

**SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND CLARK COUNTY
USAO #2020v00114; DJ #204-82-319**

I. BACKGROUND

1. The parties (“Parties”) to this Settlement Agreement (“Agreement”) are the United States of America (“United States”) and Clark County on behalf of the Clark County Sheriff’s Office (“CCSO”) and the Clark County Jail (“CCJ”).

2. This matter was initiated by a complaint filed with the United States against the Clark County Jail, alleging violations of Title II of the Americans with Disabilities Act of 1990, as amended (the “ADA”), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, and seeking to recover compensatory damages for the alleged discrimination caused by the violations. Specifically, Complainant E.H. (the “Complainant”), who is deaf, alleged that CCJ personnel failed to take appropriate steps to ensure that communications with her were as effective as communications with others, and failed to provide auxiliary aids and services that were necessary to ensure effective communication with the Complainant while she was booked into and incarcerated at the CCJ for approximately two days. Further, the Complainant alleges that the CCJ failed to furnish appropriate auxiliary aids and services that would have afforded her an equal opportunity to use telecommunication services that the CCJ permits other detainees without disabilities.

3. The CCJ has fully cooperated with United States’ investigation of this matter. The Parties have determined that the complaint filed with the United States can be resolved without litigation and have agreed to the terms of this Agreement.

II. INVESTIGATION AND FINDINGS

4. The U.S. Attorney’s Office for the Western District of Washington (“USAO”) is authorized under 42 U.S.C. §§ 12131-34 and 28 C.F.R. Part 35, Subpart F, to investigate the allegations of the complaint in this matter to determine the CCJ’s compliance with Title II of the ADA. The USAO has the authority to, where appropriate, negotiate and secure voluntary compliance agreements, to resolve investigations through informal resolution such as settlement agreements, and to bring civil actions enforcing Title II of the ADA should it fail to secure voluntary compliance. 28 C.F.R. § 35.172(c).

5. The Complainant is deaf and, as such, is an individual with a “disability” within the meaning of the ADA. 42 U.S.C. § 12102; 28 C.F.R. § 35.104. The Complainant primarily communicates using American Sign Language (“ASL”), and has limited ability to read and write in English.

6. The ADA applies to the CCJ because it is a “public entity” pursuant to Title II of the ADA, 42 U.S.C. § 12131. Title II of the ADA prohibits discrimination against qualified individuals with disabilities on the basis of disability in the “services, programs, or activities of a public entity.” 42 U.S.C. § 12132. Title II also states that public entities may not “[a]fford a

qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others.” 28 C.F.R. § 35.130(b)(ii).

7. With respect to communications, “[a] public entity will furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.” 28 C.F.R. § 35.160(b)(1). Further, in “order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.” *Id.* at § 35.160(b)(2).

8. On the basis of its investigation, the USAO has determined that CCJ violated the Complainant’s rights under Title II of the ADA. Specifically, the USAO found that CCJ failed to effectively communicate with Complainant during her booking into the CCJ despite the availability of auxiliary aids and services (which CCJ procured following previous lawsuits alleging similar forms of discrimination). Instead of offering or using these devices with Complainant, communications were attempted using written notes, gestures, and typing on a computer screen, including during the consequential process of taking a medical history. Further, Complainant was never offered or assigned the available assistive devices for communication, rendering her unable to communicate with other inmates, or through telecommunications, with her family members in the manner allowed to other inmates. Instead, CCJ inappropriately sought to facilitate communications with Complainant by assigning her to a cell with another inmate who is deaf. In addition, our investigation raised serious concerns about CCJ employees’ ability to assess and accommodate inmates with Communication Disabilities. Without admitting the allegations contained in the Complaints described in this Agreement, or the determinations made by the United States as described in this Agreement, CCJ believes this matter can be resolved without resort to litigation. Accordingly, the USAO and CCJ have agreed to the terms and conditions of this Agreement.

III. DEFINITIONS

9. “**CCJ Personnel**” means all employees, both full and part-time, and contractors and employees of contractors with contracts to work for or with the CCJ, including, without limitation, correctional officers, nurses, physicians, social workers, administrative staff, therapists, and volunteers, who have or are likely to have direct contact with Inmates or Companions as defined herein.

10. “**Auxiliary Aids and Services**” includes Qualified Interpreters on-site or through video remote interpreting (“VRI”) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (“TTYs”), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing. 28 C.F.R. § 35.104.

