

**MEMORANDUM OF AGREEMENT  
EMERGENCY TEAM RESPONSE**

**BY AND BETWEEN  
THE FLORIDA DEPARTMENT OF CORRECTIONS  
AND  
CONTRACTOR**

**PARTIES**

This Memorandum of Agreement (Agreement) is between the Florida Department of Corrections (“Department”) and **Contractor**, (“Participating Entity”), which are the parties hereto. The Participating Entity operates the following facilities: **1) Bay Correctional Facility, 2) Graceville Correctional Facility, and 3) Moore Haven Correctional Facility.**

The parties are authorized to enter into this Agreement pursuant to Section 945.04, Florida Statutes.

WHEREAS, the Department has certain Emergency Teams, as specified below and collectively referred to herein as the “Emergency Teams:”

- a) Crisis negotiation teams (“CNT”);
- b) Corrections emergency response teams (“CERT”);
- c) Rapid response teams (“RRT”); and
- d) Canine tracking teams.

WHEREAS, the Department is willing to offer the assistance of the Emergency Teams to the Participating Entity at its facilities under contract with the Florida Department of Management Services, currently housing State of Florida inmates;

WHEREAS, the Department’s Emergency Teams are available for the tracking of escaped offenders, for hostage negotiations, hostage rescues, riot and disturbance control; subject to the limitations stated herein; and

WHEREAS, the Participating Entity has requested assistance be available upon their determination of need.

NOW THEREFORE, the Department and the Participating Entity, through their undersigned agents, agree as follows:

**I. TERM OF AGREEMENT**

This Agreement shall begin on the date on which it is signed by both parties, and shall end at midnight three (3) years from the date of execution. In the event this Agreement is signed by the parties on different dates, the latter date shall control.

**II. SCOPE OF AGREEMENT**

The Department and the Participating Entity agree to carry out their respective duties and responsibilities outlined below, subject to controlling law, policy(ies) and/or procedures, and in consideration of the mutual interests and understandings expressed herein.

A. Overview

The parties shall work together to coordinate Emergency Team responses at the Participating Entity's State contracted facilities referenced above.

B. Department Responsibilities

The Department through the use of its Emergency Teams will perform the following duties in support of this Agreement:

- 1) The Department will endeavor to provide the assistance of the Department's emergency teams whenever requested to do so by the Participating Entity in accordance with applicable Department rules and procedures. However, the Department's ability to provide the assistance of the Institution's emergency teams may be subject to operational constraints. Therefore, this Agreement does not imply or create any liability if the Department is unable to provide such assistance or if it is limited.
- 2) Upon request of the Participating Entity, authorization to provide assistance will be requested through the Deputy Secretary of Institutions and Re-Entry or the Assistant Secretary of Institutions.
- 3) Upon receiving the request for assistance the Department will be responsible for the determination of the appropriate level of response and assistance required for the emergency. The Department will then notify the institution(s) responsible to provide emergency team response.
- 4) The Warden(s) or his/her designee at the Department Institution(s) will be responsible for the activation of the appropriate emergency teams, activation of the Department emergency management system and deployment of teams to the requesting Participating Entity.
- 5) The Department will coordinate training with the Participating Entity's staff which will include the emergency response capabilities of Department teams, procedures for team utilization, and response plans including specific provisions for unified command training that clearly define the roles of responding Department Emergency Teams and the Participating Entity.

C. Participating Entity Responsibilities

The Participating Entity will perform the following duties in support of this Agreement:

- 1) The Participating Entity agrees, when making a request for assistance of the canine tracking team, that the supervising authority of the Participating Entity shall provide the Department with information concerning the level of risk that will be involved in the search (e.g., whether the tracked person is armed, has a history of violence, or has a history of mental disorder that could cause confrontational behavior).
- 2) The Participating Entity shall, when making a request for emergency teams during the event of riot and disorder, and/or hostage incidents shall provide the Department

with information concerning the level of risk that will be involved (e.g., weapons involved, number of inmates, names of any hostages, backgrounds on all involved area of incident with floor plan layouts, etc.).

- 3) Emergency team assistance can be provided to the Participating Entity if the head of the requesting Participating Entity provides the Department with a request for assistance. Department teams being used will fall under the Department's institutions incident command operations chief and Participating Entity employees or teams will fall under the Participating Entity's incident command chief. Incident command chiefs will work together in a unified command structure.
- 4) The Participating Entity agrees to coordinate training with Department Emergency Teams for site visits, familiarization with Participating Entity's physical facility layouts, etc.

### **III. FINANCIAL OBLIGATIONS OF THE PARTIES**

The Participating Entity shall reimburse the Department for all costs incurred by the Department resulting from the utilization of this Agreement. This will include, but is not limited to the following:

- a. Personnel costs incurred as a result of deploying the Department Emergency Teams include any regular and/or overtime costs of the team members or personnel necessary to maintain staffing at the institution from which the teams are deployed.
- b. Travel costs for team members and reimbursement for Department vehicle mileage at the rate of \$0.445 per mile.
- c. Reimbursement for any damaged equipment or uniforms at cost of repair or replacement.
- d. Reimbursement for materials, supplies and ammunition expended by the Department.
- e. Team member training costs required as a result of this Agreement.

The Department Bureau of Finance and Accounting will prepare an invoice as requested by the Department's Agreement Manager and will send it to the Participating Entity. The Participating Entity shall render payment within 30 days of the invoice date. The Participating Entity shall contact the Department's Agreement Manager to resolve any issues related to the invoiced charges prior to the expiration of the 30 days above or the invoice is considered to be accepted as accurate.

