its employees, independent contractors or staffing agencies providing services at the Jail, and such increases are beyond the reasonable control of SHP, SHP and County shall negotiate in good faith an updated staffing matrix and/or a corresponding increased amount of compensation for the remainder of the then-current contract period that takes into account the additional personnel and/or additional compensation expenses

incurred by SHP. Should SHP and County be unable to agree on a revised staffing matrix and/or an increased amount of compensation within thirty (30) days of SHP notifying County in writing of the need to modify the staffing matrix and/or increase compensation, either party may terminate this Agreement upon thirty (30) days' written notice to the other party.

Based on actual staffing needs as affected by medical emergencies, riots, increased or decreased inmate population, and other unforeseen circumstances, certain increases or decreases in staffing requirements may be waived as agreed to by County and SHP.

Should medical services fall behind due to situations outside of SHP control, such as those described in Section No. 4.4, below, and additional hours and/or SHP staff are required to bring services current, the County shall be billed and agrees to pay for the additional time incurred by SHP to bring services current.

Section 2.5 is hereby amended and replaced in its entirety by the following:

2.5 Subcontracting and Delegation. In performing its obligations under the Agreement, it is understood that SHP is not licensed or otherwise authorized to engage in any activity that may be construed or deemed to constitute the practice of medicine, dentistry, or other professional healthcare service requiring licensure or other authorization under state law. To fulfill its contractual obligations, SHP may engage physicians or other clinicians as independent contractors, rather than employees, in order to supply the clinical services required under this Agreement. SHP shall engage contract professionals that meet the applicable professional licensing requirements and SHP shall exercise administrative supervision of such contract professionals as necessary to ensure the fulfillment of the obligations contained in this Agreement. Contract professionals shall provide clinical services under this Agreement in a manner reasonably consistent with the independent clinical judgment that the contract professional is required to exercise. For each agent and subcontractor, including all medical professionals, physicians, dentists and nurses performing duties as agents or independent contractors of SHP under this Agreement, SHP shall provide County proof, if requested, that there is in effect a professional liability or medical malpractice insurance policy.

Section 2.7 is hereby inserted with a new provision as follows:

2.7 Training of Personnel. The duty to train the Jail staff is and always remains vested in the County. The County is solely responsible for the overall operation of the Jail, including medical care. The County maintains ultimate responsibility for training and supervising its correctional officers, according to the requirements of federal and/or state statute, regulation, and/or law, including but not limited to training and supervision related to intake screening, emergency procedures, ensuring sick calls are passed along to the medical team in a timely manner, and proper distribution of medications (when appropriate).

Upon request of the County, SHP may assist in training for Jail staff on certain topics as determined by the County. Further, SHP shall provide annual training courses in Cardiopulmonary Resuscitation (CPR) and First Aid, as requested by the County. The cost of certification shall be the responsibility of the County. Such training courses shall be scheduled by the County and SHP at a mutually agreed upon time and location. It is hereby acknowledged by the parties that any and all training provided by SHP for Jail staff would be supplemental to any training required by

the State or any other governmental body for correctional officers. The County recognizes and acknowledges that the County shall be responsible for training of its own employees and agents.

SHP recognizes that certain training of SHP medical staff may need to be accomplished by the County for the purposes of inmate interaction, and as may be required by federal and/or state statute, regulation and/or law. SHP may require reimbursement of these training period hours if they are over and above the contracted on-site hours as agreed upon within the proposal and this Agreement.

Section 4.1 is hereby amended and replaced in its entirety by the following:

4.1 General. SHP and County understand that adequate security services are essential and necessary for the safety of the agents, employees and subcontractors of SHP as well as for the security of inmates and County's staff, consistent with the correctional setting.

The non-delegable duty to protect inmates is, and always will be, vested in the County. This Agreement does not result in the assumption of a non-delegable duty by SHP. This duty extends to the control of inmate movement.