11. **“Inmate”** will be broadly construed to include any individual who is being held or detained at the CCJ.

12. **“Companion”** means a family member, friend, legal representative, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate. 28 C.F.R. § 35.160(a)(2).

13. **“Communication Disability”** is defined as a person with a disability (as defined by the ADA, 42 U.S.C. § 12102(2); 28 C.F.R. § 35.104) that impacts their ability to communicate. For purposes of this Agreement, a person has a communication disability if they have a physical impairment that substantially limits their hearing, either with or without mitigating measures such as hearing aids or cochlear implants. This will include people who are deaf, hard of hearing, or deaf-blind.

14. **“Effective Communication”** means communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate Auxiliary Aids and Services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs, or activities of a public entity.

15. **“Effective Date”** means the date of the last signature to this Agreement below.

16. **“Qualified interpreter”** means an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, given the deaf or hard of hearing individual’s language skills and education. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators. 28 C.F.R. § 35.104. To be a Qualified Interpreter, the interpreter must be able to interpret in the language the individual with a disability uses (*e.g.*, ASL or Signed English).

IV. EQUITABLE RELIEF

A. General Principles

17. Non-Discrimination. With respect to all of its programs, services, and activities, the CCJ agrees not to engage in any act or practice, directly or through contracting, licensing, or other arrangements, that has the purpose or effect of unlawfully discriminating against any person with a disability in violation of Title II of the ADA.

18. Coverage of Involuntary Participation. Throughout this Agreement, terms such as “enjoyment,” “benefit,” or “seek” that in other contexts might imply the voluntary and willing participation of a member of the public in CCJ programs, services, or activities, will also refer to a member of the public’s involuntary participation in the Sheriff’s Department’s programs, services, and activities, such as arrest or detention. 28 C.F.R. § 35.152.

19. Retaliation and Coercion. The CCJ will not retaliate against or coerce in any way any person who made, or is making, a complaint according to the provisions of this Agreement or exercised, or is exercising, his or her rights under this Agreement or the ADA. 28 C.F.R. § 35.134.

20. Provision of Appropriate Auxiliary Aids and Services. The CCJ will ensure that appropriate Auxiliary Aids and Services, including Qualified Interpreters, are made available to Inmates, visitors, and other members of the public who interact with the CCJ, who have Communication Disabilities, where such aids and services are necessary to ensure effective communication, so that they may participate in or benefit from the CCJ's services, programs, or activities on an equal basis with others. While this Agreement focuses on the effective communication needs of individuals with Communication Disabilities, the CCJ recognizes that it is required by the ADA to provide appropriate Auxiliary Aids and Services to ensure effective communication with individuals with other disabilities.

21. Primary Consideration. In determining the type of Auxiliary Aid or Service necessary to comply with the ADA, the CCJ agrees to give primary consideration to the expressed preference for a particular Auxiliary Aid or Service by an individual who has Communication Disabilities. 28 C.F.R. § 35.160. "Primary consideration" will mean that personnel will inquire as to the choice of Auxiliary Aid or Service of the individual with a disability and will honor the expressed choice unless the CCJ can demonstrate that another equally effective means of communication is available.

22. Inmate Classification and Housing. CCJ agrees that it will not house Inmates with Communication Disabilities in more restrictive housing or housing appropriate for a higher classification of offender because of their disability. CCJ further agrees that it will not otherwise classify inmates with disabilities in a manner that is not commensurate with the nature of their alleged offense or status because of their disability.

B. Changes to Policy and Procedure

23. Policy Revisions. Within **sixty (60) days** of the Effective Date of this Agreement, CCJ will submit for review and approval to the United States its policies and procedures to implement fully the Agreement. Upon receipt of the United States' comments, the CCJ will address all of the United States' concerns, if any, and will resubmit a draft for final approval, if any changes were needed. The adoption of the final policies and procedures will occur within 30 days of the CCJ's receipt of approval by the United States.