### **IV. AGREEMENT MANAGEMENT**

#### **A. Department's Agreement Administrator**

The Chief, Bureau of Contract Management and Monitoring, is designated Agreement Administrator for the Department and is responsible for maintaining the official Agreement file, processing any amendments or termination of the Agreement and for maintaining records of all formal correspondence between the Department and the Participating Entity regarding administration of the Agreement.

The name, address and telephone number of the Department's Agreement Administrator is:

Chief, Bureau of Contract Management and Monitoring  
Department of Corrections  
501 South Calhoun Street

Tallahassee, Florida 32399-2500  
(850) 717-3961 (telephone)  
(850) 922-8897 (facsimile)

B. Agreement Managers

The parties have identified the following individuals as Agreement Managers. These individuals are responsible for enforcing performance of the Agreement terms and conditions and shall serve as liaison/agency contact regarding issues arising out of this Agreement.

**DEPARTMENT OF CORRECTIONS**

James Upchurch  
Chief of Security Operations  
501 South Calhoun Street  
Tallahassee, Florida 32399-2500  
(850) 717-3247 (telephone)  
(850) 413-8184 (facsimile)  
[upchurch.james@mail.dc.state.fl.us](mailto:upchurch.james@mail.dc.state.fl.us) (e-mail address)

**CONTRACTOR**

Name  
Address  
Address  
(telephone)  
(facsimile)  
(e-mail address)

**V. REVIEW AND MODIFICATION**

- A. Upon request of either party, both parties will review this Agreement in order to determine whether its terms and conditions are still appropriate. The parties agree to renegotiate terms and conditions hereof if it is mutually determined that significant changes in this Agreement are necessary. There are no obligations to agree by either party.
- B. Modifications to the provisions of this Agreement, with the exception of Section IV., Agreement Management, shall be valid only through execution of a formal written amendment to the Agreement.

**VI. TERMINATION**

This Agreement may be terminated at any time upon the mutual consent of both parties or unilaterally by either party upon no less than thirty (30) calendar days' notice. Notice shall be delivered by certified mail, (return receipt requested).

In addition, this Agreement may be terminated with 24 hours notice by the Department for any failure of the Participating Entity to comply with the terms of this Agreement or any applicable Florida law.

**VII. OTHER CONDITIONS****A. Waiver and Assumption of Risk**

The Participating Entity hereby releases, waives, and discharges and covenants not to sue the Department or its employees, agents, officers or heirs, from all liability to the Participating Entity, its staff, its personal representatives, assigns, heirs and next-of-kin for any and all loss or damage, and any claim or demand therefore, on account of injury to any staff or property or resulting in death of Participating Entity staff, whether caused by the negligence of any employee, agent or officer of the Florida Department of Corrections or otherwise resulting from performance of service contemplated by this MOA.

Such releases, waivers, and discharges and covenants not to sue do not constitute any waiver of sovereign immunity by the Participating Entity as provided under Section 768.28 F.S.

**B. Insurance**

The Participating Entity agrees to provide adequate insurance coverage on a comprehensive basis and to hold such insurance at all times during the existence of this Agreement. The Participating Entity accepts full responsibility for identifying and determining the type(s) and extent of insurance necessary to provide reasonable financial protection for the Participating Entity and the Department under this Agreement. Upon the execution of this Agreement, the Participating Entity shall furnish the Contract Manager written verification of such insurance coverage. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The Department reserves the right to require additional insurance where appropriate.

If the Agency is a state agency or subdivision as defined in Section 768.28, Florida Statutes, the Agency shall furnish the Department, upon request, written verification of liability protection in accordance with Section 768.28, Florida Statutes. Nothing herein shall be construed to extend any party's liability beyond that provided in Section 768.28, Florida Statutes.

**C. Employee Status**

This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the Department and Participating Entity are independent contractors under this Agreement and neither is the employee of the other for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The parties shall each retain sole and absolute discretion in the judgment of the manner and means of carrying out their activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of each individual party. Services provided by each party pursuant to this Agreement shall be subject to the supervision of such party. In providing such services, neither party nor its agents shall act as officers, employees, or agents of the other party. The parties agree that they are separate and independent enterprises, and that each has the ability to pursue other opportunities.

This Agreement shall not be construed as creating any joint employment relationship between the Parties and neither party will be liable for any obligation incurred by the other party, including, but not limited to, unpaid minimum wages and/or overtime premiums.

**VIII. MATTERS BEYOND THE CONTROL OF THE DEPARTMENT AND THE PARTICIPATING ENTITY**

Neither the Department nor Participating Entity shall be responsible for any failure or delay in performance hereunder due to circumstances beyond their reasonable control including, without limitation, Acts of God, accidents, mechanical power failures, unavailability of funds or resources, acts, omissions and defaults of third parties and official, governmental and judicial action beyond their control. In the event of occurrences, which require the implementation of a Disaster Recovery Plan or similar emergency management plan, the parties shall use their best efforts to provide a level of service consistent with this Agreement.

**AUTHORIZATION FOR SIGNATURE**

IN WITNESS THEREOF, the parties hereto have caused this Amendment to be executed by their undersigned officials as duly authorized.

**CONTRACTOR**

SIGNED BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**DEPARTMENT OF CORRECTIONS**

Approved as to form and legality, subject to execution:

SIGNED BY: \_\_\_\_\_  
NAME: Kenneth S. Tucker  
TITLE: **Deputy Secretary  
Department of Corrections**  
DATE: \_\_\_\_\_

SIGNED BY: \_\_\_\_\_  
NAME: Jennifer A. Parker  
TITLE: **General Counsel  
Department of Corrections**  
DATE: \_\_\_\_\_