~~County shall take all reasonable steps to provide sufficient security to enable SHP to safely and adequately provide the health care services described in this Agreement. It is expressly understood by County and SHP that the provision of security and safety for the SHP personnel is a continuing precondition of SHP's obligation to provide its services in a routine, timely, and proper fashion, to the extent that if, in SHP's sole discretion, the safety and security of SHP personnel are compromised, SHP may exercise its right to immediately terminate services, in accordance with the provisions of Section No. 6.2(b) of this Agreement.~~

Section 4.4 is hereby inserted with a new provision as follows:

4.4 Officer Staffing Levels. It is understood SHP medical staff are given clearance to work and perform medical functions within the Jail. Should staffing levels of the correctional staff fall below an acceptable standard causing the SHP medical staff to be unable to complete such services in a timely manner, the County shall be responsible for the consequences of the same, for any resulting noncompliance with County, State, or Federal entity requirements or regulations, including, but not limited to, any resulting failed inspection and/or audit by County, State or Federal entity. SHP medical staff shall document and report such issues of backlogs created by inadequate officer staffing levels to the Jail Administrator. The County shall, upon notification by SHP, exercise every effort to bring officer staffing levels back up to standard within a reasonable period of time.

Section 5.5 is hereby inserted with a new provision as follows:

5.5 Infection Control – Personal Protective Equipment (PPE). SHP and County understand that adequate infection control PPE are essential and necessary for the health and safety of the agents, employees and subcontractors of SHP as well as for the health and safety of inmates and County's staff, consistent with the correctional setting. SHP shall be financially responsible for the reasonable costs associated with providing sufficient infection control PPE for ~~its employees and/or subcontractors in compliance with regular County, State or Federal entity~~

requirements or regulations. In the instance of any outbreak, pandemic, jail directive/instruction, or other unusual infection control situation, additional PPE supplies and/or cost increases above SHP's usual practice and procedure shall be assessed back to the County either through a contracted cost pool structure or direct billing back to the County for reimbursement to SHP.

Section 6.1 is hereby amended and replaced in its entirety by the following:

6.1 Term. This Agreement shall commence on September 1, 2016. The renewal period of this Agreement beginning on September 1, 2022, shall be extended to run for sixteen (16) months through December 31, 2023. This Agreement shall thereafter be automatically extended for additional periods of twelve months each, beginning on January 1 of each year, subject to County funding availability, unless either party provides written notice to the other of its intent to terminate, or non-renew, in accordance with the provisions of Section No. 6.2 of this Agreement. Notwithstanding any provision herein to the contrary, in the event SHP receives notice or communication from the County or Sheriff, by and through its respective staff or personnel, either in writing or otherwise, of the County's intent to solicit bids for inmate health services, this Agreement shall automatically expire at the conclusion of the then-current period, except as may be mutually agreed to and acknowledged by express written agreement between the parties to extend or renew up through and including a specified period. In no event shall this Agreement continue for a period in excess of sixty (60) days following notice or communication by the County or Sheriff to SHP of the County's intent to solicit bids, except as may be mutually agreed to and acknowledged by express written agreement between the parties to continue services under this Agreement up through and including a specified period.

Section 6.3 is hereby amended and replaced in its entirety by the following:

6.3 Responsibility for Inmate Health Care. Upon termination of this Agreement, all responsibility for providing health care services to all inmates shall belong to County.

Section 7.1 is hereby amended and replaced in its entirety by the following:

7.1 Base Compensation. Effective September 1, 2022, coinciding with an annual increase in the amount of compensation to SHP, the amount of base contract compensation payable to SHP by County shall increase to the twelve-month annualized price of \$88,193.52 payable in monthly installments. Monthly installments based on the twelve-month annualized price of \$88,193.52 shall be in the amount of \$7,349.46 each. The total amount of base compensation payable to SHP for the extended period of sixteen (16) months effective September 1, 2022, through December 31, 2023, shall be \$117,591.36.