24. Assessment and Planning for Inmates with Communication Disabilities.

- a. *Communication Assessment Tool*. Within **thirty (30) days** of the Effective Date of this Agreement, CCJ will provide a draft Communication Assessment Tool ("CAT") to the USAO for review and approval. The CAT will be the same or substantially similar to the Model CAT attached to this Agreement as **Exhibit A**. The CCJ will implement the use of the CAT at CCJ in accordance with the terms set forth herein within thirty (30) days of receiving USAO approval.

b. *Intake and Booking Assessment and Planning.*

- 1) During CCJ's intake and booking process, CCJ Personnel will use the CAT to assess the needs of the Inmate and use the CAT answers to develop a plan for what Auxiliary Aids or Services will be needed for effective communication throughout the Inmate's detention and/or what reasonable modifications to policies or procedures will be needed ("Aids/Services Plan"). In formulating the Aids/Services Plan, the CCJ Personnel conducting the intake or booking will:
 - i. Take into consideration the method of communication typically used by the individual, the nature, length, and complexity of the various types of communication the Inmate will likely encounter, and the context of those communications. In particular, the Aids/Services Plan will account for each of the circumstances listed in Paragraph 32.
 - ii. Give primary consideration to the Inmate's assessment of their needs for Auxiliary Aids and Services; and
 - iii. Ensure that the plan will allow the Inmate to have equal access to CCJ's services as other Inmates without Communication Disabilities.
- 2) As part of the booking process, the CCJ Personnel creating the Aids/Services Plan will also:
 - i. Obtain or arrange for the timely provision of the auxiliary aids/services called for by the Aids/Services Plan, including as needed for the remainder of the booking process. These actions may include the assignment of VRI or VRS devices, the scheduling of in-person interpreters, providing assistive hearing devices, pen and paper, pictographs, or other appropriate tools.
 - ii. Record the information collected from the CAT and the Aids/Services Plan into CCJ's electronic inmate database in a manner that is accessible to all relevant staff involved in the Inmate's care and supervision during their period of detention. CCJ will also take appropriate steps to ensure that all CCJ Personnel having contact with an Inmate who has Communication Disabilities are made aware of the person's disability, and the person's Aids/Services Plan, so that effective communication with the person will be achieved. A person's identity as someone needing appropriate Auxiliary Aids and Services for effective communication will not be treated as confidential medical information for CCJ Personnel.
 - iii. Transmit the information collected from the CAT and the Aids/Services Plan to the Effective Communication Coordinator

(“ECC”) for review and modification as needed pursuant to Paragraph 26.

- iv. Assess the existence of other non-communications related disabilities and take appropriate steps under the ADA and CCJ policy to provide necessary accommodations, including by promptly notifying the Clark County ADA Coordinator of any requests for accommodations made by the Inmate or assessed by CCJ Personnel.
- c. *Assessment Outside of Booking.* If at any point during an Inmate’s incarceration, CCJ Personnel believe that an Inmate may have a Communication Disability or an Inmate claims to have a Communication Disability, CCJ Personnel will, as soon as is practicable, but no later than 24 hours after the discovery or claim of a Communication Disability, follow the CAT and Aids/Services Plan process set forth in Paragraph 24. Further, if CCJ Personnel believe that Inmate with a Communication Disability is not receiving equal access to services because of his or her disability or learns of a complaint regarding the same, the CCJ Personnel will bring the issue to the attention of the ECC (referenced in Paragraph 26) within 24 hours. Likewise, if CCJ Personnel become aware of a non-communications related disability that is not being appropriately accommodated, they will notify the Clark County ADA Coordinator as soon as is practicable.

25. Auxiliary Aids and Services Recordkeeping. Within **thirty (30) days** of the Effective Date of this Agreement, the ECC will begin keeping a log of any Auxiliary Aids and Services provided to or requested by CCJ by Inmates, Companions, or members of the public. The log will record the person’s name, the date and time of the request or provision, the name of the CCJ Personnel involved in responding to the request or provision, the Auxiliary Aid or Service provided in response (or noting if none is provided), the date and time(s) on which the Auxiliary Aid or Service was provided. If there was a delay in providing the Auxiliary Aid or Service of more than one hour or if an alternative Auxiliary Aid or Service was provided, or no Auxiliary Aid or Service was provided, the log will include an explanatory statement regarding the reason for delay or non-provision of the requested aid or service. The log will include information about the provision of VRS or VRI devices to Inmates.

C. Effective Communication Coordinator

- 26. Effective Communication Coordinator.
 - a. *Designation.* Within **thirty (30) days** of the Effective Date of this Agreement, the CCJ will designate at least one employee with responsibility to coordinate the CCJ’s efforts to comply with and carry out its effective communication responsibilities under the ADA and this Agreement (“Effective Communication Coordinator” or “ECC”). The CCJ will also designate at least one employee as a backup to the ECC in the event that the ECC is not available (“Backup ECC”). Both employees will be subject to the additional requirements set forth herein, and both will coordinate, as necessary, with the Clark County ADA Coordinator to carry out CCJ’s nondiscrimination obligations under the ADA.

- b. *Qualifications.* The ECC and Backup ECC must have sufficient educational background, experience, and skills necessary to carry out all of the duties and responsibilities of the position, and knowledge and experience dealing with the legal rights of persons with disabilities and the obligations of public entities under federal and state disability laws. The qualifications of the persons serving in these roles and the training plan for each will be provided to the USAO for review and approval prior to their official appointment.
- c. *Responsibilities.* The ECC and Backup ECC will have the responsibility and authority to coordinate CCJ's compliance with the terms of this Agreement including implementation of the revised policies and procedures, the training of staff, and ensuring compliance with the logs and grievance procedures. These responsibilities include ensuring timely and appropriate responses to the communication-related needs of Inmates with Communication Disabilities. The ECC and Backup ECC will also know how and when to contact the Clark County ADA Coordinator to assist with requests unrelated to effective communication.
- d. *Review of Aids/Services Plans.*
 - 1) The ECC or Backup ECC will meet with each Inmate with a Communication Disability within one business day of his or her arrival at CCJ to review their Aids/Services Plan and ensure that their needs are being met.
 - 2) The ECC or Backup ECC will check in with each Inmate identified as having a Communication Disability regarding their ADA accommodations and ability to communicate at least once per week regarding the same throughout the entirety of the Inmate's period of incarceration.
 - 3) The ECC or Backup ECC will modify the Aids/Services Plan in writing whenever necessary to continue to meet the Inmate's communication needs.
- e. *Availability.* Either the ECC or the Backup ECC will be available for in-person consultation during normal business hours (9 a.m. to 5 p.m. on weekdays) to respond to Inmate needs and complaints, answer questions from and provide advice and assistance to CCJ personnel, and review Aids/Services Plans referenced in Paragraph 24. Either the ECC or the Backup ECC will be available for consultation during all other hours of operation (*i.e.* whenever CCJ is housing Inmates or otherwise providing services) through phone or videoconference.
- f. *Training.* **Within ninety (90) days** of the Effective Date of this Agreement, the CCJ will ensure that the ECC and Backup ECC have the training necessary to ensure that they are fully knowledgeable about the legal rights of Inmates with Communication Disabilities and the legal obligations of the CCJ with respect to Inmates with Communication Disabilities. These topics must include:

- 1) The content of CCJ's revised policies and procedures related to assessment of inmate communication needs (including use of the CAT);
- 2) The language of the ADA and obligations it imposes upon CCJ to ensure equal access and effective communication with Inmates, Companions, and visitors who have Communication Disabilities;
- 3) How and when to identify communication needs of Inmates, Companions, or members of the public who have Communication Disabilities and which Auxiliary Aids and Services are necessary in different circumstances;
- 4) How and when to secure the services of a Qualified Interpreter, including both through video remote interpretation ("VRI") and in-person interpretation;
- 5) Information about all Auxiliary Aids and Services available for use at CCJ, including how and when to procure them and how to address problems with their use;
- 6) To work with CCJ staff members to comply with the effective communication provisions of the ADA and this Agreement;
- 7) How to make and receive telephone calls using Auxiliary Aids and Services such as videophones or video relay services ("VRS"), captioned phones, telephone handset amplifiers, TTYs and the relay service; and
- 8) How to use CCJ's grievance resolution procedure described in Paragraph 50 of this agreement.

27. Dissemination of Information. The CCJ will conspicuously list: (a) the name and contact information (address and phone number) for the ECC and the Clark County ADA Coordinator, (b) a statement regarding Inmate rights under the ADA (including the right to effective communication through appropriate auxiliary aids and services, such as an interpreter); and (c) information about how to file a grievance consistent with Paragraph 50, at the following locations – the CCJ website; posters at locations in the CCJ jail facility where notices to Inmates are normally posted (*see* 28 C.F.R. § 35.163); and the Inmate Handbook. This information will also be made available to Companions and visitors upon request.