Effective January 1, 2024, coinciding with an annual increase in the amount of compensation to SHP, and adjustments to the staffing plan, as more fully set forth in Section No. 2.1 of this Agreement, the amount of base contract compensation payable to SHP by County shall increase to the twelve-month annualized price of \$114,176.88, payable in monthly installments. Monthly installments based on the twelve-month annualized price of \$114,176.88 shall be in the amount of \$9,514.74.

SHP shall bill the County approximately thirty days prior to the month in which services are to be rendered. The County agrees to pay SHP prior to the tenth day of the month in which

services are rendered. In the event this Agreement should commence or terminate on a date other than the first or last day of any calendar month, compensation to SHP shall be prorated accordingly for the shortened month.

Section 7.2 is hereby amended and replaced in its entirety by the following:

7.2 Increases in Inmate Population. County and SHP agree that the annual base price is calculated based upon an average daily inmate population of up to 30. Effective September 1, 2022, if the average daily inmate population exceeds 30 inmates for any given month, the compensation payable to SHP by County shall be increased by a per diem rate of \$1.45 for each inmate over 30. The average daily inmate resident population shall be calculated by adding the population or head count totals taken at a consistent time each day and dividing by the number of counts taken. The excess over an average of 30, if any, shall be multiplied by the per diem rate and by the number of days in the month to arrive at the increase in compensation payable to SHP for that month. In all cases where adjustments become necessary, the invoice adjustment shall be made on the invoice for a subsequent month's services. For example, if there is an average population for any given month of 35 inmates, resulting in an excess of five (5) inmates, then SHP shall receive additional compensation of five (5) times the per diem rate times the number of days in that month. The resulting amount shall be an addition to the regular base fee and shall be billed on a subsequent monthly invoice.

Effective January 1, 2024, coinciding with an annual increase in the amount of compensation to SHP, the per diem rate shall increase to \$1.49.

This per diem is intended to cover additional cost in those instances where minor, short-term changes in the inmate population result in the higher utilization of routine supplies and services. However, the per diem is not intended to provide for any additional fixed costs, such as new fixed staffing positions that might prove necessary if the inmate population grows significantly and if the population increase is sustained. In such cases, SHP reserves the right to negotiate for an increase to its staffing complement and its contract price in order to continue to provide services to the increased number of inmates and maintain the quality of care. This would be done with the full knowledge and agreement of the Sheriff and other involved County officials, and following appropriate notification to County.

Section 9.1 is hereby amended and replaced in its entirety by the following:

9.1 Independent Contractor Status. The parties acknowledge that SHP is an independent contractor engaged to provide for the delivery of health services to inmates at the Jail, as set forth in this Agreement. Nothing in this Agreement is intended nor shall be construed to create an agency relationship, an employer/employee relationship, or a joint venture relationship between the parties.

Section 9.16 is hereby inserted with a new provision as follows:

9.16 Non-solicitation. SHP takes pride in its staff and has a significant investment in the training and professional development of our employees and independent contractors; they are valued members of our business. As such, during the term of this Agreement or within one (1) year after this Agreement's termination, the County and its agents agree not to solicit any employee or independent contractor of SHP on behalf of the County or any other business

enterprise, nor to induce any employee or independent contractor associated with SHP to terminate or breach an employment, contractual or other relationship with the SHP. The County hereby acknowledges (1) that SHP will suffer irreparable harm if the obligations under this Agreement are breached; and, (2) the County agrees to pay a professional replacement fee of Seven Thousand Five Hundred Dollars (\$7,500.00) per employee or independent contractor to compensate SHP for the estimated cost of replacing said employee or independent contractor. The foregoing shall not apply to any SHP employee or independent contractor who may have been employed by the County directly prior to this agreement start date.

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

TYLER COUNTY, TX
BY:

Date: _____

ATTEST:

Date: _____

SOUTHERN HEALTH PARTNERS, INC.
d/b/a SHP VISTA HEALTH MANAGEMENT, INC.
BY:

Jennifer Hairsine, President and CEO

Date: _____