D. Additional Changes to Booking and Intake

28. Video and Transcript. **Within 180 days** of the Effective Date of this Agreement, the CCJ will produce a Jail Orientation Video and written transcript designed to inform Inmates, Companions, or members of the public who have Communication Disabilities about the booking process. The Jail Orientation Video will feature a Qualified Interpreter communicating what the Inmate, Companion, or member of the public, including arrestees or detainees, should expect, through the fingerprinting, and other preliminary processes. It will also explain the visual notification system (referenced in Paragraph 43) and indicate the role of the ECC (referenced in Paragraph 26) and Inmate's rights to effective communication under the ADA. The written

transcript will communicate the same information. CCJ will make both the video and the transcript available to Inmates with Communication Disabilities during the booking and intake process.

29. Other Booking and Intake Processes. If an Inmate with Communication Disabilities indicates during booking that he or she needs a Qualified Interpreter in order to effectively communicate (including through filling out the CAT in that manner), any booking process that relies on communication must be delayed until a Qualified Interpreter is present or VRI service is available. Such processes include, but are not limited to, medical screenings, taking criminal and personal histories, and obtaining or transmitting information for classification and housing assignments. However, if an Inmate who has Communication Disabilities expresses an urgent medical need that cannot wait for a Qualified Interpreter, or personnel suspect there is an urgent medical need, personnel should not delay providing whatever medical care or service would be provided to an Inmate without disabilities under the similar circumstances and should use the most effective available means of communicating with the person who has Communication Disabilities.

30. Completion of Booking. Once a Qualified Interpreter has arrived or VRI service is available, the booking process may be completed. The interpreter or VRI device should accompany the Inmate to the housing unit, to provide information pertinent to finding their way, housing unit rules, expected standards of conduct, or other topics typically conveyed to Inmates on arrival.

31. Inmate Materials. The CCJ will timely and effectively communicate the contents of the Inmate Handbook and similar publications to all Inmates, Companions, or members of the public with Communication Disabilities, including those for whom written English is not an effective means of communication. The CCJ may choose to meet this obligation by providing a video of a Qualified Interpreter signing the contents of the communication, along with appropriate technology for viewing, or by providing a Qualified Interpreter who will read and interpret the contents of the Inmate Handbook to the person with a Communication Disability. If an Inmate with a Communication Disability expresses confusion or questions at the completion of reading or otherwise receiving the information about the handbook, CCJ will provide that Inmate with the opportunity to meet with an CCJ staff member and a Qualified Interpreter to ask any questions regarding the Inmate Handbook and any other written materials that have been provided to Inmates. CCJ will include information about how such materials have been communicated in each Compliance Report referenced in Paragraph 52.

E. Qualified Interpreters

32. Qualified Interpreters for CCJ Programs. The following are examples of circumstances when it may be necessary to provide Qualified Interpreters to ensure effective communication with Inmates with Communication Disabilities:

- a. initial intake, orientation, medical screening, and classification processing;
- b. medical care and health programs, such as medical, dental, visual, audiological, mental health examinations or treatment and drug and alcohol recovery services;

- c. educational classes and activities;
- d. classification review interviews;
- e. grievance interviews or processes;
- f. religious services; and
- g. investigations that are conducted at the CCJ or that involve the CCJ.

The foregoing list of circumstances is not exhaustive; there may be other circumstances not identified here when it may be necessary to provide Qualified Interpreters for effective communication and equal access to CCJ services and programs. Under some circumstances other entities may have joint obligation to furnish a Qualified Interpreter.

33. Video Remote Interpreting. To the extent CCJ relies on VRI services to provide interpreter services, CCJ will ensure that it provides:

- a. Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
- b. A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position;
- c. A clear, audible transmission of voices; and
- d. Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI. 28 C.F.R. § 35.160(d).

VRI will not be used when it is not effective due, for example, to an individual's limited ability to move his or her head, hands or arms; vision or cognitive issues; significant pain; or due to space limitations in a room.

34. Troubleshooting of VRI and VRS Devices. If a VRI or VRS device is not functioning properly, CCJ Personnel or the ECC will provide technical assistance to fix the VRI or VRS device within one (1) hour of the notice of malfunction. If CCJ Personnel and the ECC are unable to get the VRI or VRS device to function properly within three (3) hours of when it started to malfunction, they will call an on-site interpreter.

35. Contract(s) for In-Person Interpreters. For circumstances in which VRI is not sufficient to provide effective communication with a person who primarily uses sign language to communicate, an in-person interpreter will be used whenever necessary for effective

communication. Accordingly, **within ninety (90) days** of the Effective Date of this Agreement, the CCJ agrees that it will enter into a contract with an interpreter services agency that provides in-person interpreters. The contract will include terms that allow for interpreting services to be available to CCJ on a priority basis, twenty-four hours per day, seven days a week. The CCJ will establish internal procedures for ordering interpreting services that is consistent with the interpreter or interpreter agencies' requirements and procedures.

36. Prohibition of the Use of Other Persons to Facilitate Communication. The CCJ will not require an individual with Communication Disabilities to bring another member of the public to interpret for him or her. 28 C.F.R. § 35.160(c)(1). CCJ will only rely on a person accompanying an Inmate, Companion, or member of the public for interpreter services in the specific exceptions set forth in 28 C.F.R. 28 C.F.R. § 35.160(c). The imminent threat exception in that regulation is not intended to apply to the typical and foreseeable emergency situations that are a part of the normal operations of the CCJ's programs, services, and activities.

F. Telecommunications

37. Telecommunications Devices. CCJ will maintain in good working order telecommunications devices to ensure equal opportunity for Inmates, Companions, and members of the public to communicate with persons outside of the CCJ. These devices will include devices capable of making and receiving video relay services calls ("VRS Devices"), captioned telephones, hearing aid compatible telephones, and volume control telephones (collectively "Telecommunications Devices"). The CCJ will ensure that the privacy of telecommunications by Inmates using a Telecommunications Device is equal to that of other Inmates' telephone calls. Telecommunications Devices will be made available wherever telephones are available to inmates or members of the public. CCJ will not impose a surcharge for the use of such devices.

38. Notice of Telecommunications Devices. Signage will be displayed at all telephone areas indicating the availability of the Telecommunications Devices and the procedure for obtaining them, including a notation that the devices are available free of charge. Notice of the existence of the Telecommunications Devices and how to request their use will also be included in the Inmate Orientation Video and Inmate Handbook.

39. Availability of Telecommunications Devices. CCJ will ensure that its Telecommunications Devices are available for communication with family, friends, attorneys, and other advocates on a schedule at least commensurate to those opportunities made available to Inmates without disabilities. Inmates with Communication Disabilities will be afforded at least three (3) times the amount of time allotted for such communications to Inmates without disabilities to compensate for the delay needed for the interpretation or transcription processes. Additional time will also be allotted for travel to and from the Telecommunications Devices if it is not housed with the Inmate.

40. VRS Devices. To the extent that VRS Devices are also available for use by other Inmates, the CCJ will ensure that a VRS Device is reserved and available to an Inmate with Communication Disabilities at times sufficient to provide equal access to the communication opportunities available to other Inmates.

G. Other Requirements

41. Reasonable Modification of Handcuffing or Restraint Policies. When CCJ Personnel deem it necessary to handcuff or otherwise restrain a person with Communication Disabilities, CCJ Personnel will, safety permitting, reasonably modify standard operating procedure and handcuff or otherwise restrain people with Communication Disabilities so their hands remain in front of them to facilitate communication using sign language or writing.

42. Television Programming. Inmates with Communication Disabilities will have access to captioned television programming that is equivalent to the access to television programming available to Inmates without disabilities in the same classification level.

43. Visual Alert Notifications. The CCJ will provide an effective visual notification system that will notify Inmates with Communication Disabilities of CCJ wide events and events specific to Inmates with Communication Disabilities so that such Inmates are afforded equal access to announcements, alarms, or other auditory information provided from CCJ Personnel to other Inmates. The CCJ will also provide Inmates with Communication Disabilities with an effective visual notification system which will advise them of an emergency evacuation or other emergency. CCJ Personnel will be responsible for the evacuation of Inmates with Communication Disabilities during an emergency.

44. Hearing Aid and Cochlear Processor Batteries. Whenever Inmates who use hearing aids, cochlear implants, or other such personal devices, are housed in the detention facility, the CCJ will purchase appropriate types of hearing aid and cochlear process batteries when necessary. Replacement batteries for these devices will be provided to those requesting them as soon as possible, but no later than 24 hours after such request. To the extent the CCJ normally charges Inmates for normal health maintenance items such as toothpaste, the CCJ may impose reasonable fees for batteries required under this paragraph. For Inmates with cochlear implants or hearing aids that require rechargeable batteries, CCJ must permit the Inmate to access both rechargeable batteries and a device on which to recharge them. Because of the proprietary nature of such batteries and chargers, CCJ must permit such Inmates to maintain possession of any batteries found on their person at the time they enter CCJ and to allow Inmates to receive extra batteries or chargers from others. CCJ may maintain control of chargers and unused batteries, but must permit the Inmate to have indirect access chargers and extra batteries as needed to maintain functionality of the Inmate's hearing aid or cochlear implant.

45. Repair of Hearing Aids and Other Such Personal Devices. The CCJ will send Inmate hearing aids, cochlear processors, and other such devices to appropriate repair companies as soon as possible, but no later than the next day for which mail is picked up at the CCJ, following a request for the repair of such a personal device. The CCJ will inform the Inmate or detainee when the device was sent for repair and when it is expected to be returned by the repair company.

46. Prohibition of Surcharges. All appropriate Auxiliary Aids and Services required by this Agreement will be provided free of charge to the Inmate, Companion, or member of the public with Communication Disabilities.

H. Training

47. Training of CCJ Personnel. Within thirty (30) days of the United States' approval of the policy revisions referenced in Paragraph 23, CCJ will provide CCJ Personnel of its policy/policies relating to effective communication with Inmates, Companions, or members of the public with Communication Disabilities, along with an advisement that:

- a. indicates the additional availability of the policy on the intranet,
- b. request that the recipient reach out to the ECC or Backup ECC if they have questions about the policy and provide his or her contact information; and
- c. request that if and when they become aware that an Inmate, Companion, or member of the public with Communication Disabilities will be in custody CCJ, that they promptly follow CCJ process and procedures to request necessary Auxiliary Aids and Services.

48. Timing of Training. Within **one-hundred twenty (120) days** of the Effective Date of this Agreement, and at least once annually throughout the term of this Agreement, the CCJ will ensure that all CCJ Personnel, receive training as to effective communication with persons with Communication Disabilities. The training will be sufficiently detailed to enable personnel to effectively implement all provisions of this Agreement, including the relevant Exhibits, all policies and procedures developed pursuant to this Agreement, and all effective communication requirements under the ADA. The CCJ will ensure that all new CCJ Personnel receive this training as a component of pre-service training and orientation.

49. Training Attendance Sheets. CCJ will maintain in electronic form for the duration of this Agreement, confirmation of training conducted pursuant to Paragraphs 47 and 48 of this Agreement, which will include the names, signature, and respective job titles of the attendees, as well as the date and time of the training session.

I. Grievance Procedures

50. Effective Communication Grievance Resolution. Within **sixty (60) days** of the Effective Date of this Agreement, CCJ will submit to the United States for its review a grievance procedure providing for the prompt and equitable resolution by the ECC of complaints related to effective communication with Inmates, Companions, or members of the public who have Communications Disabilities. CCJ will adopt and publish these grievance procedures in its Inmate Handbook within ninety (90) days of receiving approval from the United States. In particular, the procedures will provide that:

- a. CCJ will maintain records of all grievances regarding effective communication, whether oral or written, made to CCJ and actions taken with respect thereto for the duration of this Agreement.

- b. At the time CCJ completes its assessment described in Paragraph 24 and advises the Inmates, Companions, or members of the public of its determination of which Auxiliary Aids and Services are appropriate, CCJ will notify Inmates, Companions, or members of the public who have Communication Disabilities of its grievance resolution mechanism, to whom complaints should be made, and of the right to receive a written response to the complaint.
- c. A written response to any grievance filed will be provided to the complainant as soon as is practicable, but in no event longer than thirty (30) business days after receipt of the grievance.

51. Other ADA Grievances. If other ADA complaints, unrelated to effective communication, are received through the grievance procedure set forth in Paragraph 50, CCJ will promptly forward the grievance to the Clark County ADA Coordinator for resolution.

J. Compliance and Reporting

52. Compliance Reports. Beginning **six (6) months** after the Effective Date of this Agreement and every six (6) months thereafter for the entire duration of the Agreement, CCJ will provide a written report (“Compliance Report”) to the United States regarding the status of its compliance with this Agreement. CCJ will maintain records to document the information contained in the Compliance Reports and will make them available, upon request, to the United States. The Compliance Report include:

- a. Information required in the Auxiliary Aid and Service Log described in Paragraph 25;
- b. Information regarding the conveyance of the Inmate Handbook and other written materials as described in Paragraph 31;
- c. Information regarding training compliance as described in Paragraph 49;
- d. Any grievances received as described in Paragraph 50; and
- e. Copies of revised CCJ documents, including the Inmate Handbook and photographs of signage required in Paragraph 38.

53. Complaints. During the term of this Agreement, CCJ will notify the U.S. Attorney’s Office if any person files a lawsuit, complaint, or formal charge with a state or federal agency, alleging that CCJ failed to provide Auxiliary Aids and Services to Inmates, Companions, or members of the public who have Communication Disabilities or otherwise failed to provide effective communication with such Inmates, Companions, or members of the public. Such notification must be provided in writing via certified mail within twenty (20) days of the date CCJ received notice of the allegation and will include, at a minimum, the nature of the allegation, the name of the person making the allegation, and any documentation of the allegation provided by the complainant. CCJ will reference this provision of the Agreement in the notification to the U.S. Attorney’s Office.

V. MONETARY RELIEF

54. Compensatory Relief. Within thirty (30) days after receiving the Executed Agreement and the Complainant's signed release (a Blank Release Form is at Exhibit B), Clark County on behalf of CCSO and the CCJ will pay the Complainant TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00). This payment is compensation to Complainant pursuant to 42 U.S.C. § 12188(b)(2)(B), for the effects of the alleged discrimination suffered as described in Paragraph 8. Full payment will be made by issuing a check in that amount to an address to be provided. In addition, CCSO and the CCJ will send a copy of the check and a copy of the mailing envelope to the U.S. Attorney's Office to the attention of the Assistant United States Attorney handling this matter.

VI. ENFORCEMENT AND MISCELLANEOUS PROVISIONS

55. Duration of the Agreement. This Agreement will be in effect for **three (3) years** from the Effective Date.

56. Consideration. In consideration of the terms of this Agreement as set forth above, the United States agrees to refrain from undertaking further investigation or from filing a civil suit under Title II of the ADA related to Complainant's allegations in Paragraph 8, except as provided in Paragraph 57. Nothing contained in this Agreement is intended or will be construed as a waiver by the United States of any right to institute proceedings against the CCJ for violations of any statutes, regulations, or rules administered by the United States or to prevent or limit the right of the United States to obtain relief under the ADA.

57. Compliance Review and Breach. The United States may review compliance with this Agreement at any time and can enforce this Agreement if the United States believes that it or any requirement thereof has been violated by instituting a civil action in the U.S. District Court. If the United States believes that this Agreement or any portion of it has been violated, it will raise its claim(s) in writing with the CCJ, and the parties will attempt to resolve the concern(s) in good faith. The United States will allow the CCJ thirty (30) days from the date it notifies the CCJ of any breach of this Agreement to cure said breach, prior to instituting any court action to enforce the ADA or the terms of the Agreement.

58. Scope. This Agreement and the attachments hereto constitute the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written agreement, will be enforceable. This Agreement is limited to the facts set forth herein and does not purport to remedy any other potential violations of the ADA, such as violations relating to inmates other than Complainant, or any other federal law.

59. Binding. This Agreement is final and binding on the parties, including all principals, agents, executors, administrators, representatives, successors in interest, beneficiaries, assigns, heirs, and legal representatives thereof. The CCJ has a duty to so inform any such successor in interest of this Agreement.

60. Non-Waiver. Failure by the United States to seek enforcement of this Agreement pursuant to its terms with respect to any instance or provision will not be construed as a waiver to such enforcement with regard to other instances or provisions.

61. Execution. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement. Electronically transmitted signatures will constitute acceptable, binding signatures for purposes of this Agreement.

62. Severability. If any term of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement will nonetheless remain in full force and effect, provided, however, that if the severance of any such provision materially alters the rights or obligations of the parties, the United States and the CCJ will engage in good faith negotiations in order to adopt mutually agreeable amendments to this Agreement as may be necessary to restore the parties as closely as possible to the initially agreed upon relative rights and obligations.

FOR THE UNITED STATES:

/s/
Christina Fogg
Assistant United States Attorney
United States Attorney's Office

_7/15/2021
Date

FOR CLARK COUNTY SHERIFF'S OFFICE/CLARK COUNTY JAIL:

/s/
Chuck Atkins
Clark County Sheriff

_7/13/2021
Date

FOR CLARK COUNTY:

/s/
Kathleen Otto
County Manager

_7/14/2021
Date